



ORDINANCE 2005-07

AN ORDINANCE OF THE CITY OF TOM BEAN, TEXAS, ESTABLISHING SIGN REGULATIONS, AND REGULATING THE HEIGHT, NUMBER OF SIGNS, SIZE, AND PLACEMENT OF SAID SIGNS LOCATED, OR TO BE LOCATED WITHIN THE CITY LIMITS; PROVIDING UNIFORM REGULATIONS FOR THE DIFFERENT CLASSES OF SIGNS, PROVIDING FOR AN APPEAL; AND PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE.

Whereas: The City Council of the City of Tom Bean, Texas has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Tom Bean, Texas to adopt this Ordinance regulating the use of signs within the City of Tom Bean.

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

Section 1: PURPOSE AND INTENT; it is the purpose of this Ordinance to put in place such regulations as are necessary to;

A. Preserve and promote the public health, safety, and welfare of the citizens of Tom Bean, Texas.

B. To maintain and enhance the visual environment, and to preserve the right of citizens to enjoy the scenic beauty inherent in Tom Bean, Texas.

C. To minimize the possible adverse effects of signs on nearby public and private property.

D. To provide a reasonable balance between the right of business to identify and promote itself and the right of the public to be protected from the visual discord that results from the unrestricted proliferation of signs.

E. To provide a reasonable amount of protection for the rights of the individual while guarding the sensibilities of the community as a whole.

F. It is the intent of this Ordinance to regulate signs generally by classifying each sign according to its design, intent, and construction; and by regulating, based on such classification, the type, number, size, height and setback of signs according to their location in the various zoning districts.

G. It is also the intent and determination of the City Council that the regulations in this Ordinance are the minimum necessary and least burdensome to accomplish the above stated purposes.

Section 2: DEFINITIONS: For the purpose of this Ordinance, the following words and phrases shall have the meanings herein ascribed to them:

A. ABANDONED SIGN: shall mean a sign which for at least six (6) continuous months, does not identify or advertise a bona fide business, lessor service, owner, product, or activity; and to which no legal owner can be found, or which pertains to a time, event, or purpose which no longer applies.

B. ADVERTISING: A means to convey information to, seek the attraction of, or to direct attention of the public to any location, event, person, activity, goods, services or merchandise.

C. APARTMENT NAME SIGN: An accessory sign for the identification of an apartment building or complex of apartment buildings.

D. COMMERCIAL BILLBOARDS: A structure directly attached to the land or a building having one or more spaces used to display a sign or advertisement, that is leased or rented, or owned and does not advertise the principal business located on such premises. It is further identified as being primarily designed to be viewed from a moving vehicle, and possessing a minimum face height of eight (8) feet, and a minimum overall length of ten (10) feet per sign face.

E. CONSTRUCTION SIGN: A non-permanent accessory sign identifying the property owner, architect, contractor, engineer, landscape architect, decorator or mortgagee engaged in the design, construction or improvement of the premises on which the sign is located.

F. DESTROYED SIGN: A sign or substantial part of it shall be determined to have been destroyed if the cost of repairing the sign is more than seventy-five percent (75%) of the cost of erecting a new sign, according to certified documentation, of the same type at the same location.

G. DILAPIDATED OR DETERIORATED SIGN: A dilapidated or deteriorated sign shall mean: where any portion of the finished material, surface, or message portion of the sign is visibly faded, flaked, broken off, missing, cracked, splintered, defective, or is otherwise visibly deteriorated or in a state of disrepair so as not to substantially appear as it was intended or designed to appear when originally constructed, and whose elements of the structure support or frame members are visibly bent, broken, dented or torn, twisted, leaning or at angles other than those as which it was originally erected.

H. FACE AREA: For signs of a double faced, back to back, or V-type nature, each face shall be considered as a separate sign in computing the face area. In computing the face area of a sign, cutouts, uprights, trim, and aprons shall be excluded. An extension or cutout of up to twenty percent (20%) is permitted. No off-premises sign may have more than two (2) faces.

I. FREEDOM OF SPEECH SIGN: A sign containing a message which does not relate to a business or product, but containing an expression of thought protected by the First Amendment of the United States Constitution.

J. GROUND SIGN: Any sign which is erected on a vertical framework consisting of one or more uprights supported by the ground.

K. HANGING SIGN: A sign which is mounted to hang from an awning, marquee, soffit, or horizontal cross member mounted to a structure, awning or marquee.

L. HEIGHT: The vertical distance between the highest point of the sign or its supporting structure, whichever is higher, and a level plane going through the base of the support.

M. INSTITUTIONAL SIGN: A sign (1) listing church services, (2) a directory sign identifying the use of or listing the names, use and location of various services, offices or activities within a building, or group of buildings of a public or semi-public use, charitable use or medical center.

