



ORDINANCE 2016-09

AN ORDINANCE OF THE CITY OF TOM BEAN, TEXAS, SETTING RULES, REGULATIONS, PROCEDURES, RATES AND FEES FOR UTILITY SERVICES PROVIDED BY THE CITY OF TOM BEAN; SETTING PENALTIES FOR VIOLATION OF PROVISIONS IN THE ORDINANCE; PROVIDING FOR SEVERABILITY, SAVINGS AND REPEALING CLAUSES; REPEALING ORDINANCE NOS. 2015-07, 2015-03, 2008-07, 95-01 AND 82-100; AND PROVIDING FOR AN EFFECTIVE DATE OF THE ORDINANCE.

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

ARTICLE I. IN GENERAL

Section 1. Definition.

For the purpose of this ordinance the word "utility" shall be construed to mean and include water, sewer, garbage, and refuse collection and/or any other utility service furnished by the city to consumers thereof.

Section 2. Scope of provisions

All pertinent provisions of this ordinance are hereby made part of the terms and conditions whereby the city furnishes any utility service to any person, or whereby the city makes any utility connections, or perform any work of any kind in connection with the furnishing of any utility service pursuant to the rules and regulations of the city council.

Section 3. Service to comply with technical provisions.

Any utility service furnished under the provisions of this chapter shall be in accordance with and in compliance with all applicable technical provisions of this Ordinance, other City Ordinances, adopted City Codes, other rules and regulations, State and Federal Law.

Section 4. Rules, regulations.

The Public Works Director or his/her authorized agent shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any utility service system owned and operated by the city within or without the city and under the management of the council. Such rules, regulations, standards and specifications shall be approved and adopted by the City Council and filed in the office of the City Secretary. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.

Section 5. Enforcement

Except where other arrangements are specifically provided, it shall be the duty of the Director of Public Works or his/her authorized agent to enforce the provisions of the Ordinance or any rule or regulation relating to utility services. This section does not prevent law enforcement officers from enforcing provisions of this ordinance.

Section 6. Inspection.

In order to protect the utility service supply, the city will not make any water or sewer taps until the premises involved has been inspected and approved by the Public Works Director or Building Official/Inspector.

Section 7. Right of entry.

Any authorized inspector of the city or authorized public works employee shall have free access at any reasonable time to all premises supplied with any utility service by the city for the purpose of examination in order to protect the utility services.

Section 8. Termination of service authorized.

The city shall have the right to disconnect or refuse to connect or reconnect any utility service for any of the following reasons:

- (a) Failure to meet the applicable provisions of law;
- (b) Violation of the rules and regulations pertaining to utility service;
- (c) Nonpayment of bills;
- (d) Willful or negligent waste of service due to improper or imperfect pipes, yard lines, clean outs, fixtures, appliances or otherwise;
- (e) Molesting any meter, seal or other equipment controlling or regulating the supplies of utility services;
- (f) Theft or diversion and/or use of service without payment therefore;
- (g) Refusal to allow inspection of property provided with utility services;
- (h) Vacancy of premises.

Effectuated customers will be notified as circumstances permit. It is the policy of the city to provide customers with notice and a meaningful opportunity to be heard on disputed issues. Any customer disputing the correctness of any action has a right to a hearing at which time he may be represented in person and by counsel or any other person of the customers choosing and may present orally or in writing his complaint and contentions to the Public Works Director or his/her authorized agent. The Public Works Director or his/her authorized agent shall have the authority to make a final determination of the customer's complaint.

Section 9. Liability of city for damage.

The city shall not be liable for any damage of any customer of any utility service furnished by the city due to back-flow of the sewage system, failure of supply, interruption of service or any other cause outside the direct control of the city.

Section 10. Utility service – Application required.

Any person desiring any utility service furnished by the city shall make application for the same to the Utility Department of the city. Such application shall contain the applicant's name, address, and other information as required by the City. The person applying for utility service must supply sufficient documentation to establish the true identity of the applicant. The application must state the uses for which such utility service is desired. Should any person move into any premises supplied with utility service, without making an application in the manner provided for by the city, such person shall become responsible for all utility service used from the date of the last payment made on such account previous to his occupying said premises and the failure to pay same shall be cause for disconnecting such service until the amount due is paid.

