

CITY OF TOMBALL

MUNICIPAL COURT

STANDING ORDERS

CITY OF TOMBALL MUNICIPAL COURT

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CITY OF TOMBALL MUNICIPAL COURT

Adoption of Standing Orders

IT IS ORDERED that the Court Clerk, staff, attorneys, parties, and all other individuals who interact with the Court follow the Standing Orders #1 through #30 set forth herein. Any situations that arise outside of these orders will require direct review by the Presiding Judge.

IT IS FURTHER ORDERED that these standing orders are to serve as guidelines. Any deviations from these orders must have specific prior approval by the Presiding Judge, and if it is not practicable to obtain prior approval from the Presiding Judge, any deviations must be reported for review and appropriate corrective actions. The Judge may submit orders to the Court Clerk and staff beyond the scope of these orders at any time, change these orders without notice, and make certain determinations on a case-by-case basis.

Signed and Ordered on this the ____ day of _____ 20____

Brett Peabody
Presiding Judge
Municipal Court
City of Tomball, Texas

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #1

Mission Statement

THE JURISDICTION OF THE TOMBALL MUNICIPAL COURT INCLUDES FINE ONLY OFFENSES, CLASS "C" MISDEMEANORS, AND CITY ORDINANCE VIOLATIONS THAT OCCUR WITHIN THE CITY LIMITS AND ON CITY-OWNED PROPERTIES IN THE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF TOMBALL, HARRIS COUNTY, TEXAS.

THE MISSION OF THE TOMBALL MUNICIPAL COURT IS TO PROVIDE AN ACCESSIBLE LEGAL FORUM FOR INDIVIDUALS TO HAVE THEIR COURT MATTERS HEARD IN A FAIR AND EFFICIENT MANNER WHILE PROVIDING A HIGH LEVEL OF INTEGRITY, PROFESSIONALISM, AND CUSTOMER SERVICE.

THE VISION OF THE TOMBALL MUNICIPAL COURT IS TO HELP MAKE THE CITY OF TOMBALL A GREAT PLACE TO LIVE, A GOOD PLACE TO WORK, A NICE PLACE TO VISIT, A FRIENDLY PLACE WHERE EVERYONE FEELS WELCOME, AND A PEACEFUL COMMUNITY WHERE EVERYONE RESPECTS OUR LAWS.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #2

Courtroom Decorum

1. All counsel and any person appearing *pro se* in the Tomball Municipal Court shall by entering an appearance acknowledge that he or she has read and is familiar with these Local Rules, the Tomball Municipal Court's Standing Orders, the Texas Disciplinary Rules of Professional Conduct, and The Texas Lawyers Creed.
2. Counsel, parties, witnesses under their control, and members of the public must exercise good taste and common sense in matters concerning dress, personal appearance, and civil behavior when appearing in court or when interacting with court personnel.
3. No shorts, tank tops, or halter tops. No clothing with offensive, vulgar, obscene, antisocial, or racist slogans or depictions. No clothing that is inappropriately provocative or revealing.
4. All persons must follow the directions of the Bailiff.
5. Weapons are not allowed in the courtroom, in the lobby, or in any of the common areas used by the Court.
6. Food, drinks, and chewing gum are not allowed in the courtroom.
7. Tobacco is prohibited.
8. Hats and caps should be removed before entering the courtroom.
9. Mobile phones and electronic devices must be silenced before entering the courtroom.
10. Mobile devices may not be used to make or take phone calls in the courtroom without express permission from the Court.
11. No photography, audio capture/recording, video capture/recording, livestreaming, or any type of broadcasting is allowed in the courtroom without express permission from the Court.
12. No feet on tables, chairs, or fixtures.
13. No offensive, loud, abusive, or provocative language unless the language is part and parcel of evidence offered in a good faith effort to administer justice.
14. When court is in session, there shall be no talking or making noises of any kind unless participating in the matter then before the Court.
15. When court is in session, no person shall by any facial expression, nonverbal gesture, guttural utterances, or any other conduct exhibit approval or disapproval of any testimony elicited or any statement or transaction which has occurred in the courtroom.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #3

Attorneys

1. Letter of Representation:

A letter of representation is required. Once submitted, the Attorney will be the Attorney of Record for the Defendant's case until such time as the case is finally disposed or the Attorney's written request to withdraw is granted by the Court.

If the Attorney has *Standing Agreements* with other attorneys to appear on behalf of the Defendant, the Attorney must provide the names of all such attorneys in the letter of representation.

2. Court Appearances:

Upon receipt of the letter of representation, *the Court Clerk shall schedule the case for an "Attorney Conference" docket.*

The Attorney of Record or any attorney listed in the letter of representation may appear for a represented defendant at an "Initial Appearance", "Attorney Conference", "Pre-Trial", or "Show Cause" Docket to discuss the case with the City Prosecutor, enter a plea, or obtain a reset.

The Court may under certain circumstances require both the Defendant and the Attorney of Record to appear at a "Pre-Trial" hearing pursuant to Art. 28.01 Tex. Code Crim. Proc.

If the prosecutor consents, attorneys are permitted to negotiate with the State using email, Zoom, or regular mail. A limited number of continuances will be granted to accommodate such negotiations as long as the case continues to progress to the Court's satisfaction.

3. Notice of Settings:

Notice of the date, time, and nature of each setting shall be sent by regular mail or email *to the address provided on the letter of representation.* A courtesy notice will be sent via regular mail to the Defendant's address on record.

4. Requests for Continuance:

A written motion for continuance is required. The motion must be submitted on or before the date of an "Initial Appearance" setting, "Attorney Conference" setting, "Pre-Trial" setting, or "Show Cause" setting and no less than ten (10) business days prior to any trial setting.

Faxed or emailed motions from attorneys will be accepted by the Clerk. Each request for reset will be reviewed on a case-by-case basis by the Court.

Continuances will be liberally granted to attorneys as long as diligent plea negotiations are taking place. The Court will balance the need for a reset based on the legitimate time conflicts experienced by attorneys and the Court's need to move its docket.

If a motion for continuance is granted, the Clerk will send a letter or email to the Attorney and Defendant with notice of the new court setting.

If a motion for continuance is denied, timely attendance at the originally scheduled hearing will be required. Parties should plan accordingly and should avoid waiting to the last minute to submit the motion for continuance.

5. Motions to Withdraw:

An Attorney of Record shall not be permitted to withdraw from any case without presenting a motion in writing and obtaining from the Court an order granting leave to withdraw. When withdrawal is made at the request of or on agreement of the Defendant, such motion shall be accompanied by the Defendant's written consent or a certificate by a new lawyer representing the Defendant. In the event the Defendant has not consented, a copy of the motion to withdraw shall be mailed to the Defendant at the Defendant's last known address by certified mail or regular first class mail. After leave to withdraw is granted, the withdrawing attorney shall advise the Defendant of the withdrawal by certified mail or regular first class mail, stating the next hearing date and advising the Defendant of the right to secure other counsel.

6. Attorney Bonds:

*In order to post an attorney bond, the attorney must be on the *approved Harris County Surety list*. If an attorney who appears on the approved Harris County Surety list has submitted a letter of representation, the attorney may post an attorney bond without requiring the signature of the principle.*

7. Standing Orders:

Attorneys are expected to comply with the Standing Orders that are promulgated by the Court.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #4

Formal Complaints

1. *As required or authorized by law, the Court Clerk shall facilitate the filing of a formal sworn complaint that complies with Article 45.019 Tex. Code Crim. Proc. for every case that is filed with the Court.*

Exception: No formal complaint is required when a defendant is given a legible duplicate copy of a written notice to appear by a peace officer (citation) and then the Defendant timely pleads “guilty” or “no contest”.

2. *Court staff shall not swear to and sign complaints as affiants but shall require police officers, prosecutors, or citizen complainants to serve as affiants.*
3. *If a defendant pleads “not guilty” and a sworn complaint has not yet been filed, a sworn complaint shall be filed as soon as practicable.*

Exception: If a citation was issued, the case may go to trial without a sworn complaint if the Defendant and City Prosecutor agree in writing and the agreement is filed with the Court.

4. *When a defendant fails to appear, and a sworn complaint has not yet been filed, a sworn complaint shall be filed as soon as practicable.*
5. *When a defendant, upon request by a peace officer, refuses to sign a promise to appear on a citation and the Defendant is not immediately taken into custody and brought before a magistrate, the citation cannot serve as a preliminary complaint and a formal complaint must be sworn. Until the formal complaint is sworn, the Court has no jurisdiction and the case cannot go forward.*
6. *The Clerk shall accept and file “citizen” complaints submitted and sworn by private citizens and code enforcement officers who are not peace officers. The City Prosecutor must review all “citizen” complaints. The Clerk may issue summons for “citizen” complaints only upon the motion (or standing motion) of the State and after a finding of probable cause by a judge. Art. 23.04, Tex. Code Crim. Proc.*
7. *Objections to the complaint must be filed with the Clerk before or during a “Pre-Trial” hearing and will not be considered thereafter unless good cause is shown.*
8. *Complaints to be amended. A complaint shall be amended, with the case remaining under the same cause number, when the State requests:*

- a. A correction to the Defendant's name;
 - b. A correction to the location of the offense;
 - c. A correction to the date of the offense;
 - d. A correction to any variable, such as an object or name;
 - e. The addition of an enhancement allegation;
 - f. The addition of an allegation of family violence in an assault case; or
 - g. Any other correction or addition not listed in subsection 9 below.
9. ***Amended complaints must be re-sworn by the affiant.***
10. *Complaints to be dismissed and refiled.* A complaint shall be dismissed, with the case refiled under a new cause number, in the following circumstances:
- a. The State alleges the offense was committed by a different person than the Defendant against whom the case was originally filed; or
 - b. The State alleges a different offense than was originally filed.
11. *Copies to be provided.* Upon request, the Clerk shall provide a copy of a complaint to the Defendant or Defendant's counsel or Counsel's staff.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #5

Motions For Continuance

1. *Written motions for continuance shall be required in compliance with Chapter 29 of the Texas Code of Criminal Procedure.*
2. *Motions for continuance must be submitted as soon as practicable and before the scheduled hearing, except motions to continue trial settings must be submitted at least ten (10) days before the scheduled trial.*
3. *Motions filed late without good cause shown may be denied by the Court.*
4. ***As a matter of policy, the Court will grant one continuance per party without requiring any showing of good cause.***
5. *Subsequent requests for continuance will be granted only upon a showing of good cause.*
6. *Continuances will be liberally granted to **attorneys** as long as diligent plea negotiations are taking place. The Court will balance the need for a continuance based on the legitimate time conflicts experienced by attorneys and the Court's need to move its docket.*
7. *If a motion for continuance is granted postponing the initial appearance until after the original answer date listed on the citation, the Defendant may lose the opportunity for Compliance dismissal or Driver Safety Course dismissal if Defendant does not meet certain statutory deadlines.*
8. *If a motion for continuance is denied, timely attendance at the originally scheduled hearing will be required. Parties should plan accordingly and avoid waiting to the last minute to submit the motion for continuance.*

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #6

Scheduled Fines

The Court Clerk shall implement guidelines for defendants who wish to voluntarily plea and pay a “window fine” or scheduled fine amount to resolve the Defendants’ pending cases.