N. MARQUEE SIGN: Any sign erected on a marquee or fixed awning.

O. MONUMENT SIGN: Any detached sign constructed of masonry, concrete materials, wood or plastic with no apparent poles or supports, and no separation between the base of the sign and grade.

P. NAMEPLATE SIGN: An attached sign containing the names and/or address of the occupant of the building.

Q. OFF-PREMISES SIGNS: An off-premises sign displays advertisement or information copy that pertains to a business, person, organization, activity, event, place, service, or product not principally located or primarily manufactured or sold on the premises on which the sign is located. This Ordinance allows for two sizes of off-premises signs, small and large.

1. SMALL OFF-PREMISES SIGN: Is an off-premises sign with a face area not exceeding 300 square feet.

2. LARGE OFF-PREMISES SIGN: Is an off-premises sign with a face area exceeding 300 square feet but not exceeding 600 square feet.

R. ON-PREMISES SIGNS: An on-premises sign identifies or advertises a business, person, or activity, and installed and maintained on the same premises as the business, person, or activity. This Ordinance allows for two types of on-premises signs, attached and detached.

1. ATTACHED ON-PREMISES SIGN: An attached on-premises sign is a sign that is attached to a building on the property.

2. DETACHED ON-PREMISES SIGN: A detached on-premises sign is a sign that is freestanding.

S. PARAPET WALL SIGN: Is any sign erected on the top surface of a parapet wall.

T. PERSON: Any person, firm, partnership, corporation, company, organization or business entity of any kind.

U. PERSONAL PROPERTY SALE SIGN: A non-permanent sign advertising personal property for sale on the premises on which the sign is located.

V. POLE SIGN: Any sign supported by one or more free standing pole(s) where the bottom of the sign face is more than six (6) feet off the ground.

W. POLITICAL SIGN: A freedom of speech sign (1) relating to the election of a person to a public office, or (2) relating to a political party, or (3) relating to a matter to be voted upon at an election called by a public body.

X. PORTABLE SIGN: Any sign not permanently attached to the ground or to a building or structure.

Y. PROJECTING SIGN: Any sign which projects from a building and which has one end attached to a building or other permanent structure.

Z. REAL ESTATE DIRECTIONAL SIGN: A non-permanent sign directing the public to homes for sale within the City.

AA. REAL ESTATE SIGN: A non-permanent sign placed upon property advertising that particular property for sale, for rent, or for lease.

BB. REGISTERED SIGN: A sign of any type for which registration is required, and which has been filed with the City of Tom Bean, Texas.

CC. ROOF SIGN: Any sign erected on a vertical framework supported by and located immediately and entirely over the roof of a building.

DD. SIGHT LINE FOR TRAFFIC: The phrase "sight line for traffic" shall refer to the ability of a vehicle driver to see from one location on a public street to another location on the same street, or from a location on a public street or private drive which intersects with a public street to a location on the intersecting public street.

EE. SIGN: The term "sign" shall, in addition to its usual definition, mean any exterior structure, sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing that is erected for the purpose of advertising or attracting attention to any business or activity and shall include exterior neon tubing, window signs and outline lighting.

FF. SIGN SETBACK: For a front yard sign setback, the required distance between the portion of a sign on private land closest to public right-of-way and the nearest point at the edge of the nearest public right-of-way, other than an alley. For a side yard setback, the required distance between the portion of a sign on private land closest to the boundary line on the adjoining lot and the nearest point on the boundary line of the adjoining lot whether the setback is to be a front yard or side yard setback shall be determined as provided for in the Zoning Ordinance of the City of Tom Bean, Texas.

GG. SPACING: The required distance between the sign proposed to be erected and another off-premises sign of any size already erected on the same side of the roadway. Each double-faced, back-to-back, or V-type sign shall be treated as a single sign. This measurement shall be taken along the shortest distance between proposed sign's location and the nearest point on the other off-premise sign already erected on the same side of the roadway.

HH. TEMPORARY REAL ESTATE SIGN: A sign placed on-premises at such time that the property is placed on the market, identifying an offer for the sale, rent, or lease of all or part of the premises on which it is located, the name of the real estate company or home owner, and contact information.

II. TEMPORARY REAL ESTATE DIRECTIONAL SIGN: A sign not exceeding on which appears the word "open" the name of the real estate company or home owner, and a directional arrow.

JJ. WALL SIGN: Any sign erected flat against a wall, supported by the wall, and having the sign face parallel to and extending not more than twelve (12) inches from the wall surface. Neon tubing attached directly to a wall surface shall be considered a wall sign. Anything directly painted on the wall shall be considered a wall sign.

KK. WINDOW SIGNS AND OUTLINE LIGHTING: Any neon sign or tubing installed on the inside of a window, other than interior merchandising signs of the plug-in type.