Section 11. Utility Service – False statements in application.

(a) If any person shall make false statements in the application for utility services, he shall be deemed guilty of a misdemeanor.

(b) Any consumer who discontinues his place of business or moves from his residence and leaves a bill for utility services due the city and makes application for service at some other address, either under his own name or under a different name, without stating to the city the old address and name under which utility services were used at the address where there is a bill due, shall be guilty of a misdemeanor.

Section 12. Utility Service – Not available to debtors.

The city may decline or fail or cease to furnish utility service to any person who may be in debt to the city for any utility service provided by the city or contracted by the city.

Section 13. Utility Service – Permit.

Approval of the application for any utility service by the Public Works Director or his/her authorized agent shall be deemed permission for such service.

Section 14. Utility Service – Use assumed.

All premises connected to any utility service of the city shall be assumed to be using such utility service and the owner or occupant shall be charged so long as such premises shall remain connected with the utility service.

Section 15. Not to use contrary to permit.

Any person having a permit from the city for the use of any utility service offered by the city who shall use such utility service for any purpose other than mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a misdemeanor.

Section 16. Damage, trespass of equipment.

It shall be unlawful for any person, not having authority to do so, to open any water hydrant or tamper with any utility services furnished by the city to consumers, or to in any other way molest, damage or trespass upon any equipment or premises belonging to the city connected with any utility service.

Section 17. Temporary interruption of service.

The city reserves the right to cut off any utility service without notice in case of emergencies. When an interruption in service is necessary for the maintenance and improvement of the utility system, affected customers will be notified as circumstances permit.

Section 18. Restricting use.

The city hereby reserves the right to at any time restrict or prevent the use of any utility service furnished by the city during periods of emergency or circumstances demanding such restriction or prevention of use.

Section 19. Sale of service by customer.

It shall be unlawful for any person to resell to others any utility service obtained from the city except only by special arrangement with the City Council.

Section 20. Connection to service.

Connections for any utility service furnished by the city shall be made only under the supervision of the city council.

Section 21. Separate connections.

Every building, structure or consumer in the city shall have a separate utility service connection. Accessory use buildings on a residential lot do not require a separate meter if not occupied or used for commercial purposes.

Section 22. Unlawful use.

No person, other than employees of the city, shall be authorized to connect, turn on, turn off or disconnect any utility service offered by the city, or remove, replace or repair any equipment connected to any such utility service. No person shall tamper with, alter, change, bypass, divert, or connect to any water or sewer mains or service lines owned by the city without first obtaining permission or consent of said city. Any person violating provisions of this section shall be guilty of a misdemeanor.

Section 23. Maintenance of system by consumer.

(a) The consumer of any utility service furnished by the city shall maintain and keep in good repair all connections, yard lines, clean outs, appliances and other apparatus installed and used in connection with such utility service.

(b) Failure to maintain and keep in good repair all connections, yard lines, clean outs, appliances and other apparatus used in connection with the utility is grounds for discontinuation of all utility services to the consumer.

(c) Any person who shall fail to maintain and keep in good repair all connections, yard lines, clean outs, appliances and other apparatus used in connection with the utility shall be deemed in violation of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of this section is committed, continued or permitted, and each violation shall be punished by a fine not to exceed two thousand dollars (\$2,000.00) for each offense.

Section 24. Services to out-of-city consumers not required.

The city is not required to furnish utility services to consumers beyond the corporate limits, or to continue to supply, once begun, such services. The city reserves the right to provide services to such consumer(s) it deems advisable and to, at any time, wholly or partially, discontinue such utility services to any consumers located outside the corporate limits of the city.

Section 25. Name changes-Death of Family Member

(a) If upon the death of a spouse when the surviving spouse was not on the account, the surviving spouse may add their name and remove the deceased name by submitting a copy of the death certificate. The city may request the necessary identification and information to change the name on account. There is no charge for this type of change.

