

**ORDINANCE NO. 2009-12**

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF TOMBALL, TEXAS, BY ADOPTING THE INFRASTRUCTURE MASTER PLAN AND IMPACT FEE DETERMINATION 2007-2017 AS THE CITY'S CAPITAL IMPROVEMENTS PLAN; AMENDING SECTION 156 SCHEDULE OF MAXIMUM CAPITAL RECOVERY FEES OF CHAPTER 82. UTILITIES THEREOF; ESTABLISHING IMPACT FEES FOR WATER, WASTEWATER AND DRAINAGE UTILITIES; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT.**

**WHEREAS**, the City of Tomball is responsible for and committed to the provision of public facilities and services (including water, wastewater, and drainage service) at levels necessary to cure any existing public service deficiencies in already developed areas; and

**WHEREAS**, such facilities and service levels shall be provided by the City of Tomball utilizing funds allocated in the capital budget and capital improvements programming processes and relying upon the funding sources indicated therein; and

**WHEREAS**, new residential and nonresidential development causes and imposes increased demands upon Tomball public facilities and services, including water, wastewater, and drainage facilities, that would not otherwise occur; and

**WHEREAS**, planning projections indicate that such development will continue and will place ever-increasing demands on the City to provide necessary public facilities; and

**WHEREAS**, to the extent that such new development places demands upon the public facility infrastructure, those demands should be satisfied by more equitably assigning responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands for them; and

**WHEREAS**, the amount of the impact fee to be imposed shall be determined by the cost of the additional public facilities needed to support such development, which public facilities shall be identified in a capital improvements program; and

**WHEREAS**, the City Council, after careful consideration of the matter, hereby finds and declares that impact fees imposed upon residential and nonresidential development to finance specified major public facilities, the demand for which is created by such development, is in the best interests of the general welfare of the City and its residents, is equitable, and does not impose an unfair burden on such development; and

**WHEREAS**, in 1987, the Texas Legislature adopted Senate Bill 336, now Chapter 395 of the Texas Local Government Code, and subsequently amended said Chapter from time to time; and

**WHEREAS**, the City Council finds that in all things the City has complied with said statute in the notice, adoption, promulgation and methodology necessary to adopt impact fees; now, therefore,

**BE IT ORDAINED BY THE CITYCOUNCIL OF THE CITY OF TOMBALL, TEXAS:**

**Section 1.** The City Council hereby adopts the Infrastructure Master Plan and Impact Fee Determination 2007-2017, attached hereto as Exhibit A, as the City’s capital improvements program and capital improvement improvements plan (CIP) for purposes of Article IV, Water, Wastewater, and Drainage Capital Recovery Fees, of Chapter 82. Utilities, of the City’s Code of Ordinances, including Sections 82-137, 82-138, 83-166, 82-167, 82-181, 82-182, 82-190, and 82.191.

**Section 2.** Sec. 82-156. Schedule of maximum capital recovery fees of the Code of Ordinances of the City of Tomball, Texas, is hereby amended to read:

**“Sec. 82.-156. Schedule of maximum capital recovery fees.**

(a) The schedule of maximum capital recovery fees shall be as follows:

Schedule of maximum Capital Recovery Fees

		Effective: June 1, 2009	Effective: June 1, 2010	Effective: June 1, 2011	Effective: June 1, 2012
Water:	Per LUE	\$1,162.98	\$1,218.36	\$1,273.74	\$1,329.12
Wastewater:	Per LUE	\$1,446.57	\$1,515.46	\$1,584.34	\$1,653.23

Drainage effective June 1, 2009:

M118 per acre	\$6,023.90
M121E per acre	\$6,828.71
M121W per acre	\$4,985.14
M125 per acre	\$ 574.40”

(b) This section may be amended by the city council according to the procedure set forth in V.T.C.A., Local Government Code § 395.001, et seq.

**Section 3.** This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City. This ordinance shall not operate to repeal or affect any of other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinances are hereby repealed.

**Section 4.** If any sentence, section, subsection, clause, phrase, part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the ordinance as a whole, or any part thereof, other than the part declared to be invalid.

**Section 5.** The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, and welfare. Any member of the Council or any City official or employee charged with the enforcement of this Ordinance, acting for the City in the discharge of his or her duties, shall not thereby render himself or herself personally liable; and is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of said duties.

**Section 6.** Any violation of this Ordinance can be enjoined by a suit filed in the name of the City in court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this Ordinance or in the Code of the City.

FIRST READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 18TH DAY OF MAY 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

SECOND READING:

READ, PASSED AND APPROVED AS SET OUT BELOW AT THE MEETING OF THE CITY COUNCIL OF THE CITY OF TOMBALL HELD ON THE 1ST DAY OF JUNE 2009.

COUNCILMAN QUINN	<u>AYE</u>
COUNCILMAN LAZENBY	<u>AYE</u>
COUNCILMAN WEBB	<u>NAY</u>
COUNCILMAN TOWNSEND	<u>AYE</u>
COUNCILMAN DRIVER	<u>AYE</u>

**PASSED AND APPROVED** by a vote of 4 “ayes” in favor and 1 “nays” against on this second and final reading in full compliance with the provisions of Section 3.10 of the Charter of the City of Tomball on the 1<sup>st</sup> day of June 2009.

**ATTEST:**

Doris Speer  
Doris Speer, **City Secretary**

**APPROVED:**

Gretchen Fagan  
Gretchen Fagan, **Mayor**

APPROVED AS TO FORM:

Scott Bounds  
Scott Bounds  
**CITY ATTORNEY**