LL. ZONING DISTRICTS: The various use districts as stipulated in the Zoning Ordinance of the City of Tom Bean, Texas.

Section 3: SIGN PERMIT INFORMATION: All news signs installed after the effective date of this Ordinance will be required to retain approval from the City Council and pay a fee based on the size of the sign to be installed.

A. When the ownership of leasehold interest of a sign changes, that information shall be provided to the building inspector by the former owner or leasehold interest within thirty (30) days of the change.

B. All existing signs located in the City of Tom Bean are exempt from requiring a permit for their sign. All existing signs must be kept in good condition and will fall under Section 18 (Sign Maintenance) of this Ordinance.

C. No permit shall be issued under this section for any sign in a district where signs are prohibited by the Zoning Ordinance of the City of Tom Bean, Texas as it currently exists or may be amended.

D. Fees for sign permits shall be based upon the following prescribed Fee schedule:

<u>Area of Sign</u>	<u>Fee</u>
Up to 100 Sq. Ft.	\$10.00
100 to 400 Sq. Ft.	\$25.00
400 Sq Ft. or Above	\$50.00

Section 4: PERMIT TO ALTER, REPAIR, ENLARGE, ETC.: No sign requiring a permit, as specified in Section 3, shall be altered, rebuilt, enlarged, extended, replaced, or relocated, nor shall sign faces be renewed or neon tubing be arranged when the value of such work exceeds twenty five dollars (\$25.00) except upon the issuance of a permit, and all work have been erected in conformance with this Ordinance and with the Zoning Ordinances of the City of Tom Bean, Texas as it currently exists or may be amended, and which have been damaged by windstorm or natural causes, may be repaired without first securing a permit.

A. The changing or movable parts of signs which are designed for changing or the repairing of display matter or the repairing of damaged neon tubing.

B. the fee for a permit under this section shall be the same as prescribed by Section 3.

Section 5: REQUIRED EXCEPTIONS FOR PERMIT TO ERECT OR INSTALL
No sign of any character other than those listed in the following Sections shall be erected on the ground, or suspended from or attached to any building or structure, until a permit for such work has been issued. Signs of any character which are not specifically provided for in this Ordinance may be erected only by special permission from the City Council of the City of Tom Bean, Texas. A permit shall not be required for any of the following types of signs.

A. Non-illuminated signs painted directly on the walls or windows of a building.

B. Non-illuminated wall signs not over two (2) feet in height or ten (10) square feet in area, when erected flat against the face of a building.

C. Non-illuminated wall signs, not over four (4) square feet in area, displaying the name and profession of the occupant of the building.

D. Non-illuminated wall or ground signs advertising the sale, lease, or rental of the premises on which such sign is located, when such sign is erected in a business or industrial area.

E. Signs erected by the municipal, state or federal government for the purpose of public instruction, street or highway designation, control of traffic, and similar uses incidental to the public interests.

F. Signs of warning, directive or instructional nature erected by a public utility or transportation organization which operates under a franchise from the city permitting the use of public property for the display of such signs, provided such signs shall be deemed to be necessary for the successful operation of the utility, and provided that special permission for their erection is granted by the City Council of the City of Tom Bean, Texas.

G. Special event signs: Permission is presumed for civic organizations and other nonprofit organizations to erect signs promoting special events or activities of such organization under the condition specified by the general requirements of this Ordinance.

H. Personal property sale signs: Permission is presumed for dwelling occupants of a property for the erection of non-illuminated, personal property sale signs to be erected.

I. Temporary real estate signs: Permission is presumed in any zoning district for the placement of a temporary real estate sign at such time the property is placed on the market. Such sign shall be removed in accordance with Section 16.

J. Temporary real estate directional signs: Permission is granted as a special privilege to home builders to erect non-permanent, non-illuminated directional signs for week-end advertising. Signs shall not be placed earlier than 6:00 p.m. Friday and shall be removed no later than 6:00 a.m. the following Monday. Any signs in place prior to or after the appointed times may be removed by the City.

K. Political signs: Permission is presumed to erect non-permanent, non-illuminated political signs on private property, with consent of property owner, renter or lessor. All political signs shall adhere to State of Texas regulations as they currently exist or shall be amended.

L. Construction signs: Permission is granted as a special privilege to construction companies to erect non-permanent, non-illuminated signs, providing that such signs shall not be erected prior to the issuance of the building permit for the project that signs pertain to. Such signs may be erected and maintained only during the duration of the construction project.

M. Grand opening or special sales signs: Permission is presumed for any business in a properly zoned area to display flags, banners, and in connection with grand openings or special sales being conducted by said business. Such flags, banners, and balloons must be erected and maintained in such a manner that they do not interfere with the sight line for traffic.