(b) Upon the death of a family member the executor of the estate must present documentation to the City that will show executorship. This documentation will serve as proof as to who has the authority to assume the account. The executor may change the mailing address at no charge, also if the executor wishes to add their name in the "Attention" field of the mailing address there is no charge. If the executor wishes to start a new account there is a fifteen dollar (\$15.00) name change fee.

Sections 26– 33. Reserved.

ARTICLE II – WATER UTILITY

Section 34. General Regulations

(a) The city is not required to furnish water of any special or specific analysis or in any special or specified amount but only undertakes to furnish such water and amount of water that may be supplied from such sources as the city may select and in an amount within the capacity of the city's pumping plants and storage facilities.

(b) If an accident impedes the city's ability to supply water to its patrons or to the municipality for the prevention or suppression of fire, the city will not be liable for damages by reason of any such failure to any patron of the water system or to any person or persons whose property may have been destroyed by fire or otherwise damaged.

Section 35. Out of City Water Service.

If any person, corporation, firm, or business entity located outside the city limits desires city water service and pays all expenses incurred in extending the water mains and secures all necessary easement, so that the city incurs no expense in such connection, and the city elects to provide such water service to such patron, and provided all mains and lines installed shall meet the requirements and approval of the Director of Public Works, then such patron shall be furnished water at a rate of one hundred fifty percent (150%) of the "in city" rate.

Section 36. Waste of Water.

In case of willful or unreasonable waste of water by any customer, the city shall have the right to cut off the water supply and recover all damages. Such action of cutting off the water supply may be taken by the Director of Public Works or his/her authorized agent at any time after he shall learn of such waste.

Section 37. Regulations affecting connections to system.

All connections to the city waterworks system within the corporate limits shall be made in the following manner:

(a) It shall be the policy of the city to supply water to its customers through mains owned or controlled by the city and which shall be located in the streets, between the curb and sidewalk lines, or in alleys adjacent to property being served, or on easements controlled or owned by the city. The water meter will be placed at the edge of the customer's property nearest to the city water main or where approved by the Public Works Director or his/her authorized agent and the customer shall be responsible for the maintenance of the service line past the city meter. Any service line that crosses private property not owned by the property owner requesting water service, must be located in an easement acquired by the property owner and said easement must be filed at the property owners expense in the deed records of the county where the easement is located.

(b) The city may assess the estimated cost of breaking and replacing pavement necessary to make such connections, in addition to the regular service connection fee and minimum system connection fee, such assessment to be paid with such service fee and system fee, and the difference between assessment and actual cost of such breaking and replacing shall be billed or refunded to the customer when such work has been completed.

(c) In addition to the above charges, the city may assess the estimated cost of boring under or crossing over any street or highway in furnishing water services.

(d) All lines constructed on the city side of the meter and meters installed under the provisions of this section shall be the property of the city and the city shall have full control and jurisdiction over such lines and meters.

Section 38. Bypassing Meters.

No person shall interfere with or bypass the city's meter in such a manner as to obtain water without the full amount thereof being registered on such meter. Service shall be permanently disconnected from any account where a bypass or other such device is discovered. Such account shall be reconnected only at the discretion of the city and only after payment for water used, as estimated by the city, at twice the rate otherwise applicable plus the cost of rerouting and repairing the service to register water used properly on the meter.

Section 39. Secondary taps and dual connections prohibited.

No customer of the water system shall permit any person to tap any water pipe leading into his premises without the consent of the City Council. Dual connections to (more than one user on a single meter) shall be prohibited. Owners or occupants of premises having service pipes and connections will be held strictly responsible for all uses of water from such service by other parties.

Section 40. Fire hydrant use restricted.

Every hydrant placed for the purpose of extinguishing fires is hereby declared to be a public hydrant and no person, other than members of the fire department, the State Department of Health, and those authorized by the Director of Public Works or his/her authorized agent shall open any such hydrant or draw or attempt to draw water from same or in any manner interfere with said hydrants unless they have a valid permit from the Public Works Director, make the appropriate deposit to the city, and a valid city-owned hydrant water meter is used to determine the amount of water used.

Section 41. Access to Meter.