1. Upon request by City Administrators, *the Court will submit to City Council a schedule of fines*, listed by offense, showing the fine amounts that would be acceptable to the Court under its standard policy for the resolution of a defendant’s case if the Defendant chooses to waive the right to trial, plead “guilty” or “no contest”, and voluntarily pay that amount.
2. *The schedule of fine amounts shall be proposed by the City Prosecutor* after consultation with the City Police Department, City Administration, the Court, and representatives from the community.
3. *The Presiding Judge shall review and approve the schedule of fines* prior to submission to City Council.
4. The schedule of fines shall be *reviewed and revised annually*.
5. The fines set forth in the schedule of fines shall be assessed upon a finding of guilty for the stated violations unless individually altered by the Court.
6. *Any defendant who pays the scheduled fine amount and court costs but fails to submit a plea or waiver* may still be subject to a finding of “guilty” as though a plea of “no contest” had been entered by the Defendant and the payment may also constitute a waiver of jury trial in writing. Art. 27.14(c) Tex. Code. Crim. Proc.
7. When a defendant pays the scheduled fine and costs, the Clerk must always *verify the Defendant’s identity*.
8. The Clerk shall never accept *partial payment* of a scheduled fine without permission from the Court.
9. *If a defendant enters a plea and waiver and agrees to pay the scheduled fine and court costs, but is unable to pay the scheduled fine and court costs at the time of the plea and waiver*, the Clerk may process the plea and waiver and offer the Defendant a **voluntary Payment Plan** if the Defendant has the required down payment and agrees to the other standard terms of the voluntary Payment Plan. See the Court’s Standing Order #12 – Voluntary Payment Plans.
10. *If a defendant enters a plea and waiver and agrees to pay the scheduled fine and court costs but is unable to pay the scheduled fine and court costs at the time of plea and waiver due to financial hardship and cannot start a Payment Plan* for lack of the required down payment or inability to agree to all of the standard terms, the Clerk may process the plea and waiver and schedule the

Defendant for an **indigency (or “reconsideration”)** hearing before a judge. See the Court’s Standing Order #18 – Hardship/Indigency/Safe Harbor.

11. In creating the records for each case, *the Clerk shall provide the scheduled fine amount and court costs for the City Prosecutor’s reference* while plea bargaining.
12. The scheduled fine amount and court costs shall be used to *calculate default arrest warrant bonds*.
13. The scheduled fine amount and court costs shall be used to calculate the amount that might be paid to a private vendor for unadjudicated cases under a *collections contract*. See Standing Order #29 – Private Collections.
14. Unless a judgment has been entered, the scheduled fine and court cost amounts associated with each case *are not owed by the defendant and should not be referred to as “balances due”*.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #7

Virtual Hearings

The Court Clerk shall implement guidelines for when defendants may appear virtually for hearings.

1. Upon request, a defendant may virtually attend a ***reconsideration (“indigency”) hearing*** or ***capias pro fine hearing*** if the Defendant claims to have a *health or transportation hardship*. Art. 45.021 Tex. Code Crim. Proc. Having to travel more than 90 miles for the hearing may be considered a transportation hardship. For the purposes of this policy, any post-judgment hearing dealing with compliance issues can be considered a capias pro fine hearing whether or not a capias pro fine has actually been issued.
2. Defendants claiming hardship must be prepared to *show evidence* of the need for a virtual appearance, such as paperwork related to the health issue or car repair.
3. Staff shall *record the details* in the file or digital record of the case whenever a defendant claims to have a hardship of any kind.
4. If a defendant requests a virtual appearance for any reason *other* than a health or transportation hardship, staff should consult the Presiding Judge for guidance. If the Presiding Judge is not immediately available, staff should consult the senior-most Court Clerk for guidance.
5. If a defendant requests a virtual appearance for any hearing *prior to judgment*, staff must consult the Presiding Judge for guidance.
6. If a defendant *previously failed to appear* for a hearing that was scheduled for virtual appearance due to a previous claim of hardship, staff should consult the Presiding Judge or senior-most Court Clerk prior to scheduling the Defendant for another virtual hearing.
7. If a defendant appears at a hearing virtually, the *Defendant must sign and return all documents* related to the hearing on the day of the hearing. If the documents are not timely returned, Defendant must be scheduled for an “in person” hearing as soon as practicable. If the Defendant subsequently sends all the required documents after the case is reset but before the new scheduled appearance date, staff may accept the documents and remove the case from the docket.
8. In completing the required documents related to a virtual hearing, the Defendant may submit *original signatures or signatures that are “captured on an electronic device”*. Art. 45.012(h) Tex. Code Crim. Proc. Electronic signatures that do not resemble the original handwritten signature are not acceptable.
9. The Court Clerk shall establish and implement procedures to *verify the identities* of defendants who appear virtually and/or submit documents without appearing in person.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #8

Entering a Plea

1. ***When to plea:*** A plea of “not guilty”, “guilty”, or “no contest” must be filed with the Court no later than the answer date and time that is listed on the citation.
2. ***How to plea:*** Generally, a plea of “not guilty”, “guilty”, or “no contest” may be made by Defendant or counsel in writing. If the plea is made by mail, the postmark date shall be considered the date of the plea and the plea is considered timely filed if received by the Court within ten (10) days of the deadline. Art. 45.013 Tex. Code Crim. Proc.
3. ***Must plea in open court:*** The plea must be taken in open court if (1) Defendant is a *child under 17 years of age*, (2) Defendant is *under 21 years of age and charged with an alcohol or tobacco related offense*, or (3) Defendant is charged with an offense involving *family violence*.
4. ***If deferred disposition is requested:*** A defendant pleading “guilty” or “no contest” and requesting deferred disposition must make the request for deferred disposition in open court unless a deferred disposition is specifically allowed at the Court Clerk’s window under the Court’s Standing Order #16 – Deferred Disposition.
5. ***Verify identity:*** Before filing a plea or accepting a payment, the Court Clerk must always *verify the Defendant’s identity*.
6. ***Payment of fine as plea:*** If a defendant *pays the fine* or an amount accepted by the Court, this will constitute a finding of “guilty” in open court as though a plea of “no contest” had been entered by the Defendant and constitutes a waiver of a jury trial in writing. Art. 27.14(c) Tex. Code. Crim. Proc. *Note:* If a defendant pays the fine and costs in full, there can be no appeal unless the plea or payment was not made freely and voluntarily.
7. ***Plea with no payment:*** If a defendant enters a plea of “guilty” or “no contest” and waiver of trial (without paying the fine) *prior to the scheduled appearance date and time* but at least five (5) business days before any trial setting, the Clerk shall provide the Defendant in person or by regular mail at the address stated in the request, notice of (1) the scheduled fine and costs due, (2) alternatives to immediate full payment of the scheduled fine and costs, (3) indigency procedures if unable to pay, and (4) the amount of the appeal bond. Art. 27.14(b) Tex. Code Crim. Proc. *Note:* If a defendant enters a timely plea without paying a fine, the Defendant may post an appeal bond and appeal the case *de novo* to County Court.
8. ***Not guilty:*** If a defendant enters a plea of “*not guilty*”, the Defendant may be set for a “Pre-Trial” hearing or, if represented by counsel, for an “Attorney Conference” docket. If Defendant refuses to enter a plea, the Court will enter a plea of “not guilty”.
9. ***No advice:*** *Court staff shall never advise defendants about which plea should be entered.*

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #9

Pre-Trial Hearings

1. *A “Pre-Trial” hearing shall be scheduled for:*
 - a. Any pro se defendant who pleads “not guilty”.
 - b. Any defendant who requests a trial.
 - c. Any defendant who requests discovery.
 - d. Any defendant who files pretrial motions.
 - e. Any defendant represented by counsel who appears at a hearing and fails to make progress toward a plea.
2. ***The State is required to provide all discovery pursuant to the Court’s Standard Discovery Order before or during a “Pre-Trial” hearing. Alternatively, the State may provide discovery to represented defendants before or during an “Attorney Conference” docket.***
3. *Defendant’s attorney may attend a “Pre-Trial” hearing on behalf of Defendant. There is no need for the attorney or Defendant to attend a “Pre-Trial” hearing if the attorney attends an “Attorney Conference” hearing and the State complies with the Court’s Standard Discovery Order.*
4. *In its discretion, the Court may order more than one “Pre-Trial” hearing pursuant to Art. 28.01, Tex. Code Crim. Proc., and under some circumstances the Court may require both Defendant and the Attorney of Record to attend a “Pre-Trial” hearing.*
5. ***Unless approved by the Court, no case may be set for trial unless Defendant or Defendant’s attorney attends a “Pre-Trial” hearing or “Attorney Conference” hearing during which all discovery is turned over according to the Court’s Standing Discovery Order.*** See Standing Order #10 – Standard Discovery Order.
6. *Objections to the complaint must be filed with the Clerk before or during a “Pre-Trial” or “Attorney Conference” hearing and will not be considered thereafter unless good cause is shown.*
7. *At a “Pre-Trial” or “Attorney Conference” hearing, the Court may require a personal *Appearance Bond* to secure Defendant’s appearance at trial. Defendant must supply a Financial Statement for this purpose.*
8. *At a “Pre-Trial” or “Attorney Conference” hearing, the Defendant shall be notified that failure to appear as instructed on a scheduled jury trial date may result in assessment against the Defendant of the costs of impaneling the jury, unless good cause is shown to the Court. Article 45.026, Tex. Code Crim. Proc.*

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #10

Standard Discovery Order

In accordance with Article 39.14, Texas Code of Criminal Procedure, the following requirements apply to requests for discovery:

1. ***State shall permit inspection.*** The State shall, before or during a “Pre-trial” hearing or “Attorney Conference” hearing, produce and permit the inspection by or on behalf of the Defendant of all documents, items, or information that constitute or contain evidence material to any matter involved in the action and that are in the possession, custody, or control of the State or any person under contract with the State. The State is not required to permit inspection of its work product or of material which is otherwise privileged. If the State withholds or redacts privileged material, it shall so inform the Defendant.
2. ***Duplication to be allowed; exception.*** The State shall permit electronic duplication, copying, and photographing of the material requested, and may voluntarily provide such copies or electronic duplicates to the Defendant at its own expense, except that in the case of a pro se Defendant, the State is not required to allow electronic duplication of the material at its expense.
3. ***Defendant not to disclose material.*** Except as provided in Article 39.14, the Defendant, an attorney representing the Defendant, or any agent of the Defendant may not disclose to a third party any documents, evidence, materials, or witness statements received from the State unless the Court orders the disclosure upon a showing of good cause after notice and hearing and after considering the security and privacy interests of any victim or witness or unless the documents, evidence, materials, or witness statements have already been publicly disclosed.
4. ***Exculpatory evidence to be provided.*** The State shall disclose to the Defendant any exculpatory, impeachment, or mitigating document, item, or information in the possession, custody, or control of the State that tends to negate the guilt of the Defendant or would tend to reduce the punishment for the offense charged.
5. ***Duty to supplement.*** If at any time before, during, or after trial the State discovers any additional document, item, or information required to be disclosed under Section 4 above, the State shall promptly disclose the existence of the document, item, or information to the Defendant or the Court.
6. ***Clerk to release upon request.*** The Court Clerk may release court case records to attorneys of record or their staff upon request. The Clerk shall not release any material that is work product of the State or is otherwise privileged or confidential. The Clerk shall obtain written acknowledgement from the recipient. If there is any question regarding material that should be released, the Clerk should seek guidance from a prosecutor or a judge.
7. ***Either party may request hearing.*** Either party may request and shall be entitled to a hearing on any dispute arising from discovery requests or discovery responses.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #11

Payment Methods

IT IS ORDERED that the following payment methods may be utilized when processing payments for fees or fines due:

1. ***Credit/Debit Cards:*** Most major credit cards and debit cards will be accepted according to guidelines established by the Court Clerk. Persons making credit card and debit card payments will be responsible for paying all service fees and additional charges.
2. ***Internet Payments:*** The Court Clerk shall implement a method for payments to be made through a link on the Tomball Municipal Court website. Persons making payments through the internet link will pay all service fees and additional charges.
3. ***Checks and Negotiable Instruments:*** Personal checks, cashier's checks, and money orders shall be accepted according to guidelines implemented by the Court Clerk. No personal checks will be accepted to pay amounts due with a pending arrest warrant, capias, or capias pro fine. An insufficient check fee shall be charged for returned checks.
4. ***Cash:*** Currency will be accepted to pay fines and fees, but coins will only be accepted up to a total of \$50.00 per payment. Cash must be delivered to the Clerk in person and not through the mail. In the event cash is received in the mail, staff must immediately seek guidance from the Presiding Judge or senior-most available Court Clerk.