N. Holiday decorations, display, decorations, and displays: Permission is presumed for the display of holiday decorations, display decorations, and displays on private property.

O. Freedom of Speech signs: Permission is presumed for the placement of any freedom of speech sign on private property.

Section 6: ILLUMINATED SIGNS: All illuminated signs shall be wired in accordance with the requirements of the City electrical code. No sign shall be illuminated to an intensity greater than 200 foot candles measured at a distance from the sign of two hundred (200) feet or the nearest residentially zoned property, whichever is closer.

Section 7: ACCUMULATION OF RAINWATER PROHIBITED: All signs shall be constructed so as to prevent the accumulation of rainwater.

Section 8: NOT TO AFFECT STABILITY OF PARAPET WALL: No sign shall be erected so as to affect the stability of any parapet wall.

Section 9: LOCATION NEAR TELEPHONE CABLE POWER LINE OR STREET LIGHT: No sign shall be erected nearer to any street light standard, utility pole, telephone cable, or power line than allowed by the requirements of the City electrical code.

Section 10: NOT TO BLOCK OR INTERFERE WITH EXITS OR WINDOWS: No sign shall be so erected as to block, partially block, or interfere in any way with a required means of exit from any building nor with any window.

Section 11: SIGN SETBACKS: All signs shall be situated so as to not adversely affect safety, corner vision, or other similar conditions, and shall satisfy the following: All signs shall be setback from property lines (1) foot for each ten (10) square feet of sign area to a maximum setback of twenty feet unless otherwise specifically stated in this Ordinance.

Section 12: GENERALLY PROHIBITED SIGNS: It shall be unlawful for any person to erect, install, construct, display, maintain, reconstruct, place, locate, relocate, or make use of any of the following signs.

A. Signs on private property without the consent of the owner of the premises.

B. Signs which are located in, and that interfere, with the use of a required off-street parking space or maneuvering area.

C. Signs which are or become deteriorated, dilapidated or in danger of falling or otherwise unsafe.

D. Any sign located on or attached to a public street light, utility pole, hydrant, bridge, traffic control device, street sign or other public structure or building, or any sign located in, on, over, or within a public street, sidewalk, alley, easement or right-of-way. This prohibition shall not apply to signs placed over a public street by the City to advertise annual community events, or municipal signs.

E. Signs which do not comply with any applicable provision of a building code, electrical code, or other applicable code or Ordinance of the City.

F. Signs located or illuminated in such a manner as to obscure or otherwise interfere with the effectiveness of an official sign, signal, or device or so as to obstruct or interfere with the sight lines for traffic of a driver of any approaching, emerging, or intersecting traffic or so as to prevent any traveler on any street from obtaining a clear view of approaching vehicles for a distance of two hundred fifty (250) feet along the street.

G. Any sign erected or maintained over, along or across any sidewalk or public street that becomes dangerous to life or limb or proves to be an obstruction to the proper operation of the fire department, shall be removed as soon as possible.

H. In order to obtain and secure reasonable traffic safety, it shall be unlawful for any person to erect or maintain any sign in such a manner as to obstruct the sight line of traffic or at any location where by reason of position, shape, color degree, manner of intensity of illumination, it may interfere with vehicular or pedestrian traffic. No sign shall be erected or maintained in such manner as to be likely to interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device. Accordingly, no sign shall make use of words, colors, or light in such a manner as to interfere with, mislead, or confuse traffic. Such a sign may be removed and impounded because of the existence of such interference or confusion. The decision to remove and impound an interfering or dangerous sign may be appealed in writing to the City Council within thirty (30) days of such removal.

Section 13: NUISANCES, REMOVAL OF PROHIBITED SIGNS: All signs listed below shall be considered a public nuisance and are prohibited by this Ordinance. Upon written notification such signs may be removed from the premises and impounded. The notification shall state the offending sign shall be removed by the owner, agent, or person having beneficial use of the land, building or structure upon which such sign is located within ten (10) days after written notification to do so. The notification shall further state that if the sign is not removed within twenty-four (24) hours after expiration of the grace period, a citation may be issued and the City may resort to any civil remedy available up to and including impoundment. It shall be unlawful for any person, firm, or corporation receiving such written notice to fail to comply with the direction of the notice. In the event failure to comply with such notice, the City Council may cause the removal and impoundment of such sign. Any expenses incident thereto shall be the responsibility of the owner, agent, or person having beneficial use of the land, building, or structure upon which such sign was located.

A. The following signs are considered a nuisance and are prohibited by this Ordinance.

1. Any sign erected without a permit after the adoption of this Ordinance, if a permit is required.
2. Any sign erected in violation of the provisions of this Ordinance.
3. Any sign erected on or over a public right-of-way, either prior to or after the adoption of this Ordinance, except as permitted by this Ordinance.