If easy access to a meter is obstructed by a customer or if entrance to the premises is made dangerous for whatever reason, thereby preventing a meter reader from obtaining a meter reading, the charges may be estimated for the amount not to exceed double the normal charge. If the patron does not remedy the condition or should he refuse to pay the estimated bill, the city shall have the right to discontinue water service without further notice and service shall not be resumed until the obstructive and/or dangerous conditions have been remedied and all charges for water service paid.

Section 42. Unlawful connections.

(a) If water from the city water supply system or water from a certificated water supply corporation is available within two hundred (200) feet of the property line on which a privately owned water well within the city limits of Tom Bean is located, such privately owned water well may be used for irrigation or farming purposes only.

(b) No water connection from the city water supply system shall be made to any other water system over which the City of Tom Bean has no control. The city shall have the right to inspect individual water facilities prior to providing service and periodically thereafter to prevent possible cross-connections between the water system of the City of Tom Bean and any other water system. Upon discovery by the city of a cross-connection, the city shall give notice to the owner or agent maintaining such condition, and such owner or agent shall immediately make such corrections as are necessary to eliminate the condition complained of. The city reserves the right to suspend utility service if the owner or agent fails to make such corrections.

(c) Any person who shall make any connection in any manner from the city water supply system in any other utility system, private or otherwise, shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of this section is committed, continued or permitted, and each violation shall be punished by a fine not to exceed two thousand dollars (\$2,000.00) for each offense.

Section 43 – 51 Reserved.

ARTICLE III – SEWER UTILITY

Section 52. Definitions.

The sanitary sewer system of the city consists of main and lateral conduits of salt glazed vitrified earthenware, polyvinylchloride (PVC) plastic, concrete, or other similar pipe, with necessary accessories, and are designed to transport liquid waste materials. The sewers in the alleys or streets adjacent to the various lots are called main or lateral sewers. The sewers leading from the main or lateral sewers to the property on each side are called house sewers.

Section 53. Sewer Service Required; Exceptions.

(a) It shall be unlawful for the owner or occupant of any building or premises within the city to inhabit, use, or permit anyone else to inhabit or use, said building or premises unless said building or premises is connected with the sanitary sewer system of the city or a septic tank system built according to the specifications of the Texas Natural Resources Conservation Commission and the city.

(b) It shall be unlawful for any person to install or use a septic tank for private waste disposal within the city limits, except when the structure to be served is more than one hundred fifty (150) feet from a public sewer main line, that is reasonably accessible, and approval to use a septic tank is specifically granted by the City Council.

The owner of any property containing a structure used for human occupancy, employment, recreation, or other purpose in which human waste is generated shall be required to connect to the city sanitary sewer system if a public sewer is available and reasonable accessible within one hundred fifty (150) feet of such structure.

Section 54. Service Connections.

(a) After paying all required fees, the property owner shall install a sanitary sewer service line at his expense to the city's lateral, in accordance with regulations and subject to the inspection of the city; he shall thereafter do routine maintenance on the sewer line to the city main including cleaning or rodding out the line. If during the routine maintenance a problem is found from the street right of way to the city's main the city will repair only that section of the sewer line. The Public Works Department should be notified before the plumber or company leaves the property to check the location of the problem. If the city digs up the line and there is no problem found from the street right of way to the sewer main owner shall be responsible to reimburse the City for the actual cost of work done including paving repair. Any new or rebuilt service line that crosses private property not owned by the property owner requesting sewer service, must be located in an easement acquired by the property owner and said easement must be filed at the property owners expense in the deed records of the county where the easement is located. The sanitary sewer service line from the building to the lateral or main must

pass a standing water test for approval and must remain sealed at all time. All clean outs must be sealed except when being use to clean out a sewer line.

(b) The city may assess the estimated cost of breaking and replacing pavement necessary to make such connections or repairs, in addition to the minimum system connection fee, such assessment to be paid with such system fee, and the difference between assessment and actual cost of such breaking and replacing shall be billed or refunded to the customer when such work has been completed.

(c) In addition to the above charges, the city may assess the estimated cost of boring under or crossing over any street or highway in furnishing sewer services.