Persons paying in cash at the window must remain at the window while the payment is counted. A payment receipt will be issued only if the person tendering payment remains to witness the counting.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #12

Voluntary Payment Plans

Any defendant who previously had a judgment of conviction entered or any defendant who waives the right to trial and enters a plea of “guilty” or “no contest” and agrees to pay the scheduled fine and court costs may at any time request to pay the balance owed in designated intervals according to standard Payment Plan terms.

1. ***Indigency not required:*** There is no need to declare the Defendant indigent in order to begin a voluntary Payment Plan. Similarly, defendants need not be declared indigent if they only need time (less than 30 days) to pay.
2. ***Application required:*** Any defendant who does not pay the entire balance immediately when due must submit a Financial Statement/Application form. Home and work address, phone numbers, and contact information are mandatory. Defendants should be encouraged to fill out the form as completely as possible so a Judge can make the best possible decisions for resolving Defendant’s payment obligations.
3. ***“Time to pay”:*** Defendants who initiate a voluntary Payment Plan shall be notified that they can avoid the Time Payment Reimbursement Fee if they pay the full balance prior to the 31st day after the judgment is entered. Art. 102.030 Tex. Code Crim. Proc.
4. ***Plea required:*** If there is no judgment of conviction in the case, Defendant must *enter a plea of “guilty” or “no contest” and agree to pay the scheduled fine and court costs* according to the standard terms of the Payment Plan.
5. ***Standard Payment Plan terms:***
 - a. *Minimum down payment* is 20% of the balance owed, unless a lower down payment is approved by a judge on a case-by-case basis.
 - b. *Defendants may choose payment due dates.* Payments may be made monthly, bi-weekly, or weekly.
 - c. *Minimum payment* is \$50 monthly, \$25 bi-weekly, or \$15 weekly.
 - d. There is *NO GRACE PERIOD* to make a payment.
 - e. The Clerk may accept a *late payment* if and only if it is a first time late payment and if it is within 30 days of the due date.
 - f. The Clerk may accept a *second time late payment* but must require the Defendant to fill out an updated Financial Statement and schedule Defendant for a “Compliance” hearing before a judge.
 - g. The Defendant may request an *extension* up to 30 days in writing. The Clerk may grant Defendant’s request for extension if and only if it is the Defendant’s first such request. Subsequent requests must be submitted to a judge for approval and Defendant must fill

- out an updated Financial Statement and attend a “Compliance” hearing to examine Defendant’s ability to continue the Payment Plan.
- h. If Defendant discovers that he/she might be unable to make a minimum payment on time, he/she should immediately *contact the Court* and schedule a hearing before a judge on or before the payment deadline.
 - i. If Defendant timely requests a hearing with a judge regarding a missed payment, he/she *will not be penalized*. Instead, the Judge will examine Defendant’s current financial situation and determine how to best resolve the outstanding balance owed.
 - j. If Defendant *repeatedly fails to make timely minimum payments* and also fails to contact the Court and schedule an appearance before a judge, the Clerk shall set the Defendant for a “Show Cause” hearing. Consequences could include additional penalties, withdrawal of the Payment Plan, and/or a writ of arrest (*capias pro fine*).
 - k. Payments in excess of the agreed payment amount will *reduce the balance owed* but will not reduce or delay the next minimum payment.
6. **Staff obligations:** *Staff shall fully explain all Payment Plan terms* and ensure that each applicant fully understands.
 7. **If no down payment:** If Defendant is unable or unwilling to comply with any of the standard terms, Defendant shall complete an indigency form (Financial Statement/Application) and schedule an indigency hearing before a judge to discuss alternative means to pay the fines and costs.
 8. **If down payment:** If Defendant understands and agrees to all of the standard Payment Plan terms, *staff may accept the down payment (20% minimum) to begin the Payment Plan*.
 9. **When first payment due:** The Defendant must be notified of the first payment due date verbally and in writing when the Payment Plan is initiated.
 10. **Judge to sign order:** Upon acceptance of the down payment, staff shall *print out a Judgment/Payment Plan Order* for a judge to sign and then, once signed, enter the signed Judgment/Payment Plan Order.
 11. **Clerk to review:** The Court Clerk shall implement a program to *review all Payment Plans monthly* and promptly shall set all non-compliant defendants for “Show Cause” hearings.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #13

Compliance Dismissals Without Fees

Court Clerks are authorized to process the dismissal of cases involving the following offenses in compliance with the Standing Motion of the Prosecutor if the evidence, as set forth below, is presented. The Clerk must keep a copy of the evidence presented for the file to be attached to the dismissal to be processed.

1. Proof of Financial Responsibility (Transp. Code §601.193)

- a. If Defendant produces one of the documents listed below for the vehicle involved in the alleged offense; and
- b. If the Clerk verifies the document.
- c. Acceptable documents include: (Transp. Code §601.053(a)).

- (1) A motor vehicle liability insurance policy that meets minimum state requirements and covers the vehicle at the time of the alleged offense;
- (2) A standard Texas proof of motor vehicle liability insurance form showing coverage for the vehicle at the time of the alleged offense;
- (3) An image displayed on a wireless communication device that includes the information found on a standard Texas proof of motor vehicle liability insurance form showing coverage for the vehicle at the time of the alleged offense;
- (4) A surety bond certificate issued under Section 601.121 showing coverage for the vehicle at the time of the alleged offense;
- (5) A certificate of a deposit with the comptroller issued under Section 601.122 covering the vehicle at the time of the alleged offense;
- (6) A copy of a certificate of deposit with the appropriate county judge covering the vehicle at the time of the alleged offense issued under Section 601.123; or
- (7) A certificate of self-insurance covering the vehicle at the time of the alleged offense issued under Section 601.124 or a photocopy of the certificate.

2. No Driver's License (Transp. Code §521.021)

If Defendant presents a driver's license that was valid on the date of the offense.

3. No Handicap Placard/Plates (Transp. Code §681.011)

If Defendant presents satisfactory evidence that Defendant had a valid handicap placard or plates on the date of the offense and the placard or plates were assigned to Defendant.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #14

Compliance Dismissals with Administrative Fees

Court Clerks are authorized to process the dismissal of cases involving the following offenses upon payment of the specified administrative fee if the evidence, set forth below, is presented. The Court Clerk must keep a copy of the evidence presented for the file to be attached to the dismissal to be processed.

1. Expired Vehicle Registration/License Plate (Transp. Code §502.407(b))

The Court will dismiss a charge of driving with an expired motor vehicle registration/license plate

- a. If Defendant presents satisfactory evidence that he/she remedied the defect not later than the 20th working day after the date of the offense or before Defendant's first court appearance date, whichever is later; and
- b. If Defendant presents evidence of payment of a late fee for registration with the appropriate tax office; and
- c. If Defendant pays an administrative fee of \$20.

2. Operate Vehicle Without Valid Registration Insignia Properly Displayed (Transp. Code §502.473(b))

- a. If Defendant presents satisfactory evidence that he/she remedied the defect not later than Defendant's first court appearance; or
- b. If Defendant shows that the vehicle was issued a registration insignia that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed; and
- c. If Defendant pays an administrative fee of \$10.

3. Wrong, Fictitious, Altered, or Obscured Registration Insignia (Transp. Code §502.475(c))

- a. If Defendant remedies the defect before Defendant's first court appearance; and
- b. If Defendant pays an administrative fee of \$10.

4. Wrong, Fictitious, Altered, or Obscured License Plate (Transp. Code §504.945(d))

- a. If Defendant remedies before the Defendant's first court appearance; and
- b. If Defendant shows that the vehicle was issued a plate that was attached to the vehicle establishing that the vehicle was registered for the period during which the offense was committed; and
- c. If Defendant pays an administrative fee of \$10.

5. Expired Driver's License (Transp. Code §521.026(a))

- a. If Defendant presents satisfactory evidence that he/she remedied the defect not later than the 20th working day after the date of the offense or before Defendant's first court appearance date, whichever is later; and
- b. If Defendant pays an administrative fee of \$20.

6. Fail to Report Change of Address or Name (Transp. Code §521.054(d))

- a. If Defendant presents satisfactory evidence that he/she remedied the defect within 20 working days after the date of the offense or before Defendant's first court appearance date, whichever is later; and
- b. If Defendant pays an administrative fee of \$20.

7. Violate Driver's License Restriction of Endorsement (Transp. Code §521.221(d))

- a. If Defendant shows that the driver's license restriction or endorsement was imposed because of a physical condition that was surgically or otherwise medically corrected before the date of the offense, or in error and that fact is established by Defendant; and
- b. If DPS/DOT removes the restriction or endorsement before the defendant's first court appearance; and
- c. If Defendant pays an administrative fee of \$10.

8. Operate Vehicle with Defective or Unsafe Required Equipment (Transp. Code §547.004(c))

- a. If Defendant presents satisfactory evidence that he/she remedied the defect before Defendant's first court appearance; and
- b. If Defendant pays an administrative fee of \$10.
- c. Does not apply if offense involves a commercial vehicle.

9. Expired Disabled Parking Placard (Transp. Code 681.013)

- a. If Defendant presents evidence that he/she remedied the defect not later than 20 working days after the date of the offense or before Defendant's first court appearance, whichever is later; and
- b. If Defendant pays an administrative fee of \$20.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #15

Driver Safety Course (DSC/MOTSP) Dismissals

The Court Clerk shall implement procedures for qualified defendants to require dismissal by successfully completing a driving safety course (DSC) or motorcycle operator training and safety program (MOTSP).

1. ***Scope of DSC dismissals:*** *These procedures apply to defendants alleged to have committed any offense that involves the operation of a motor vehicle in the Court’s jurisdiction and is defined by Tex. Transp. Code 472.022 (“Obeying Warning Signs and Barricades”), Subtitle C, Title 7, Tex. Transp. Code (“Rules of the Road” offenses including Chapters 541 through 600, Tex. Transp. Code), or Section 729.001(a)(3)Tex. Transp. Code (“Operation of a Motor Vehicle by Minor”), and if Defendant is younger than 25 years of age, any alleged offense that involves the operation of a motor vehicle in the Court’s jurisdiction and is classified as a moving violation.*
2. ***Remote applications:*** *The Court Clerk shall develop and implement procedures to permit defendants to determine eligibility for DSC/MOTSP dismissals, elect, enter a plea, pay costs and fees, submit all necessary paperwork, and return certificates of DSC/MOTSP completion without having to appear in person.*
3. ***Application deadline:*** *Defendants who timely elect for DSC/MOTSP dismissal must enter a plea, and submit all necessary paperwork no later than the answer date and time listed on the citation. Failure to do so will render Defendant ineligible for DSC/MOTSP dismissal.*
4. ***Continuances:*** *Generally, defendants who are granted continuances will lose their eligibility for “mandatory” DSC/MOTSP dismissal if they fail to elect and enter a plea before the answer date and time listed on the citation. However, if special circumstances apply, the Court may consider on a case-by-case basis whether to grant “discretionary” DSC/MOTSP dismissal under Art. 45.0511(d) Tex. Code Crim. Proc. for defendants who fail to meet the statutory deadlines for good cause.*
5. ***To be eligible, a defendant:***
 - a. ***Must elect for DSC/MOTSP dismissal*** in person, by counsel, by mail, or by remote application ***on or before the answer date and time listed on the citation.*** If mailed, the election must be sent certified mail, return receipt requested, postmarked on or before the answer date listed on the citation. Also if mailed, the election must be received by the Court within 10 days after the answer date listed on the citation.
 - b. ***Must plead “guilty” or “no contest”*** on or before the answer date and time listed on the citation. See Standing Order #8 – Entering a Plea.