Section 14: REMOVAL OF REAL ESTATE SIGNS: Real estate signs shall be removed after the property advertised is sold, leased, or rented with the exception of a sign on which appears the word, "SOLD", "LEASED" or "RENTED" and the name of the real estate company or home owner. These signs shall be removed within a reasonable period of time following the sale, lease, or rent of the property.

Section 15: IMPOUNDED SIGNS, RECOVERY: Impounded signs may be recovered by the owner within thirty (30) days after written notification of impoundment by paying a fee as follows; The cost of removal, plus one dollar (\$1.00) per day. Any impoundment may be appealed in writing to the City Council within thirty (30) days of impoundment. Signs not appealed or recovered within five (5) days after the end of the appeal period after impoundment, may be disposed of by the City of Tom Bean in any manner it shall elect.

Section 16: EXISTING SIGNS, GENERALLY: Signs, except those which the City is empowered to impound, and except as provided for in Section 17 Removal of Non-conforming Signs, lawfully in existence on the date of adoption of this Ordinance, may continue to be used and repaired but not significantly altered or moved unless they shall be made to conform with the provisions of this Ordinance. A significantly altered sign shall be defined as a sign for which it shall be determined to have cost more than seventy-five percent (75%) of the cost of erecting a new sign, according to certified documentation, of the same type at the same location. If a non-conforming sign is removed or destroyed, any new sign or rebuilding of existing sign must conform to this Ordinance. No non-compliant, destroyed sign may be replaced or repaired in violation of this Ordinance. However, in recognition that there may be a non-compliant, destroyed sign of historical or aesthetic value to the community, the following criteria may be used to seek a variance:

A. If a non-conforming sign was lawfully in existence on the date of adoption of this Ordinance, and it has suffered sufficient damage to be considered a destroyed sign as defined by this Ordinance, the property owner may seek a variance from those portions of the Ordinance that would continue to make it a non-conforming sign through the procedures as stated in this Ordinance

Section 17: REMOVAL OF NON-CONFORMING SIGNS: Non-conforming signs, except those signs lawfully in existence on the date of adoption of this Ordinance, may be required to be removed in accordance with the following:

A. Signs costing less than one hundred dollars (\$100.00) to remove must be removed within sixty (60) days of the date of written notice.

B. Signs costing more than one hundred dollars (\$100.00) but less than five hundred dollars (\$500.00) to remove must be removed within one year of the date of written notice. The determination that an existing sign has a non-conforming status one hundred eighty (180) days of the date of written notice.

C. Signs costing more than five hundred dollars (\$500.00) to remove or the notification of removal of such non-conforming sign may be appealed in writing to the City Council. Such a request for appeal must be made within thirty (30) days of such determination or notice given.

Section 18: MAINTENANCE OF SIGNS: The owner of any premises upon which a sign is located, or the owner of any sign, shall be responsible to maintain the sign at all times so as to comply with minimum structural requirements as contained herein for safety purposes.

Section 19: COMPLIANCE WITH BUILDING CODE: All sign structures shall comply with minimum standards established by the building code unless standards as described herein are more restrictive, then provisions of this Ordinance shall apply.

Section 20: COMPLIANCE WITH ZONING ORDINANCE: All sign structures shall comply with the Zoning Ordinance of the City of Tom Bean, Texas as it currently exists or may be amended, unless standards as described herein are more restrictive, then provisions of this Ordinance shall apply.

Section 21: SIGN BOARD OF ADJUSTMENT: The City Council of Tom Bean, Texas shall act as the Sign Board of Adjustment.

A. Powers and duties of the Board:

1. Appeals based on error: Acting as the Sign Board of Adjustment, the City of Tom Bean shall have the power to hear and decide appeals where it is alleged there is error of law in any order, requirement, decision or determination made by an administrative official of the City in the enforcement of this Ordinance.

2. Limitation on reapplications: When the City Council acting as the Sign Board of Adjustment has denied a proposal; no new applications of similar nature shall be accepted by the Council or scheduled for twelve (12) months after the date of Council denial. Applications which have been withdrawn, at or before the Council meeting, may be resubmitted at any time for hearing before the Council.

3. Vote of four members required: The concurring vote of four members of the City Council acting as the Sign Board of Adjustment is necessary to:

a. Reverse an order, requirement, decision or determination of an administrative official.

b. Decide in favor of an application on a matter on which the Board is required to pass.

c. Authorize a variation from the terms of the Sign Ordinance.

B. Appeals:

1. Procedure: Appeals may be taken to and before the City Council acting as the Sign Board of Adjustment by any person aggrieved, or by any officer, department, board or bureau in the City. Such appeal shall be made by filing in the office of the City Secretary, a notice of appeal and specifying the ground thereof. The Office or department from which the appeal is taken shall forthwith transmit to the Board all of the papers constituting the record from which the action being appealed was taken. The notice of appeal shall be accompanied by a filing fee in the same amount as required for a request of variance by the Board of Adjustment.