Section 55. Septic Tank Requirements.

Any septic tank shall be installed in compliance with the provisions of the most recent edition of the "Construction Standards for On-Site Sewage Facilities" as published by the Texas Natural Resources Conservation Commission.

Section 56. Stoppage or obstruction of sewer system.

(a) It shall be unlawful for any person to deposit into the building drainage system or sewer any ashes, cinders, rags, poisonous or explosive liquids, gases, oils, grease, or any other material which would or could obstruct, damage, or overload such system or sewer.

(b) It shall be unlawful for the owner or occupant of any building or premises to use, or permit anyone else to use, said building or premises unless said building or premises shall be connected to a water supply sufficient to insure that sewer pipes will be kept free from accumulation of select materials and obstructions.

Section 57. Infiltration of rain or ground water.

It shall be unlawful for any person to allow rain or ground water to enter house sewers by any means, including but not limited to, any yard line, clean outs and gutter drains. If after notice by the Public Works Director, or his/her agent, such condition is not remedied within ten days, water service to the customer may be disconnected.

Any person that allows infiltration of rain or ground water into the sewer system from a house sewer shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each day or portion thereof during which any violation of this section is committed, continued or permitted, and each violation shall be punished by a fine not to exceed two thousand dollars (\$2,000.00) for each offense.

Section 58. Cesspools Prohibited.

It shall be unlawful for any person to dig or install any cesspool within the city or repair any existing cesspool.

Section 59 – 67 Reserved.

ARTICLE IV. WATER & SEWER MAIN EXTENSIONS

Section 68. Extensions by the City.

Extension of main lines for all City utility services will be made by the City along dedicated streets, alleys, or in dedicated utility easements that are filed in the deed records of the county where the easement is located, if such extension is economically feasible, or if the future growth of the area to be served is dependent upon the extension, and the Council finds that such extension is in the best interest of the City.

Section 69. Extension requested by others.

Any person, firm, or corporation desiring an extension of the City water or sewer mains shall first make application for such extension to the City Secretary.

Section 70. Cost of extensions requested by other.

Except where otherwise provided by intergovernmental contract with another governmental entity, the entire cost of labor and materials for extension of City water and sewer mains and the total cost for acquiring and executing any easements required shall be paid by the person, firm, or corporation making the request, and payment shall be made to the City for any such extensions prior to commencement of construction of said extension.

Section 71. Standards.

All extensions to the City water or sewer mains shall be made according to City specifications and in conformity with City standards and codes in force at that time. No water or sewer main shall be installed in the City smaller than six (6) inches in diameter.

Section 72. Control and jurisdiction over extensions.

All City water and sewer main extensions shall, upon acceptance, become the property of the City of Tom Bean, and the City shall have full control and jurisdiction over such lines and their easements.

Section 73. Pro-Rata line charges.

In the event a person, firm, or corporation desires to tap into an extension paid for by another customer, within five (5) calendar years from the date of completion of the extension, then such person, firm, or corporation may be charged a “pro-rata line charge” to be based upon the distance from the beginning of the extension to the point of the tap and the size of the proposed new service compared to the service provided to the original

customer. Upon actual collection of such pro-rata line charge, by the City, a refund of such amount may be made by the City to the original customer. Any agreement on behalf of the City to collect and disburse off-site refund payments will never be enforceable as an obligation of the City.

Section 74 – 87 Reserved.

ARTICLE V. GARBAGE AND REFUSE SERVICE

Section 88. Sanitation Collection Service Required.

Every person owning, managing, operating, leasing or renting any premises or any place where garbage or rubbish accumulates shall subscribe to a sanitation collection service. It is unlawful for any person to dispose or disburse any garbage or trash in any place other than the designated sites. It is unlawful for anyone to deposit or dump garbage or trash upon any drain, gutter, alley, sidewalk, parkway, street, or vacant lot except in receptacles as outlined.

Section 89. Container Required.