- c. **Must have a valid Texas driver's license** unless active military or military dependent. Occupational licenses are considered "valid" driver's licenses.
 - d. **Must provide proof of financial responsibility** such as a Texas liability insurance card or policy declarations page listing the defendant as an approved driver for a policy in effect at the time of election. The Clerk shall submit any questions regarding the sufficiency or validity of proof of financial responsibility for a hearing before the Court.
 - e. **Must pay court costs and administrative fees.** Even if the plea and election are timely, the DSC cannot be started until the costs and fees are paid.
- 6. A defendant is NOT eligible if Defendant:**
- a. holds a CDL or held a CDL when the offense was committed.
 - b. has taken DSC or MOTSP to require dismissal of a violation in the last 12 months, counting from the date the last course was taken to the date of the present offense.
 - c. is alleged to have committed any of the following offenses:
 - i. speeding at a rate of 95 MPH or more,
 - ii. speeding 25 MPH or more over the posted limit,
 - iii. passing a school bus (545.066, Tex. Transp. Code),
 - iv. leaving the scene of an accident (550.022, Tex. Transp. Code),
 - v. failing duty to give information or render aid (550.023, Tex. Transp. Code),
 - vi. any offense in a construction zone where workers are present (except seatbelt violations, inspection offenses, and pedestrian offenses), and
 - vii. any Serious traffic violation as defined by Transp. Code 522.003(25), including:
 1. driving a commercial vehicle without a CDL,
 2. speeding in a commercial vehicle 15 MPH or more over the posted limit,
 3. improper or erratic lane change in a commercial vehicle,
 4. following too closely in a commercial vehicle, and
 5. any moving violation in a commercial vehicle with a fatal accident.
7. **Child restraint offenses:** If a defendant is charged with a violation involving child passenger safety systems or failure to secure a child under 17 the Defendant must complete a special driving safety class with instruction on child restraint safety. Defendants charged under Tex. Transp. Code 545.412 are eligible for mandatory DSC dismissal even if they had a citation dismissed by regular DSC dismissal within the last 12 months. (This law is repealed effective June 1, 2023).
8. **Indigency:** If an eligible Defendant enters a timely plea and election for DSC dismissal but cannot pay the statutory court costs due to financial hardship, contact the Presiding Judge for guidance. If the Presiding Judge is not immediately available, seek guidance from the senior-most Court Clerk.
9. **Defendant's obligations:** The Court will enter a judgment for each eligible defendant who timely elects, submits a timely plea, completes the application process, and pays the required costs and fees and will defer imposition of the judgement for 90 days during which time *Defendant must present the following:*

- a. a uniform certificate of completion of the DSC or verification of completion of the MOTSP,
 - b. a copy of Defendant's DPS driving record showing that Defendant had not completed an approved DSC or MOTSP within the 12 months preceding the date of the offense, and
 - c. an affidavit stating that Defendant was not taking a DSC or MOTSP not shown on the DPS driving record on the date of election or at any time during the 12 months preceding the date of the offense.
10. **Same transaction offenses:** Eligible defendants may earn DSC/MOTSP dismissals for multiple offenses by submitting a single certificate of DSC/MOTSP completion as long as all the offenses are within the scope of this order and are charged pursuant to a single citation.
11. **Staff obligations:** When interacting with defendants regarding DSC/MOTSP dismissals, *staff should always strive to make sure defendants fully understand their obligations and deadlines* to complete the DSC/MOTSP dismissal process.
12. **Failure to comply:** Defendants who are granted a deferred DSC/MOTSP judgment but fail to submit certificates of DSC/MOTSP completion by the end of the 90 day deferral period shall be *required to attend an in person "Show Cause" hearing*. The Clerk must mail the hearing notification to the Defendant's address on record.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #16

Deferred Disposition Dismissals

The Court Clerk shall implement procedures so that eligible defendants accused of certain offenses may request an Order of Deferral to have the case dismissed by complying with certain terms and conditions:

1. ***Defendant must plead:*** The Defendant must plead “guilty” or “no contest” upon submission of a request or application for deferred disposition. The plea may be submitted in writing at the window or through the mail but *the request for deferred disposition must be made in open court unless a deferred disposition is specifically allowed at the Clerk’s window. See “Window’ deferred disposition” below. See also Standing Order #8 – Entering a Plea.*
2. ***Direct requests allowed:*** Upon entering a plea of “guilty” or “no contest”, Defendant may request deferred disposition directly from the Court. Alternatively, a defendant may pursue a “Pre-trial” process and ask a prosecutor to recommend deferred disposition as part of a plea bargain.
3. ***Requests after plea bargain:*** If a defendant requests deferred disposition after bargaining with a prosecutor and the request is joined by the State, the Court does not have to follow recommendations by the State and *may not necessarily accept the plea bargain agreement.* However, if the Court rejects the plea bargain agreement, the Defendant will be permitted to withdraw the plea of “guilty” or “no contest” and renegotiate the case or set the case for trial.
4. ***Juveniles:*** *All juvenile defendants* who wish to apply for deferred disposition must attend a court hearing with a parent or guardian to enter a plea and make the request in open court.
5. ***Defendant is NOT eligible if Defendant:***
 - a. Holds a CDL or held a CDL at the time of the alleged offense. *Note:* Deferred disposition is not available to CDL defendants for a violation of a state law or local ordinance relating to motor vehicle control, other than a parking violation. See Art. 45.051(f)(2) Tex. Code Crim. Proc.
 - b. Is alleged to have committed any traffic offense in a construction zone where workers are present.
 - c. Is a minor charged with the offense of consuming an alcoholic beverage if the minor has been previously convicted twice or more of this offense.
 - d. Is a minor charged with the offense of driving under the influence of an alcoholic beverage or operating a watercraft under the influence of an alcoholic beverage if the minor has been previously convicted twice or more of this offense.
 - e. Is a minor who is at least 17 years of age and has previously been convicted two or more times of an offense to which Section 106.071 of the Alcoholic Beverage Code applies (purchase of alcohol by a minor, attempt to purchase alcohol by a minor, consumption of

alcohol by a minor, possession of alcohol by a minor, and misrepresentation of age by a minor).

6. ***Certain terms and conditions shall apply to particular kinds of cases:***
 - a. *Under 25 years old with a moving violation* - If Defendant is under the age of 25 and charged with a moving traffic violation, the Court shall require a driving safety course as a mandatory term of the deferral in addition to the other general requirements of a deferred disposition for moving violations.
 - b. *Provisional License* - If Defendant has a provisional driver's license and is charged with a moving violation, the Court shall require that Defendant retake and pass a DPS driving examination and pay a DPS fee.
 - c. *Under 21 years old with alcohol violation* - If the offense is an Alcoholic Beverage Code offense or the Penal Code offense of public intoxication and the defendant is younger than 21 years of age, the Court must require the defendant to take a mandatory alcohol awareness course as a term of the deferral. In addition, the Court must require mandatory community service.
 - d. *Under 21 years old with tobacco violation* – If the offense is a tobacco violation and the defendant is younger than 21 years of age, the Court must require the defendant to take a mandatory tobacco awareness course.
7. ***Other terms and conditions:*** Upon a request for deferred disposition by a defendant after a plea of "guilty" or "no contest" or upon a request for deferred disposition joined by the State after plea negotiations and a plea of "guilty" or "no contest", the Court may hear proof as to the offense and the punishment. Art. 45.022, Tex. Code. Crim. Proc. *also* Tex. Code of Judicial Conduct Canon 6(c)(2)(f). After hearing such proof, the Court may in its discretion require the defendant to comply with any number of reasonable conditions as per Art. 45.051, Tex. Code Crim. Proc.
8. ***Indigency:*** If Defendant is unable to pay the court costs and fine (or partial fine as a condition of deferred) due to hardship when Defendant requests deferred disposition or submits the application, Defendant may appear before a judge at a hearing to consider Defendant's claim of hardship and whether special payment terms and conditions shall apply. If appropriate, the Judge may permit payment at any time up to the end of the deferral period or offer community service or other alternative means to satisfy the court costs and fine.
9. ***"Window" deferred dispositions:*** If an eligible defendant who has not been subject to another order of deferral from this court or any other court in the State of Texas in the 12 months prior to the date of the offense is charged with any of the offenses listed below and requests deferred disposition from the Court, the Clerk may prepare for judicial signature an Order of Deferred Disposition with the terms and conditions specified below. A defendant is not eligible for "Window" deferred disposition if the case goes to warrant or OMNI. If eligible, staff may inform the Defendant that upon final approval of a judge, the terms and conditions of the requested Deferred Disposition will be as follows:

"Window" Deferred Disposition for Eligible Moving Violations

- 1.) Maximum fine will be assessed;
- 2.) Deferral period will be 90 days;
- 3.) Defendant must pay court costs at the time of request;

- 4.) Defendant must pay a partial fine at the time of request in the amount of the scheduled fine;
- 5.) Defendant must submit proof of a valid driver's license;
- 6.) Defendant must submit proof of financial responsibility (insurance policy) as required by law in effect at the time of the request for Deferred Disposition;
- 7.) Defendant must avoid violating local, state, and federal laws.
- 8.) Defendant must avoid arrest or citation for any TRAFFIC offense in the State of Texas;
- 9.) (If under 25) Defendant must successfully complete a Driver Safety Course (DSC) or Motorcycle Operator Training and Safety Program (MOTSP) *and* present to the Court the certificate of completion;
- 10.) (If provisional license) Defendant must retake and pass a DPS driving examination;
- 11.) Defendant shall immediately notify the Court of any change in address or phone number;

List of ***“Window” Eligible Moving Violations (no accident, school zone, or const zone):***

- Speeding less than 25 over the limit
- Illegal turn
- Illegal passing
- Failure to signal...
- Following too closely
- Failure to yield right of way
- Failure to control speed
- Failure to maintain lane
- Ran red light
- Ran stop sign
- Failure to stop at designated point
- Obstructing traffic
- Stopping, standing, or parking
- Backing violation
- Seatbelt violation
- Illegal use of wireless communication device

“Window” Deferred Disposition for FMFR (first offense)(no accident, school zone, or const zone)

- 1.) Maximum fine will be assessed;
- 2.) Deferral period will be 180 days;
- 3.) Defendant must pay a partial fine at the time of request in the amount of the scheduled fine;
- 4.) Defendant must pay court costs at the time of request;
- 5.) Defendant must submit proof of a valid driver's license;

- 6.) (If under 25) Defendant must successfully complete a Driver Safety Course (DSC) or Motorcycle Operator Training and Safety Program (MOTSP) *and* present to the Court the certificate of completion;
 - 7.) (If provisional license) Defendant must retake and pass a DPS driving examination;
 - 8.) Defendant must immediately notify the Court of any change in address or phone number;
 - 9.) Defendant must submit proof of financial responsibility (insurance policy) as required by law. Said proof shall show continuous coverage during the deferral period and shall be submitted during the last ten (10) days of the deferral period.
10. **Staff obligations:** When interacting with defendants regarding deferred disposition dismissals, *staff should always strive to make sure the defendants fully understand* the terms and conditions of the deferred disposition and the orders of the Court.
 11. **Failure to comply:** If a defendant granted deferred disposition fails to present during the deferral period satisfactory evidence of compliance with all the terms and conditions imposed by the Court, the Clerk shall, after the deferral period expires, notify the Defendant at the mailing address on file that the *Defendant must appear at a "Show Cause" hearing* to show why the order of deferral should not be revoked.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #17