2. Stay of proceedings: An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Official shall certify to the Sign Board of Adjustment that, by reason of facts in the certificate, a stay would cause imminent peril to

life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted or by a court of equity, after notice to the office from whom the appeal is taken.

3. Notice of hearing on appeal: The Board shall fix a reasonable time for the hearing of the appeal or other matters referred to it, and shall mail notices of such hearing to the petitioner and to the owners of property lying within two hundred (200) feet of any point of the lot or portion thereof on which a variation is desired, and to all other persons deemed by the Board to be affected thereby, such owners and persons being determined according to the current tax rolls of the City. Depositing of such written notice in the mail shall be deemed sufficient compliance therewith.

4. Decision by Board: The Board shall decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or attorney. The Board may reverse or affirm wholly or partly or may modify the order, requirements, decision or determination as in its opinion ought to be made in the premises, and to that end, shall have all powers of the officer or department from whom the appeal is taken.

Section 22: VARIANCES TO THE SIGN ORDINANCE: The Board shall have the power to authorize upon appeal in specific cases such variance from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship and so that the spirit of this Ordinance shall be observed and substantial justice done, including the following:

A. Any person requesting a variance from the provisions of the sign Ordinances shall submit an application in writing containing the information and plans requested in the variance, along with the established filing fee.

B. The board shall act upon the variance request within a reasonable time. Notice of the hearing shall be given in the manner described in Section 22.

C. The Board may grant a variance from a requirement of this Ordinance if it finds any of the following exists:

1. Due to some unique condition of feature of the property which is not generally common to other properties, literal compliance with the sign regulation would cause unnecessary hardship.

2. The granting of the variance will not violate the spirit or the intent of the Ordinance.

3. The condition or feature which creates the need for the variance did not result from the property owner's acts.

4. The sign being considered for a variance meets the conditions stated as being a sign of historical or aesthetic value to the community.

D. The Board shall not grant a variance to any applicant solely for personal convenience or financial hardship. If the Board grants a variance, the variance shall be granted only to the extent that is reasonably necessary to remedy the hardship. The Board may impose conditions relating to the use of the sign for which a variance is granted.

E. All decisions of the Board granting or refusing a variance shall be reduced to writing and signed by the Mayor. If a variance is denied, the decision shall state the conditions for the variance which were not met. If the Board grants a variance, the

decision shall state that all conditions for a variance were met, specify the degree to which the regulations are being varied, and be signed by the members voting in favor of the variance.

Section 23: SPECIAL EXCEPTIONS: The sign Board of appeals may grant a special exception from the provisions of this Ordinance for the setback or height of a sign, other than a portable sign, under the following circumstances.

A. VISIBILITY OBSTRUCTIONS: When fifty (50) percent or more of the effective area of a sign to be located in accordance with the setback or height requirements of this Ordinance would not be visible from at least one “visibility point” because of an existing building, structure, or the natural ground. As used herein, “visibility point” shall mean the viewing locations, at a height of six (6) feet, determined by extending the side yard setback lines of the property so as to intersect the curb line of the public street fronting the property, then measuring from the intersecting points along the curb line away from the property in each direction for a distance of one hundred (100) feet. If the street fronting the property is one-way the visibility point in the direction from which traffic approaches the property shall be used to determine the visibility requirement. Such sign must be erected and maintained in such a manner that it does not interfere with the sight line for traffic.

B. MEDICAL EMERGENCY SIGNS: When a sign located on the property of an emergency medical treatment facility would not, because of the setback or height requirements of this Ordinance, be readily visible from adjacent public streets. For purposes of this provision, “Emergency Medical Treatment Facility” shall mean any hospital, clinic, or other facility where medical aid is offered to a person who suffers an injury or illness which requires immediate medical attention.

C. In granting a special exception, the Sign Board of Adjustment shall specify by written order the setback or the height that will be allowed, but in doing so shall not allow deviation from the provisions of this Ordinance beyond what is minimally necessary to remedy the situation allowing for the special exception.

D. CHANGES: The Board shall have no authority to change any provisions of this Ordinance and its jurisdiction is limited to hardship and borderline cases which may arise from time to time. The Board may not change the district designation of any land either to a more or less restrictive zone.

E. It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, that such questions shall be presented to the Board only on appeal from the decision of the Building Official and that recourse from the decisions of the Sign Board of Adjustment shall be to the courts as provided by the laws of the State of Texas.

Sections 24 – 29 RESERVED FOR ORDINANCE UPDATES.

Section 30: APPLICATION OF LIMITED DIMENSIONS PRESCRIBED: The limiting dimensions given in the detailed requirements of this Ordinance as it currently exists or may be amended include all ornamentation unless otherwise specifically stated.