It shall be the duty of the City to provide every person subscribing to the sanitation collection service with a 96-gallon polycart for garbage and refuse, sufficient in size and number to accommodate and securely keep all garbage and refuse that may accumulate between collections by the City. Each resident must bag all trash before placing it in the polycart receptacle. An additional two bags per residence may be placed outside the polycart. Large bulky items will also be collected on the same day as garbage service and are defined as stoves, water tanks, washing machines, and dryers, sinks toilets, and like items. Couches, beds, mattresses, love seats, tables, chairs, televisions and like items are also collected with service. Tree limbs, shrubs and yard cuttings cannot exceed four feet (4') in length, six inches (6") in diameter and must be tied securely in bundles weighting less than fifty (40) pounds. This section is not applicable to commercial accounts that are provided with a commercial container including dumpsters or roll off containers.

Section 90. Placement of Containers.

It shall be the duty of every person subscribing to the sanitation collection service to place such garbage containers directly behind the curb-line of the street or alley abutting such property or in the absence of a curb directly behind the ditch-line abutting such property or in the place directed by the Public Works Director. Prudently such containers shall not be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic in a residential area. In a commercial area where the sidewalk covers the entire area from the business to the street the container shall be placed at the edge of the sidewalk near the street so long as it does not block pedestrian traffic. It shall be the responsibility of the subscriber to place the containers no earlier than 6:00 p.m. of the afternoon preceding the collection

day and the containers must be removed within twenty-four (24) hours of scheduled pickup.

Section 91. Meddling with Trash Receptacles Prohibited.

It shall be unlawful to meddle with or scavenge from any garbage cans, dumpsters, roll off containers, trash or garbage receptacles or any way pilfer, search, or scatter contents of such garbage cans, dumpsters, roll off containers, or rubbish receptacles in or upon any street or alley within the city limits.

Section 92. Use of trash service by persons not subscribing to service.

It shall be unlawful for any person to place garbage or rubbish to be picked up by the city or the city's contractor on property that they are not paying a subscription fee. It shall be unlawful for a subscriber to place garbage and refuse generated at another location out to be picked up by the city or the city's contractor unless the person is paying a subscription fee for both locations. It shall be unlawful to place any garbage or rubbish in any dumpster or roll off container unless the person has the written permission from the subscriber of the service.

Section 93. Containers to be kept Sanitary and Secure.

All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container which would attract or breed flies, mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the city. All containers shall be secured closed in such a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents, dogs, cats, and other animals.

Section 94. Unauthorized Private Collections Prohibited.

It shall be unlawful for any person to transport garbage or refuse for hire which has been collected from any premises within the city over any public street within the city. This section shall not apply to any person or company who at the time of such activity operating under a valid contract or franchise is granted by the city which authorizes such person to use the public streets to conduct such activity.

Section 95. Collection of Charges.

The charges fixed for the collection, removal, and disposal of all garbage and/or trash shall be entered in their respective amounts on the utility bill. The city may discontinue all utility services, including water, sewer, and garbage and trash services, for failing to pay any such assessed charges and until such charges have been paid in full.

Section 96. Rules, Regulations, and Prohibited Acts.

Rules and regulations negotiated between the contractor and/or franchisee providing sanitation collection service and the city shall be followed by each subscriber to the service. Persons that do not follow these rules and regulations or commit any prohibited act in the rules and regulations may have their utility services terminated.

Unusual amounts of garbage and trash accumulated from packing houses, poultry killing plants, wholesale fruit and vegetable houses and other such establishments must remove the trash daily at their own expense or contract with the franchise operator.

Accumulations such as building debris, automobile parts, and large dead trees must be disposed of at the expense of the owner or contract with the franchise contractor.

It is unlawful to leave out any ice box, refrigerator, freezer or any other container with self-locking door or lid unless the mechanism is altered so that the door or lid can be opened from the inside or by completely removing the door or lid.

The United States EPA prohibits the disposal of "white goods" containing Freon without a certificate of removal from a licensed technician. This includes such items as refrigerators, freezers, and air conditioners.

Manure from cow lots, horse stables, poultry yards and waste oils from garages and filling stations must be disposed of by the owner.

Section 97. Non-Residential Customers; Container Types; Collection Schedules.