Hardship/Indigency/Safe Harbor

If any defendant communicates that he/she may have difficulty complying with court orders due to any kind of hardship, staff should take the following steps:

1. *Memorialize* the communication by placing it in the physical file or making note of the communication in the digital record.
2. *Schedule* Defendant for an “in person” hearing.
3. Schedule a *virtual* hearing upon request and according to the guidelines set forth in Standing Order #7 – Virtual Hearings.
4. If a defendant claiming hardship *previously failed to appear* for a hearing scheduled to address a previous claim of hardship, immediately consult the Presiding Judge for guidance. If the Presiding Judge is not immediately available, consult the senior-most Court Clerk for guidance.
5. If a defendant claiming hardship has *no judgment or conviction*, schedule the Defendant for any docket when a prosecutor is present.
6. If all Defendant’s cases are *post-conviction*, schedule Defendant for a “Show Cause” docket.
7. Schedule all of Defendant’s pending cases for the *same hearing date*. If Defendant has a mixture of pre-conviction and post-conviction cases, schedule all cases on a docket when a prosecutor is present.
8. *Provide Defendant a Financial Statement* to be completed for the hearing. Defendants should be advised that submitting false information on a financial statement may be a serious crime.
9. *Recall or hold writs of arrest* according to the Court’s Standing Orders #20 Arrest Warrants and #21 Capias Pro Fines. Immediately after the hearing, determine whether the Judge wishes to have the writs of arrest reinstated or recalled.
10. Prior to any hearing to consider a claim of hardship, notify the Judge whether Defendant has ever claimed hardship in the past and whether the Court has ever found that the judgment imposed *undue hardship* on Defendant.
11. Notify Defendants claiming hardship that they must be prepared to show a judge *evidence* of the hardship, such as tax returns, paycheck stubs, proof of government assistance, or other paperwork related to the health issue or financial issue. Defendants should be advised that presenting false evidence of hardship to the Court may be a very serious crime.
12. Notify Defendants of the ***Safe Harbor*** policy: No defendant will be arrested or punished in relation to a case pending in the Tomball Municipal Court when the Defendant appears in Court and makes a good faith effort to resolve the case even if there is an outstanding writ of arrest. However, this Court cannot guarantee safe harbor to defendants with outstanding warrants from other jurisdictions.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #18

Violation of Promise to Appear and Failure to Appear

Court personnel shall file Violation of Promise to Appear and Failure to Appear charges upon the request of a prosecutor and according to the following guidelines:

1. ALL TRANSP. CODE SEC. 541 – 600 OFFENSES: VIOLATE PROMISE TO APPEAR TRANSP. CODE 543.009

Upon the motion (or standing motion) of a prosecutor, court personnel shall prepare a charge for Violation of Promise to Appear under Transportation Code 543.009 if (1) Defendant signs a promise to appear for a “rules of the road” violation and then (2) Defendant willfully fails to appear as promised and then (3) Defendant fails to contact the Court within ten (10) days after the missed appearance date.

2. ALL OTHER CRIMINAL CASES: FAILURE TO APPEAR PENAL CODE 38.10

Upon the motion (or standing motion) of a prosecutor, court personnel shall prepare a charge for Failure to Appear under Penal Code 38.10 If (1) Defendant was previously released from custody with or without bond and then (2) Defendant intentionally or knowingly fails to appear in accordance with the terms of release and then (3) Defendant fails to contact the Court within ten (10) days after the missed appearance date.

3. AVOID REPETITIVE NEW CHARGES FOR ANY SINGLE CITATION.

If a defendant already has a pending charge for Violation of Promise to Appear or Failure to Appear related to any single citation that was issued to the Defendant, court personnel shall not process any new charges for those offenses without specific approval by a prosecutor.

4. FAILURE TO APPEAR AFTER PERSONAL MAGISTRATIONS.

If (1) a defendant is released from the City of Tomball jail after receiving personal instructions from a magistrate and then (2) Defendant intentionally or knowingly fails to appear in accordance with the terms of release and then (3) Defendant fails to contact the Court within ten (10) days after the appearance date, court personnel shall present to the prosecutor for approval a new charge for Failure to Appear under Penal Code 38.10 even if Defendant has previously been charged with Violation of Promise to Appear or Failure To Appear.

5. NOT FOR CODE ENFORCEMENT CASES OR “CITIZEN” COMPLAINT CASES.

Defendants cannot be charged with Violate Promise to Appear or Failure to Appear unless the underlying case was initiated by a peace officer who wrote a citation and released Defendant upon a promise to appear, or if Defendant was released from jail on bond or promise to appear.

6. NOT FOR DEFENDANTS WHO ENTER A TIMELY PLEA.

A defendant cannot be charged with Violate Promise to Appear or Failure to Appear if the Defendant appears by entering a plea prior to the answer date and time on the citation.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #19

Arrest Warrants

1. When to Prepare Warrant:

The Court Clerk shall prepare a warrant for arrest with a supporting affidavit to be reviewed by a judge only if a sworn complaint has been filed in the case and (1) when requested by a judge, (2) when a defendant fails to appear in response to a properly served Summons, (3) when a defendant fails to appear in response to an Art. 45.014(e) letter (see below), (4) when a defendant fails to appear as directed after posting a bond, or (5) when a defendant fails to appear as promised after release from custody by a magistrate.

2. Ten (10) Day Grace Period:

During the ten (10) business day period following any scheduled hearing date, any defendant who failed to timely appear at the scheduled hearing may appear as a “walk-in” or request a continuance at the Court Clerk’s window during business hours. The continuance shall be granted if the Defendant signs a promise to appear for a new hearing date. If the Defendant has previously been granted one or more continuances, staff should consult the Presiding Judge for guidance and, if the Presiding Judge is not available, staff should immediately consult the senior-most available Court Clerk. *If a defendant communicates with the Court in any way during the grace period, staff should immediately consult the Presiding Judge or senior-most clerk for guidance.*

3. Art. 45.014(e) Notice Required:

No warrant may be issued for failure to appear at the initial court setting unless the Defendant fails to appear and also fails to schedule an alternative appearance date after a letter is sent pursuant to Art. 45.014(e) Tex. Code Crim. Proc.

4. When to Recall Warrant:

Staff shall recall a warrant when (1) the Defendant posts a *bond*, (2) when a *judgment* or deferred judgment is entered, (3) when the Defendant voluntarily appears and makes a good faith effort to resolve the warrant, (4) when the case is closed, or (5) when a judge orders the recall.

5. Remove Original Warrant from Police Files:

The staff member who processes a recall must also remove the original warrant from the police file room as soon as possible.

6. Putting Warrants on Hold.

If they have reason to believe there is a problem with any warrant, clerks may place the warrant on temporary “hold” by unflagging the case and immediately notifying the Presiding Judge or senior-clerk.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #20

Capias Pro Fines

1. When to Prepare Capias Pro Fine:

When directed by the Court after a post-judgment “Show Cause” hearing, the Court Clerk shall prepare a capias pro fine for a judge to review and sign.

2. Failure to Appear for Post-Judgment “Show Cause” Hearing:

As a matter of policy, the Court will generally not issue a capias pro fine unless the Defendant fails to appear for a post-judgment “Show Cause” hearing scheduled to determine whether the judgment imposes an undue hardship on the Defendant. Art. 45.045 Tex. Code of Crim. Proc. While this policy will apply to almost all cases, the Court may in its discretion on a case-by-case basis issue a capias pro fine under some circumstances even though a non-compliant Defendant does not fail to appear for a “Show Cause” hearing.

3. When to Recall Capias Pro Fine:

Staff shall recall a capias pro fine (1) when the *judgment is satisfied*, (2) when the *case is closed*, (3) when the Defendant starts a voluntary *payment plan*, (3) when the Defendant *appears* before a judge as a “walk-in”, (4) when the Defendant *notifies* the Court of possible indigency and *schedules a hearing* as described below, or (5) when a judge orders recall.

4. Recall Capias Pro Fine Upon Notice of Possible Indigency:

Staff shall recall a capias pro fine when (1) the Defendant *notifies* the Court that the Defendant has difficulty paying the fine and costs in compliance with the judgment and (2) a *hearing is set* to determine whether the judgment imposes an undue hardship on the Defendant. The Defendant may notify the Court verbally or in writing by mail, by email, or by hand delivery, and any notice will be considered sufficient if the Defendant signs a promise to appear for the hearing.

5. Remove Original Capias Pro Fine from Police Files:

The staff member who processes a recall must also remove the original capias pro fine from the police file room as soon as possible.

6. Putting Capias Pro Fines on Hold.

If they have reason to believe there is a problem with any capias pro fine, clerks may place the capias pro fine on temporary “hold” by unflagging the case and immediately notifying the Presiding Judge or senior- most clerk.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #21

Bond Forfeitures

1. The Court Clerk shall implement procedures for the City to recover debts created by bond agreements for defendants who fail to appear. Since bond forfeiture actions follow the Texas Rules of Civil Procedure, the Clerk shall establish a special "Civil Docket" for this purpose.
2. When any defendant fails to acknowledge his or her presence to a judge at a docket, the Bailiff shall call the Defendant's name distinctly at the courthouse door. If the Defendant fails to answer, the Bailiff shall swear an affidavit to attest that the Defendant's name was called. The affidavit shall be sworn before the Clerk and placed in the Court's file.
3. Upon the motion (or standing motion) of the City Prosecutor, the Court will forfeit the bonds of defendants who fail to appear.
4. If a defendant who failed to appear in lieu of a *cash bond* has entered a conditional plea of "no contest" and a waiver of jury trial, the Clerk shall prepare a judgment of conviction for a judge to sign. With the conditional plea and written consent of the Defendant, the Clerk shall forfeit the bond to pay the fine. The Clerk shall notify the Defendant by regular mail of the court action and the right to request a new trial within ten (10) business days. If the Defendant does not make a timely motion for new trial, the judgment and forfeiture shall become final.
5. If a defendant who failed to appear in lieu of a *cash bond* has NOT entered a conditional plea of "no contest" and waiver of jury trial, the Clerk shall prepare a Judgment *Nisi* and bond forfeiture for a judge to sign.
6. If a defendant fails to appear in violation of the terms of a *surety bond* or *personal bond*, the Clerk shall prepare a Judgment *Nisi* and bond forfeiture for a judge to sign.
7. When a Judgment *Nisi* is entered, the Court shall issue a *capias* warrant for the Defendant pursuant to Chapter 23, Tex. Code Crim. Proc.
8. The Clerk shall set all Judgment *Nisi* cases for hearing on a "Civil Docket" at least 48 days in the future. Notices shall be served upon defendants and sureties according to the Tex. Code of Civ. Proc.
9. The City Prosecutor shall determine when and under what circumstances cases on the "Civil Docket" should be settled or should be tried and what ranges of settlement should be available.
10. The Clerk shall implement procedures to track bond liabilities in the filing system. Case files must be flagged in some way to easily identify defendants who have posted bonds. The flags should distinguish between "cash", "surety", and "personal" bonds.
11. If a bond is "returned" because the Defendant is surrendered, or if a surety is released from liability for any reason, the Clerk must remove the bond flag from the case file.
12. The City Prosecutor and Clerk shall implement procedures to provide for the enforcement and execution of final judgments.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #22

OMNI

The Court Clerk shall implement a compliance enforcement program pursuant to a contract with the Department of Public Safety (DPS) or its vendor (OMNI) by denying drivers' license renewals to defendants who fail to appear or who fail to satisfy a judgment as ordered.