Section 31: GROUND SIGNS GENERALLY:

A. HEIGHT AND WIND LOAD: Ground signs commonly known as painted bulletins or poster boards shall be designed to withstand an assumed wind load of twenty (20) pounds per square foot.

B. OPEN SPACE AT BOTTOM: There shall be an open sufficient in height between the bottom of ground signs and the ground, except that the sign supports may extend through such space and the panels between the supports may be filled with lattice or slats which will leave fifty (50) percent of the space open, to allow for water drainage.

C. LOCATION INSIDE BUILDING LINE: Painted bulleting or poster boards shall be located entirely inside the building line, except that electrical lighting fixtures and lamps intended to illuminate the face of the sign may be attached to the sign and project beyond the building line for a distance not to exceed six (6) feet, but in no case shall such lighting fixtures extend nearer than two (2) feet from any telephone cable, power line, street light standard or curb.

D. PROTECTION OF ELECTRICAL DEVICES: Any electrical devices on a ground sign within reach of persons on public property or property open to the public shall be protected by wire, glass, safety glass, locked box of metal or wood, or other approved methods.

Section 32: PARAPET WALL SIGNS: Parapet wall signs shall not occupy more than seventy-five (75) percent of the length of the wall on which erected. Attachment of such signs shall not damage or affect the stability of any parapet wall.

Section 33: LOCATIONS FOR POLE SIGNS:

A. Large pole signs (billboards) are permitted in all non-residential zones fronting Hwy 11 as defined in the Zoning Ordinance of Tom Bean, Texas.

B. Small pole signs are permitted in all non-residential zones as defined in the Zoning Ordinance of Tom Bean, Texas

C. Large pole signs may not exceed seventy-five (75) feet in height.

D. Small pole signs may not exceed fifty (50) feet in height.

E. HEIGHT OVER SIDEWALKS, DRIVEWAYS, AND PARKING SPACES:

When a pole sign projects over the sidewalk, no part of the sign shall pose a hazard to pedestrian travel. When a pole sign projects over a driveway, parking space, or head-in parking, no part of the sign shall pose a hazard to vehicle traffic.

F. POLES GENERALLY: Only one pole shall support each sign and such poles shall be of sufficient strength to withstand wind pressure and other loads and shall be set in concrete. Poles supporting signs shall be protected by wheel guards or bumpers when required by the building inspector.

G. MINIMUM DISTANCE BETWEEN SIGNS AND ADVERTISING THE SAME BUSINESS: Pole signs advertising any one business and the products sold in connection therewith shall be erected not less than twenty-five (25) feet apart.

Section 34: PORTABLE SIGNS: Portable signs may be permitted upon application and approval by the City Council or its designee.

Section 35: ROOF SIGNS:

A. HEIGHT: Roof signs shall not exceed thirty (30) feet in height measured from the topmost part of the sign to the surface of the roof immediately below, nor shall any roof sign exceed the height limit for buildings fixed by Tom Bean's Zoning Ordinance and any amendments thereto.

B. WIND LOAD: All roof signs of any height shall be designed to withstand an assumed wind load of thirty (30) pounds per square foot.

C. LOCATION: The space between the bottom of the sign and the surface to the roof shall be left open and free of any obstructions, except for the main supporting beams, to allow adequate water drainage.

D. SUPPORT STRUCTURE: The supporting structure of any roof sign shall be so designed as to transfer the imposed load directly to the permanent frame or structure of the building on which it is erected.

E. GROUNDING: All metallic parts of any roof sign shall be provided with an adequate ground as a protection against lightning.

F. REQUIREMENTS WHEN ERECTED ON A ONE-STORY BUILDING WITH A ROOF PITCH MORE THAN 3 IN 12: On one (1) story buildings having a roof pitch of more than 3 in 12, roof signs may be erected provided they meet the following requirements:

1. The top of any sign erected on a pitched roof shall not be higher than three (3) feet above the roof immediately below and the bottom of such sign shall not be less than one (1) foot above the roof immediately below. Such one (1) foot space shall not be required for signs erected directly on the ridge of a roof.

2. Signs erected at the eaves of a roof shall be placed so that they will not interfere with rain-water gutters nor with the drainage of water from the roof.

Section 36: MARQUEE SIGNS:

A. Signs erected on the faces of a marquee and built as an integral part of a marquee and having interchangeable letters shall not exceed thirty (30) feet in length. Open ornamentation or open letters may be erected on top of such attraction boards but shall not occupy more than seventy-five (75) percent of the length of the attraction board.

B. Signs erected on the top or edge of existing marquees or fixed awnings shall follow the contour of the marquee and shall not occupy more than seventy-five (75) percent of the length of any face of the marquee or fixed awning.

