

ORDINANCE NO. 2022-02

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS APPOINTING THE CITY COUNCIL TO SERVE AS THE CITY ZONING BOARD OF ADJUSTMENT TO MAKE SPECIAL EXCEPTIONS TO THE TERMS OF THE CITY ZONING ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR A TEXAS OPEN MEETING ACT CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Tom Bean, Grayson County, Texas (the "City") passed and approved Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map; and

WHEREAS, pursuant to Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map, Section 33 Zoning Board of Adjustment (Zoning Ordinance), a Zoning Board of Adjustment was reestablished and its creation, membership and procedures were established; and

WHEREAS, pursuant to Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map, Section 33 Zoning Board of Adjustment, Section 33.1.1, the Zoning Board of Adjustment was specifically reestablished; and

WHEREAS, pursuant to Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map, Section 33 Zoning Board of Adjustment, Section 33.1.2, the City Council can assume the duties and responsibilities of the Board of Adjustment; and

WHEREAS, under the provisions of Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map, Section 33 Zoning Board of Adjustment, Section 33.1.2 and Section 211.008(g) of the Texas Local Government Code, the City Council of the City of Tom Bean, Texas, is hereby appointed as the Board of Adjustment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS:

Section 1.

Board of Adjustment reestablished. The City Council of the City of Tom Bean shall serve as the board of adjustment of the City of Tom Bean, Texas, as authorized by Texas Local Government Code § 211.008(g) regarding the zoning of cities, having the powers and duties as provided in Texas Local Government Code § 211.009, and other powers as provided by statute and law.

Section 2.

Membership of Board of Adjustment; Chairperson. The board of adjustment shall consist of the five city council members and the mayor who shall also serve as its chairperson.

Section 3.

Review by planning and zoning commission. The board of adjustment may request the recommendation of the planning and zoning commission on any appeal presented to the board of adjustment.

Section 4.

Meetings of Board of Adjustment. Each case before the board of adjustment must be heard by at least 75 percent of the members. Meetings of the board of adjustment shall be held at the call of the mayor and at such other times as the city council acting as the board of adjustment may determine.

Section 5.

Hearings before Board of Adjustment. The hearings of the board of adjustment shall be public. However, the board of adjustment may go into executive session for discussion as provided in Government Code § 551.002, but not for vote on any case before it. The board of adjustment shall hear the intervention of any owner of property adjacent to, in the rear of, or across the street from a lot as to which the granting of any variance is pending, and shall also hear any other parties in interest.

Section 6.

Powers and duties. The board shall have the following powers and duties:

- a. to hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of Texas Local Government Code §§ 211.001 through 211.013 or the Zoning Ordinance;
- b. to hear and decide special exceptions to the terms of the Zoning Ordinance;
- c. to authorize in specific cases a variance from the terms of the Zoning Ordinance, that will not be contrary to the public interest, where, due to special conditions, a literal enforcement of the provisions of the Zoning Ordinance would result in unnecessary hardship, and so that the spirit of the Zoning Ordinance shall be observed and substantial justice done;
- d. to review and report on any matter referred to it by the Mayor, the City Council, or the Planning and Zoning commission; and
- e. to adopt rules of procedure that are not in conflict with the provisions of this Ordinance.

Section 7.

Appeals from the Board of Adjustment. Any person aggrieved by any decision of the board of adjustment may present to a County Court at Law or to a District Court of Grayson County, a verified petition stating that a decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition shall be filed with the Court no later than ten (10) days after the filing of the Board's Decision in the Board's office. If such

person or persons fails to file such petition within the allotted ten (10) day period, the decision of the Board shall become final and binding. No appeal shall be filed with a Court of Record until all administrative remedies have been exhausted.

Section 8.

Severability. Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City of Tom Bean hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

Section 9. Effective Date / Repealer

This ordinance is effective with its passage and it is hereby understood that this ordinance supersedes any and all provisions in effect before its passage. This Ordinance shall be read in harmony with Ordinance No. 2008-18, Comprehensive Zoning Ordinance and Zoning Map, Section 33 Zoning Board of Adjustment which anticipated this Ordinance.

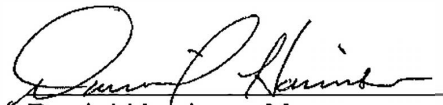
Section 10. Open Meeting

It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required by law and that public notice of the time, place, and purpose of said meeting was given as required.

Section 11. Premises Adopted

All of the above premises are found to be true and correct and are hereby approved and adopted into the body of this ordinance.

DULY PASSED by the City Council of the City of Tom Bean, Texas, this the 14th day of March 2022.


Daniel Harrison, Mayor

ATTEST:



City Secretary