1. *Reporting to OMNI:* The Clerk shall regularly and systematically submit to OMNI all necessary information regarding defendants who (1) fail to appear for the appearance date on a citation, (2) fail to appear for a summons issued when a complaint is filed, (3) fail to appear at trial following the filing of a sworn complaint, or (4) fail to pay or satisfy a judgment ordering payment of a fine and cost in the manner ordered by the Court so that those defendants will be denied renewal of their drivers' licenses.
2. *Releasing from OMNI:* The Clerk shall immediately notify OMNI that there is no cause to deny renewal of a defendant's driver's license when:
 - a. the fine, fees, and other items of cost are *paid in full*,
 - b. the case is dismissed,
 - c. the Defendant is acquitted,
 - d. an appearance bond is posted,
 - e. an appeal is perfected,
 - f. the fine, fees, and other items of cost are deemed uncollectible,
 - g. the submission to OMNI was in error, or
 - h. the failure to appear report or court order to pay a fine or cost was destroyed in accordance with a record retention policy.
3. *Collecting OMNI fees:* The Court will order and the Clerk shall require defendants to pay all OMNI fees EXCEPT UNDER THE FOLLOWING CIRCUMSTANCES:
 - a. the Defendant is acquitted,
 - b. the case is dismissed *with prejudice by the State for lack of evidence*,
 - c. the fine, fees, and other items of cost are deemed uncollectible,
 - d. the Defendant is determined to be indigent,
 - e. the submission to OMNI was in error, or
 - f. the failure to appear report or court order to pay a fine or cost was destroyed in accordance with a record retention program.
4. *Discretionary early release:* The Court may, in its discretion, direct the Clerk to notify OMNI that there is no cause to deny renewal of a defendant's driver's license before the fine, fees, or other items of cost are fully paid when the Defendant has made a suitable arrangement with the Court to satisfy the judgment.
5. *May be used for "citizen" complaint cases:* The Clerk shall submit to OMNI all defendants (1) who fail to appear for a summons issued when a "citizen" complaint is filed or (2) who fail to pay or satisfy a judgment for a code enforcement case or a "citizen" complaint case.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #23

Entering Judgments and Time Payment Reimbursement Fees

The Court Clerk shall implement guidelines for entering judgments and assessing statutory time payment reimbursement fees.

1. As required by law, judges shall render all judgments and sentences in open court.

2. *If Defendant is present in court for the rendering:*

If Defendant is present, the Judge shall proclaim the judgement and sentence and order the Clerk to immediately print out the judgment. On the same day of the rendering, the Judge shall sign and date the judgment and the Clerk shall enter the judgment into the docket.

3. *If Defendant is NOT present for the rendering:*

If Defendant is not present at the time of the rendering, the Judge shall instruct the Clerk to prepare a judgment and to enter the judgment into the docket on a date of the Judge's choosing, either on the date of the rendering or on some future date. The Judge must always sign and date the judgment prior to entry into the docket. The Judge shall place his written instructions to the Clerk into the physical file or, alternatively, the judge shall dictate his instructions to the Clerk to be entered into the digital record of the case.

4. *Collection of Late Payment fee:*

Statutory Time Payment Reimbursement Fees shall be assessed against all defendants who fail to pay fines and fees in full by the thirty-first (31st) day after *entry* of the judgment.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #24

Uncollectible Balances

The Clerk shall implement procedures to regularly identify, process, and resolve cases that are deemed “uncollectible”.

Adjudicated Cases:

1. The Clerk may prepare an Order to designate a fine, fee, or item of cost as “uncollectible” in the fee record if:
 - a. the Defendant is deceased,
 - b. the Defendant is serving a sentence of imprisonment for life or life without parole, or
 - c. the fine, fee, or item of cost has been unpaid for fifteen (15) years.
2. The Clerk shall execute the signed Order by designating the fine, fee, or item of cost as “uncollectible” and closing the case file.
3. A copy of the Order must be attached to the fee record.

Unadjudicated Cases:

1. Upon the motion (or standing motion) of the State, the Clerk may prepare an order to dismiss a case if:
 - a. the Defendant is deceased,
 - b. the Defendant is serving a sentence of imprisonment for life or life without parole, or
 - c. the offense occurred over fifteen (15) years ago and there are no ongoing efforts to investigate or prosecute the case and the State does not wish to further prosecute the case.
2. The Clerk shall execute the signed Order by closing the case file.
3. A copy of the Order of Dismissal must be placed in the case file.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #25

Correction of Court Records

1. Correction of error in computer records or complaints:

If after the filing of a citation or complaint, the Clerk determines that the Court's records of the Defendant's name, date of birth, or other identifying information are incorrect based on information from a government-issued identification card, passport, or other official source, the Clerk may upon a motion (or standing motion) by the State correct the computer records and/or the complaint in the case to reflect the correct information as contained in the identifying document. The Clerk shall make a note in the case file indicating that the correction was made.

If the Clerk determines that a clerical error was made in accurately transcribing information from an officer's citation or a prosecutor's authorization into the Court's case management software, the Clerk may upon a motion (or standing motion) by the State correct the computer records in the case to reflect the correct information. The Clerk shall make a note in the case file indicating that the correction was made.

If the Clerk has any question about whether a correction of the records is appropriate, the Clerk shall consult the Presiding Judge for guidance.

If a sworn complaint is corrected or modified in any way, *the complaint must be re-sworn* consistent with the Court's Standing Order #4 - Formal Complaints.

2. Correction of error in case at warrant:

In a case with an outstanding warrant, if the Clerk determines that the Court's records of the Defendant's name or other identifying information is incorrect based on information from a government-issued identification card, passport, or other official source, the Clerk may upon a motion (or standing motion) by the State withdraw the warrant, correct the Court's records including the warrant affidavit to reflect the correct information, and present the corrected warrant for a judge to reissue. The Clerk shall make a note in the case file indicating that the correction was made and that the warrant was reissued.

3. Duplicate cases:

Upon a motion (or standing motion) by the State, duplicate cases that were filed in error shall be dismissed.

4. Combination of names and alias':

If the Clerk determines that the Court has records belonging to one identifiable defendant which are contained in separate names in the Court's records, the Clerk may consolidate or combine the separate names as appropriate to properly reflect all the violations under a single name, even if the original violations existed under different names of the same defendant. The Clerk should use the correct name and spelling as primary and list all others as alias names.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #26

Disclosure of Court Records

1. *Records requests may be made directly to the court or through the City “Open Records Request” system:* Court personnel must accept records requests no matter how they are submitted. Court personnel should never refuse or redirect record requests. Once personnel learn of a records request for court records, they must submit it to the presiding judge without delay.
2. *Records requests must be in writing:* All requests for court records should be in writing. If court personnel learn of an oral request they should make a reasonable effort to have the requestor put it in writing. If the requestor cannot or does not put it in writing personnel should create a written request which includes a brief explanation of the requestor’s failure to put the request in writing.
3. *Records requests must be specific:* Court personnel shall require requestors to provide enough information to identify the requested records. Requestors shall clarify and limit the scope of their requests because overly broad or burdensome requests may be refused.
4. *Presiding Judge is the custodian of court records:* All requests for court records must be reviewed by the presiding judge, who must make disclosure determinations promptly.
5. *State Files:* Distinctively marked “Prosecutor’s Files” or “State’s Files” may be placed in court files to temporarily store materials for the convenience of the prosecutor who shares office space and staff with the Court. However, materials contained in these files are not considered to be in the possession of the Court. Judges shall never access the contents of these files. Court personnel shall not access the contents of these files at any time when acting in their capacity as Court staff. It is understood that court personnel may occasionally be required to step out of their roles as Court staff and perform certain paralegal tasks for the City such as placing or retrieving documents from the “State’s files”, but this is only permitted under the supervision of a prosecutor or City management.
6. *Disclosure:* If the presiding judge determines to disclose records, the records must be made available in a reasonable manner. **Generally, requestors may review specific court case records in person at the Court Clerk’s windows or in the court conference room.** If the requester reviews original documents or items (not copies), they must be closely supervised at all times by court staff. The presiding judge may specify the manner of disclosure on a case-by-case basis.
7. *Duplication:* Copies of documents or electronic records shall be provided to requestors at no cost unless staff determines that a fee must be charged due to the time and resources needed to fulfill the request. Duplication fees must be consistent with fees charged by the City for “Open Records “ requests.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #27

Juvenile and Parental Procedures

1. *For all cases filed against juvenile defendants, the Court Clerk shall issue a subpoena to the parents of the juvenile defendant and prepare a summons for the juvenile upon the motion (or standing motion) of the State and after a finding of probable cause by a judge. Art. 23.04, Tex. Code Crim. Proc..*
2. *All juvenile defendants must sign an acknowledgement of their rights provided under Tex. Code of Crim. Proc. Art. 15.17.*
3. *All juvenile defendants and their parents must sign a notice of continuing obligation to notify the Court of address changes.*
4. *Any juvenile defendant charged with a non-traffic-related offense must sign a disclosure of the right to expunction form.*
5. *Juveniles must enter pleas in open court.*
6. *Upon a failure to appear by a juvenile, a letter containing the following notice shall be sent to the juvenile and the parents/guardians:*

WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AND APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND COULD RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST.

7. *If the juvenile and parent/guardians fail to appear as ordered, the Clerk shall automatically reset the case one time. Notice must be mailed to the last known address on file.*
8. *If the juvenile and parent/guardians fail to appear again, the Court shall issue a DIC 81 to the Texas Department of Public Safety for suspension of the juvenile's driver's license.*
9. *When a non-compliant juvenile reaches the age of 17, the Court may issue a non-secure custody warrant. The Clerk shall summons the Defendant by certified mail for a juvenile contempt hearing.*
10. *If the Defendant fails to appear for the juvenile contempt hearing, the Clerk may process a capias warrant for violation of the continuing obligation to appear.*
11. *Upon a prosecutor's motion, the underlying juvenile charge shall be dismissed.*

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #28

Youth Diversion Plan

The Tomball Municipal Court, in collaboration with other community resources, shall implement a Youth Diversion Plan as described below:

1. Applicability:

The Tomball Municipal Court Youth Diversion Plan is for any eligible child who is accused of conduct (other than a traffic offense) that could be charged as a “fine only” misdemeanor within the jurisdiction of the Court. (Note: Nothing in this Order precludes the State from referring a child as a Child in Need of Supervision under Title 3 of the Texas Family Code, or a permissive or mandatory waiver of jurisdiction and transfer under Section 51.08 of the Texas Family Code.)

2. Objectives: This Plan is intended to:

- a. Help identify at-risk children using a social service approach.
- b. Reduce problematic behavior and recidivism through intervention.
- c. Divert instances of delinquency from criminal adjudication with an emphasis on therapeutic strategies.
- d. Hold the child and the child’s parents accountable for the child’s conduct.
- e. Promote public safety.

3. Definitions:

- a. “Charge” means a formal or informal allegation of an offense, including a citation, written promise to appear, complaint, or pending complaint. Tex. Code Crim. Proc. Art. 45.301(1).
- b. “Child” means a person who is at least 10 years of age and younger than 17 years of age at the time of the alleged offense. Tex. Code Crim. Proc 45.058(h).
- c. “Court” means the Tomball Municipal Court.
- d. “Offense” means a misdemeanor punishable by fine only, other than a traffic offense. Tex. Code Crim. Proc. Art. 45.301(5).
- e. “Parent” includes a person standing in parental relation, a managing conservator, or a custodian. Tex. Code Crim. Proc. Art. 45.057(a)(3).
- f. “Plan” means the Tomball Municipal Court Youth Diversion Plan adopted under Tex. Code Cim. Proc. Art. 45.306 and described herein.
- g. “Service Provider” means a governmental agency, political subdivision, open-enrollment charter school, nonprofit organization, or other entity that provides services to children or families.

- h. "Traffic Offense" means (A) a violation of a penal statute cognizable under Chapter 729 Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail; or (B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state. Tex. Family Code 51.02(16).