C. Marquee signs shall not project more than twelve (12) inches beyond the face of the marquee nor within one (1) foot back of any curb and shall be attached to the marquee so that no water from the marquee roof may fall to the sidewalks from openings between the sign and the marquee.

D. Signs hung from the soffit of a marquee or fixed awning shall be so constructed that the bottom of such signs shall pose no hazard to pedestrian travel and the outer end shall not be less than one (1) foot back of any curb.

Section 37: WALL SIGNS:

A. No part of any wall sign shall pose a hazard to pedestrian or vehicle travel.

B. LIGHTING: All wall signs illuminated by an indirect light source may only be illuminated with upward shielded illumination.

Section 38: HANGING SIGNS:

A. LOCATION ALLOWED: Hanging signs are allowed in all non-residential zones as defined in the Zoning Ordinance of the City of Tom Bean, Texas.

B. HEIGHT OVER SIDEWALKS, DRIVEWAYS, AND PARKING SPACES: When a hanging sign projects over the sidewalk, no part of the sign shall pose a hazard to pedestrian travel. When a hanging sign projects over a driveway, parking space, or head-in parking, no part of the sign shall pose a hazard to vehicle travel.

Section 39: COMMERCIAL BILLBOARDS:

A. LOCATION ALLOWED: All commercial billboards are prohibited unless they are located on development sites with frontage on Hwy 11 and a specific use permit has been granted.

B. MINIMUM DISTANCE BETWEEN SIGNS: The spacing between signs on the same side of the road shall be at least one thousand five hundred (1,500) linear feet.

C. LIGHTING: All commercial billboards may only be illuminated with upward shielded illumination.

D. MAXIMUM NUMBER OF SIGN FACES ALLOWED: All commercial billboards shall be limited to two (2) sign faces.

Section 40: WINDOW SIGNS AND OUTLINE LIGHTING TO CONFORM TO ELECTRICAL CODE:

A. The installation of any illuminated sign or neon tubing on the inside of any window shall conform to the requirements of the National Electrical Code as adopted by the City of Tom Bean.

Section 41: MONUMENT SIGNS PERMITTED IN BUSINESS ZONING DISTRICTS:

A. Shopping centers with multiple tenants located on premises of one (1) acre or more in size are permitted to erect a maximum of four (4) monument signs with the following stipulations:

1. Setbacks:
 - * 15 feet from street right of way
 - * 50 feet from property lines other than those property lines fronting the street line right of way.
 - * 300 feet from other monument signs on the property.

B. Shopping centers with multiple tenants located on premises less than one (1) acre in size are permitted to erect a maximum of two (2) monument signs with the following stipulations:

1. Setbacks:
 - * 15 feet from street right of way
 - * 25 feet from property lines other than those property lines fronting the street line right of way.
 - * 150 feet from other monument signs on the property.

C. A business located on individually platted land including pad sites within a shopping center are permitted to erect two (2) monument signs with the following stipulations:

1. Setbacks
 - * 15 feet from street right of way
 - * 25 feet from property lines other than those property lines fronting the street line right of way.
 - * 200 feet from other monument signs on the property.

D. Gasoline service stations may mount price per gallon signs on monument signs. Such monument signs are permitted with the following stipulations:

1. Setbacks
 - * 15 feet from street right of way.
 - * 50 feet from property lines other than those property lines fronting the street line right of way.

Section 42: MONUMENT SIGNS PERMITTED IN NON-BUSINESS DISTRICTS:

A. Churches, model homes, apartments, town homes, schools or government facilities and buildings may have detached monument signs subject to the following restriction that each sign shall be placed a minimum of fifteen (15) feet from the street right of way.

Section 43: PENALTY PROVISION:

A. Any person, firm or corporation who violates any provision of this Ordinance of the Zoning Ordinance of the City of Tom Bean, Texas shall be deemed guilty of a misdemeanor, and upon conviction, shall be fined a sum not exceeding five hundred dollars (\$500.00) and each and every day such violation continues shall be a separate

offense, provided, however, such penal provision shall not preclude a suit to enjoin such violation.

Section 44: SEVERABILITY –SAVINGS-REPEALING CLAUSES:

A. Should any part of portion of this Ordinance, or the use created herein affecting the aforementioned property, be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions and those provided for within this Ordinance shall remain in full force and effect. All Ordinances in conflict herewith are repealed to the extent they are in conflict. Any remaining portions of said Ordinances shall remain in full force and effect.

Section 45: EFFECTIVE DATE:

A. This Ordinance shall become effective upon the posting and/or publication of its caption as required by law and the City Secretary is hereby directed to implement such posting and/or publication.

PASSED AND APPROVED by the City Council of the City of Tom Bean, Texas on this 13th day of June, 2005 A.D.

Mayor

Attest:

City Secretary