4. Eligibility:

- a. A child is eligible to enter into a Diversion Agreement only once every 365 days.
- b. A child is not eligible if the child has previously had an unsuccessful diversion.
- c. A child is not eligible if a diversion is objected to by the City Prosecutor.
- d. The Court may not divert a child without the written consent of the child and the child's parent.

5. Intake Procedure:

- a. Any eligible child who is formally or informally accused of conduct (other than a traffic offense) that could be charged as a "fine only" misdemeanor within the jurisdiction of the Court shall enter the Plan by one of the methods described below:
 - 1. *Complaint*: When a charge is formally filed with the Court accusing an eligible child of a "fine only" misdemeanor (other than a traffic offense) within the Jurisdiction of the Court, the case shall be diverted by a judge.
 - 2. *Citation*: When a peace officer submits a citation to the Court charging an eligible child with a "fine only" misdemeanor (other than a traffic offense) within the jurisdiction of the Court, the case shall be diverted by a judge.
 - 3. *Notice of Violation*: When someone other than a peace officer submits a notice of violation, written promise to appear, or some other official document charging an eligible child of a "fine only" misdemeanor (other than a traffic offense) within the jurisdiction of the Court, the case shall be diverted by a judge.
 - 4. *Guilty Verdict*: When an eligible child charged with a "fine only" misdemeanor (other than a traffic offense) within the jurisdiction of the Court contests the charge and a trial results in a verdict of "guilty", no judgment of conviction shall be entered and the case shall be diverted by a judge.
- b. Upon entry by one of methods described above, the *Youth Diversion Coordinator*, in collaboration with the City Prosecutor, shall:
 - 1. Review the case and ascertain the specific offense(s) to be deferred;
 - 2. Determine the child's eligibility for diversion. See "Eligibility" above;
 - 3. Evaluate the child and the child's parent(s); and
 - 4. Devise a strategy to address the child's conduct and achieve the objectives of the Plan utilizing available resources.

6. **Diversion Agreement:** After receiving input from the City Prosecutor, the child, the child’s parent(s), the Court, service providers, and all other necessary parties, the *Youth Diversion Coordinator* shall present a written Diversion Agreement (“Agreement”) that contains the following components:
 - a. The Diversion Agreement shall *identify the parties* to the agreement and the *responsibilities* of the child and the child’s parent to ensure their meaningful participation;
 - b. Stated *objectives* of the Diversion Agreement must be measurable, realistic, and reasonable and consider the circumstances of the child, the best interests of the child, and the long-term safety of the community;
 - c. *Terms of the Agreement* shall be one or more diversions required to be completed by the child, written in a clear and concise manner, and identifying any offense or charge being diverted. Terms of the Agreement may vary depending on the circumstances of the child including the child’s age and ability, the charge being diverted, or the diversion strategy being used. See “Diversion Strategies” below;
 - d. *Possible outcomes* or consequences of a successful diversion and an unsuccessful diversion;
 - e. An explanation that participation in a diversion is not an admission of guilt and a guilty *plea is not required* to participate in a diversion;
 - f. An explanation of the *process* that will be used for reviewing and monitoring compliance with the terms of the Agreement;
 - g. The agreed *initial period* of the diversion (not to exceed 180 days);
 - h. A *verification* that the child and the child’s parent were notified of the child’s rights, including the right to refuse diversion, and the child knowingly and voluntarily consents to participate in the diversion; and
 - i. Written *acknowledgement and acceptance* of the agreement by the child and the child’s parent.
7. **Diversion Strategies:** The Diversion Agreement shall contain one or more of the following strategies to help accomplish the objectives of the Plan:
 - a. Requiring a child to participate in a *program*, including:
 1. a court-approved *teen court* program operated by a service provider;
 2. a *school-related* program;
 3. an *educational* program, including an alcohol awareness program, a tobacco awareness program, or a drug education program;
 4. a *rehabilitation* program; or
 5. a *self-improvement* program, including a program relating to self-esteem, leadership, self-responsibility, empathy, parenting, parental responsibility,

manners, violence avoidance, anger management, life skills, wellness, or dispute resolution.

- b. Referring a child to a service provider for *services*, including:
 - 1. *at-risk youth* services under Subchapter D, Chapter 264, Tex. Family Code;
 - 2. *juvenile case manager* services under Tex. Code Crim. Proc. Art. 45.056;
 - 3. *work and job skills training*, including job interviewing and work preparation;
 - 4. *academic monitoring and tutoring*, including preparation for a high school equivalency examination administered under Section 7.111, Tex. Education Code;
 - 5. *community-based* services;
 - 6. *mental health* screening and clinical assessment;
 - 7. *counseling*, including private or in-school counseling; or
 - 8. *mentoring* services.
- c. Requiring a child to:
 - 1. participate in *mediation* or other dispute resolution processes;
 - 2. submit to *alcohol or drug testing*; or
 - 3. substantially comply with a course of *treatment* prescribed by a physician or other licensed medical or mental health professional.
- d. Requiring a child, *by court order*, to:
 - 1. pay *restitution* not to exceed \$100 for an offense against property under Title 7, Tex. Penal Code;
 - 2. perform not more than 20 hours of *community service*; or
 - 3. perform any other reasonable action determined by the court.
- e. The Diversion Agreement may not require a child who is a *home-school* student, as defined by Section 29.916, Tex. Education Code, to attend an elementary or secondary school or use an educational curriculum other than the curriculum selected by the parent.

8. Implementing Diversion Agreements:

- a. A charge may not be filed against a child or, if filed, shall be dismissed by the Court if the child (1) does not contest the charge, (2) is eligible for diversion, and (3) accepts the terms of a Diversion Agreement.
- b. If the child does not contest the charge, a judge shall divert the case without the child having to enter a plea.
- c. If the child contests the charge, a judge shall divert the case at the conclusion of trial upon a finding of guilt without entering a judgement of conviction.

- d. Entering into a Diversion Agreement extends the Court's jurisdiction for the term of the Agreement. Tex. Code Crim. Proc 45.308(f).
- e. Upon entering into a Diversion Agreement, a copy of the Agreement shall be provided to the child, the child's parent(s), the Court Clerk, and the Youth Diversion Coordinator.
- f. The case of the child who successfully complies with the terms of the Diversion Agreement shall be closed and reported as successful to the Court.
- g. A child who does not comply with the terms of the Diversion Agreement shall be referred to Court for a hearing. See "Referral to Court" below.
- h. The *Youth Diversion Coordinator* shall:
 1. Present and maintain Diversion Agreements;
 2. Monitor Diversion Agreements and report whether the diversions are successful or unsuccessful;
 3. Maintain records regarding whether one or more diversions were successful or unsuccessful; and
 4. Coordinate referrals to the Court. See "Referrals to the Court" below.

9. Referral to Court:

- a. The Court shall conduct a *non-adversarial hearing* for a child who does not successfully complete the terms of a diversion and is referred to the Court.
- b. The hearing is an opportunity for a judge to confer with the child and the child's parent to determine whether a diversion should be declared unsuccessful by the Court.
- c. The Court may hear from any person who may be of assistance to the child or the Court in determining what is in the best interests of the child and the long-term safety of the community.
- d. After the hearing, the Court may enter an order:
 1. *amending* or setting aside terms in the Diversion Agreement;
 2. *extending* the diversion for a period not to exceed one year from the initial start date of the diversion;
 3. issuing a *continuance* for the hearing for a period not to exceed 60 days to allow an opportunity for compliance with the terms of the diversion;
 4. requiring the child's *parent* to perform any act or refrain from performing any act as the Court determines will increase the likelihood that the child will successfully complete the diversion and comply with any other order of the Court that is reasonable and necessary for the welfare of the child. Such order(s) may not have the substantive effect of interfering with a parent's fundamental right to determine how to raise the parent's child, unless the Court finds that the interference is necessary to prevent significant impairment of the child's physical, mental or emotional health;

5. finding the diversion *successful* on the basis of substantial compliance; or
6. finding the diversion *unsuccessful* and:
 - i. *transferring* the child to juvenile court for alleged conduct indicating a need for supervision under Section 51.08 Tex. Family Code; or
 - ii. *referring* the charge to the City Prosecutor for consideration of re-filing. For purposes of filing the charge, the statute of limitation is tolled during the period of diversion. If the charge is referred to the City Prosecutor, the Court shall assign a new judge who has not presided over the case previously.

10. Diversion Records:

- a. *The Court Clerk* shall maintain statistics for each diversion strategy utilized as part of this Plan.
- b. *The Youth Diversion Coordinator* shall maintain a list of Service Providers utilized in the Plan.
- c. Other than statistical records, all records generated in relation to this Plan are *confidential* under Tex. Crim. Code Art. 45.0217.
- d. All records pertaining to a child's diversion shall be *expunged* on the child's 18th birthday without requiring a motion or request. Tex. Crim. Code Art. 45.313(c).

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #29

Security

A. Court Security Committee

1. In accordance with Texas Government Code Section 29.14, the Court shall convene a committee to establish policies and procedures necessary to provide adequate court security.
2. The Presiding Judge shall chair the committee.
3. The committee shall be comprised of the following members:
 - Chair: Presiding Judge
 - City: City Manager's Representative(s)
 - Staff: Court Clerk's Representative(s)
 - Police: Bailiff/CSO Representative(s)
4. Other members of the Committee shall be appointed as needed.
5. The Committee shall meet at least once a year at a mutually agreeable time and place.
6. The Committee meetings shall not be open to the public.
7. Minutes of the meetings shall be published to City Administration and shall be maintained permanently in the Court's records by the Clerk.

B. Bailiff's/Court Security Officers (CSO's)

1. There shall be at least two CSO's assigned to every court docket.
2. There shall always be at least one CSO in the courtroom when in session.
3. CSO's shall direct security operations including all safety issues related to the courtroom, court offices, and areas used by the Court.
4. CSO's shall have authority to direct all persons including judges, prosecutors, attorneys, and staff for security reasons.
5. CSO's shall regularly conduct security and safety training for judges, prosecutors, and staff.

C. Security Incident Reporting

1. *All security incidents must be reported immediately to a CSO.* Security incidents include but are not limited to any action or communication that causes or threatens to cause personal injury to any person in or near the court building, property damage to the court building, or disruption of court building operations. Medical emergencies or non-threatening personnel matters are not reportable.
2. CSO's shall immediately investigate security incidents, take appropriate actions, and follow up. A CSO shall complete a "Security Incident Reporting Form" and send it to the Office of Court Administration (OCA) within 3 days. See Tex. Code Crim. Proc. Art. 102.017(f).
3. All security incidents shall be reported to the Presiding Judge, the Court Security Committee, and other individuals, agencies, and authorities when appropriate.
4. The Court Security Committee shall review all security incident reports and take appropriate actions.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #30

Private Collections Agency

If the City of Tomball contracts with a private attorney or a private vendor for the provision of collection services in accordance with Texas Code of Criminal Procedure Article 103.0031, the Court ORDERS:

1. The Court Clerk shall forward accounts and assess collections fees according to the terms of the contract.
2. Accounts may be turned over to the collections agency when the Defendant's balance is past due or when the Defendant fails to appear as instructed without regard for whether the failure to appear meets the elements of any criminal offense or whether any writ of arrest (arrest warrant or capias pro fine) may be issued.
3. The Court Clerk shall establish and implement a program to monitor the activity, performance, and results of the collection efforts of the private attorney or private vendor and regularly report findings to the Presiding Judge and City Administration.
4. The Court Clerk shall immediately report to the Presiding Judge and City Administration any findings suggesting illegal or unethical activity by the private attorney or private vendor while acting as an agent of the City and the Court. The Court Clerk shall also immediately report any findings that the private attorney or private vendor is conducting business in a manner that is contrary to the Mission or Vision of the Court. See the Court's Standing Order #1.

CITY OF TOMBALL MUNICIPAL COURT

Standing Order #31

Confidentiality Policy and Agreement

This Policy applies to all full-time and part-time employees associated with the Court, including volunteers and interns. All employees must sign the agreement and return it to the Court Administrator.

Employees of this Court occupy positions of public trust. In the course of your duties, you will encounter confidential information about the prospective disposition of cases and the inner workings of the Court.

Preserving the confidentiality of the Court's documents and private deliberations is **crucial to the Court's work**. More specifically, confidentiality furthers the ability of judges and judicial staff to communicate openly and honestly and to reach the most legally correct outcomes for litigants. Confidentiality also builds public respect for the judiciary and impresses on others the gravity of the judicial process. Any breach of confidentiality would betray not only the Court and the individuals who work here, but also the public's interest in thorough, considered justice.

Confidentiality has long been an expectation within Texas courts. Canon 3B(10) of the Texas Code of Judicial Conduct demands that judges and court staff refrain from "public comment about a pending or impending proceeding which may come before the judge's court." Canon 3B(11) of the Texas Code of Judicial Conduct provides that "[t]he discussions, votes, positions taken, and writings of appellate judges and court personnel about causes are confidences of the court and shall be revealed only through a court's judgment, a written opinion or in accordance with Supreme Court guidelines for a court approved history project."

Texas Government Code Section 21.013 creates a Class A misdemeanor criminal offense for the unauthorized disclosure of non-public judicial work product, stating "[a] person . . . with access to non-public judicial work product commits an offense if the person knowingly discloses, wholly or partly, the contents of any non- public judicial work product" Additionally, Texas Penal Code Section 39.06 criminalizes the misuse of official information by a public servant who "discloses or uses information for a nongovernmental purpose that: (1) he has access to by means of his office or employment; and (2) has not been made public", with penalties ranging from a Class C misdemeanor to a felony of the third degree.

This confidentiality policy incorporates the Canons as well as the statutory penalties of both Texas Government Code Section 21.013 and Texas Penal Code Section 39.06. This policy also incorporates Articles 45.0217, 45.0218 (recodified as 45A.462 and 45A.055, respectively, effective January 1, 2025) and Article 45.313, regarding confidentiality in municipal courts. **Protection of information.** Confidential information must not be shared with persons not employed within the Court, except as provided in Section 3 below. Employees must refrain from commenting about cases that are or may come before the Court to family, friends, or acquaintances.

1. Confidential information defined. Confidential information includes:

- a) drafts of opinions not yet released, internal memoranda, emails between judges or staff, and any other document not intended for public use;
- b) conversations between judges or court staff about litigants or cases before, previously before, or expected to come before the Court;
- c) the private views of judges or court staff concerning the disposition of cases, litigants, anticipated cases, or each other;
- d) the authorship of per curiam opinions or orders, the timing of opinion or order release, and any other procedural mechanism not ordinarily public;
- e) documents-properly filed under seal by litigants or counsel; and
- f) other information, however communicated, that is not authorized to be made public;
- g) As provided by Article 45.0217/45A.462 of the Code of Criminal Procedure, and except as otherwise provided by Article 15.27 and Article 45.0217/45A.462, all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public, including all records generated under Subchapter E, Chapter 45, Article 45.313 of the Code of Criminal Procedure, other than statistical records;
- h) As provided by Article 45.0218/45A.055 of the Code of Criminal Procedure, except as otherwise provided elsewhere in law, following the fifth anniversary of the date of a final conviction of, or of a dismissal after deferral of disposition for, a misdemeanor offense punishable by fine only in this municipal court, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, that are held or stored by or for a municipal or justice court and relate to the person who was convicted of, or who received a dismissal after deferral of disposition for, the offense are confidential and may not be disclosed to the public. This does not apply to records, files, and information described herein that relate to an offense that is sexual in nature, as determined by the holder of the records, files, or information.

2. Disclosures of confidential information.

- a) **Intentional disclosure** of confidential information outside of the boundaries of (1) above may be met with maximum disciplinary action. See (5) below.
- b) **Negligent or accidental disclosure** is an extremely serious matter that may, but will not necessarily, be met with penalties as described in (5) below. Employees who accidentally disclose confidential information have a duty to promptly report the disclosure to their supervisor, appointing authority, or human resources department so that mitigation can be attempted.

Employees are expected to exercise their discretion and judgment to minimize the risk of inadvertent disclosure. For example, employees should refrain from communicating about sensitive matters in crowded or public spaces where others may overhear, even within the public areas of the Court. Employees should use court-issued, password-protected equipment to transmit confidential documents. Employees should be mindful of who can see their screen when working at home, on aircraft, public transit, or in public spaces. Employees should carefully keep track of and password protect electronic devices containing confidential information and immediately report any loss or theft of those devices.

- c) **Authorized disclosure** occurs when the Judge who supervises the employee authorizes the employee to share work product with a specific person or organization. For example, employees may be authorized to share draft rules or administrative orders with other judicial branch entities for review and comment before they are released to the public, and the Clerk of Court may be authorized to disclose information relating to case status as part of their job duties, provided the Court's internal, confidential deliberations are not disclosed.
- d) **Disclosure as necessary to report misconduct or illegal acts** is permitted. Employees may disclose confidential information when such disclosure is necessary to adequately report to an appropriate authority the misconduct or illegal acts of any person, including sexual or other forms of harassment.
- e) **Inspection of Confidential Information** defined by Section 2.g herein may only be by: judges or court staff; a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; the Department of Public Safety; an attorney for a party to the proceeding; the child defendant; or the defendant's parent, guardian, or managing conservator; or as otherwise expressly provided by Article 45.0217/45A.462 of the Code of Criminal Procedure.
- f) **Inspection of Confidential Information** defined by Section 2.h. herein may only be by: judges or court staff; a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082 of the Government Code; the Department of Public Safety; the attorney representing the state; the defendant or the defendant's counsel; if the offense is a traffic offense, an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or for the purpose of complying with a requirement under federal law or if federal law requires the disclosure as a condition of receiving federal highway funds. However, this provision does not apply to records, files, and information described that relate to an offense that is sexual in nature, as determined by the holder of the records, files, or information; or as otherwise expressly provided by Article 45.0218/45A.055 of the Code of Criminal Procedure

3. Continuing confidentiality obligation. An employee's duty to preserve confidentiality survives the employee's departure from the Court. An employee who leaves the Court has the same ongoing duty to protect confidential information that they had during their employment.

Further, the duty to protect information related to the disposition of cases, such as the substance of the Court's deliberations, persists even after an opinion or order is publicly released. Employees

asked about a decision of the Court should offer no comment beyond a referral to the released opinion or order.

Finally, employees who depart from Court employment may not retain confidential materials. Employees should return or securely dispose of materials, such as in designated Court shredding bins, prior to an anticipated departure, or as soon as possible after an unanticipated departure.

4. Penalties for unauthorized disclosure: In the event of an unauthorized disclosure of confidential information, the Court will investigate the circumstances and take appropriate disciplinary action, as necessary. Potential disciplinary actions may include but are not limited to:

- a) referral of the matter to the relevant law enforcement agency for investigation and prosecution. See Texas Government Code Section 21.013 and Texas Penal Code Section 39.06;
- b) termination of employment;
- c) for attorneys, referral to the State Bar of Texas or of other states for discipline and possible loss of the privilege to practice before Texas or other courts; and
- d) for law students, referral to the Texas Board of Law Examiners for consideration in determining eligibility to practice law.

5. Acknowledgement. Please acknowledge your understanding and agreement to this policy by signing below.

Employee, Volunteer, or Intern Signature

Date

CITY OF TOMBALL

MUNICIPAL COURT

STATE’S STANDING MOTION

CITY OF TOMBALL MUNICIPAL COURT
STATE'S STANDING MOTION

COMES NOW the State of Texas, by and through the City Attorney for the City of Tomball, Texas, and makes this Standing Motion for the purpose of efficient processing and disposition of cases filed in the Municipal Court for the City of Tomball. In support of this motion, the State would show the Court the following:

I.

Numerous routine matters come before the Court such as dismissals, amendments, bond forfeitures and other functions in the normal course of business in the Municipal Court. With the large number of cases filed per year in the Municipal Court, it is difficult and inefficient for the State to make a written motion in each of the cases in which such action is either required by law or appropriate under the facts.

II.

In order to expedite the disposition of these routine matters, the State makes a standing motion as follows:

- a. The State moves to dismiss or void as duplicate any complaint that is the result of filing the same case twice through clerical, officer, or prosecutor error.
- b. The State moves to amend the complaint and any other records of the Court upon proof satisfactory to the Court that a defendant's name, date of birth, or other identifying information is incorrect.
- c. The State moves to amend any complaint upon proof satisfactory to the Court that a clerical error was made by the Clerk's staff in accurately transcribing information from an officer's citation or a prosecutor's authorization into the Court's case management software.
- d. The State moves to summon the Defendant when a "citizen's" complaint is filed by a peace officer, code enforcement officer, or citizen upon a prosecutor's authorization and a finding of probable cause by a judge pursuant to Art. 23.04, Tex. Code Crim. Proc.
- e. The State moves to summon all Juvenile defendants upon the filing of a complaint and after a finding of probable cause by a judge. Art. 23.04, Tex. Code Crim. Proc.
- f. The State moves to forfeit the bond and issue Capias under Chapter 23, Tex. Code Crim. Proc. when a defendant previously released on bond fails to appear according to the conditions of the bond.
- g. The State moves to charge any defendant who, after being properly notified according to law, fails to appear as instructed on the specified date and time for a scheduled hearing, with either Violation of Promise to Appear (VPTA) under 543.009, Tex. Transp. Code, or Failure to Appear (FTA) under Art. 38.10, Tex. Penal Code, whichever is appropriate according to law. However, if a defendant already has a pending charge for VPTA or FTA related to any single citation that was issued to the Defendant, the State does not consent

- to the filing of multiple such charges unless a prosecutor provides specific approval on a case-by-case basis.
- h. The State moves to charge any defendant who is released from the City of Tomball jail after receiving personal instructions from a magistrate and then intentionally or knowingly fails to appear in accordance with the terms of release and then also fails to contact the Court within ten (10) days after the appearance date with Failure to Appear under Penal Code 38.10 even if the Defendant has been previously charged with Violation of Promise to Appear or Failure To Appear.
 - i. The State moves to file any citation presented to the Clerk for Failure to Maintain Financial Responsibility as a second offense if the Clerk determines from a review of the Court's records that the defendant has been previously convicted of that offense within the two years preceding the current charge.
 - j. The State moves to dismiss any complaint of No Driver's License upon proof satisfactory to the Court that the Defendant had a valid driver's license at the time of the offense.
 - k. The State moves to dismiss any complaint of No Handicap Placard or Plates upon proof satisfactory to the Court that the Defendant had a valid handicap placard or plates on the date of the offense and the placard or plates were assigned to the Defendant.
 - l. The State moves to dismiss any case if the Clerk determines that the Defendant is deceased.
 - m. The State moves to dismiss any case if the Clerk determines that the Defendant is serving a sentence of imprisonment for life or life without parole.
 - n. The State moves to dismiss any case that remains unadjudicated more than fifteen years from the date of the offense. The State further moves that if a charge of Failure to Appear or Violate Promise to Appear (FTA/VPTA) has been filed based on a case that remains unadjudicated more than fifteen years from the date of the offense, the FTA/VPTA charge be dismissed as well.
 - o. The State moves to permit the Court Clerk and staff to provide copies of pleadings in the Court's file to attorneys of record and their staff upon request. The Clerk shall not disclose the State's work product or any materials that are privileged. The Clerk shall notify the State of any materials turned over to attorneys of record and shall obtain written acknowledgement from the recipients.

Signed on this the ____ day of _____ 20____

City Prosecutor
City of Tomball, Texas