(a) It shall be the duty of the owner or person otherwise in charge of multifamily, institutional, or industrial premises within the city to cause all garbage and trash accumulated on the premises to be placed in disposable containers, or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the customers premises as arranged between the customer and the collector, but subject to review by the city at any time.

(b) Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.

(c) The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The city shall have final authority to establish such size and frequency based on the history of amount and type of garbage generated by the customer. The collection and removal of garbage and trash from premises used for commercial, institutional, or industrial purposes shall be made as often as necessary in order to maintain the premises free of such accumulations. Garbage, except dry trash in contractor-supplied containers, shall be collected not less than one (1) time each week, except for roll-off containers which shall not be subject to this provision so long as they are used solely for brush and dry trash.

Section 98. Contract and/or Franchise for Private Collection Required; Exception

(a) No person shall collect, remove, or dispose of garbage containers or trash receptacles or transport garbage or trash on the streets, alleys, or public thoroughfares of the city except duly authorized agents or employees of the city and persons acting pursuant to a contract with the city for public collection and disposal of garbage and trash, except as provided in this section. This section shall not apply to the transportation of garbage, trash, or brush from outside the city to a disposal site outside the city.

(b) All trucks and containers used for the collection and transportation of garbage and trash shall be clearly marked with the owner's name and telephone number in letters and figures not less than two (2) inches high.

(c) Individuals desiring to occasionally remove brush, debris, or trash from their own residence or business may do so if they have regular service from the city's contractor.

Section 99. Out-of-City Services

The city is not required to furnish garbage services to consumers beyond the corporate limits, or to continue to supply, once begun, such services. The city reserves the right to provide services to such consumers it deems advisable and to, at any time, wholly or partially, discontinue such services to any consumer located outside the corporate limits.

Section 100– 111 Reserved

ARTICLE VI. RATES AND CHARGES

Section 112. Water; meters and billing.

All premises using the city water supply must be equipped with an adequate meter furnished by the city under the hereinafter stated deposit and fee procedures. The City of Tom Bean shall read or cause to be read, every water meter used in the city at such times as are necessary that the bills may be sent out at the proper time. Under unusual circumstances or during an emergency the city may estimate the reading of meters. Bills for water use shall be dated and sent monthly, or as such times as may be directed by the Mayor and City Council.

Section 113. Deposits, connection and transfer fees for water service.

All consumers prior to using of water from the city water system must place with the city a water meter/security deposit for each account or meter. Such water meter/security deposit shall be in the following amounts:

(a) Three quarter inch (3/4") meter\$150.00

- (b) One inch (1") meter \$150.00
- (C) One and one-half inch (2") meter \$150.00
- (d) Two inch (3") meter \$150.00
- (e) Temporary fire plug meter \$2,000.00

All consumers that are disconnected for nonpayment of a bill more than two (2) times in a 12 month period must increase their deposit by 100% before the account may be reconnected.

All consumers prior to using of water from the city water system must pay a service connection fee of \$50.00 which is not refundable.

Section 114. Refund of deposit.

Refunds of deposits made for utility service shall be made upon the termination of such utility service after payment of all indebtedness to the city for such utility service. Application of the deposit may be made in partial or total settlement of accounts when the supply is cut of for nonpayment of the bill, or for any infraction or violation of any ordinance, rule or regulation of the city relative to utility services offered by the city.

Section 115. Effect of transfer, moving.

A transfer fee of \$25.00 will be charged if a customer makes an application for transfer to another premises. The deposit will be transferred and a final reading taken and billing will be transferred to new premises.

Section 116. Meters – Generally.

Meters for the measurement of utility services shall be furnished and installed by and shall remain the property of the city. All consumers shall be responsible for any damages sustained by their water meter(s) and/or connections, any equipment used to lock the meter on or off, any water stops and meter boxes. All consumers shall be required to pay to the city the actual expense for necessary repair to same before the utility service is reconnected.

Section 117. Rereading meters.

Any municipal utility meter shall be reread upon complaint of the consumer and when the meter is found to have been correctly read originally, the complaining consumer shall pay a fee of ten dollars (\$10.00). Any municipal water meter shall be tested upon request of the consumer and if, upon test, the meter is not within three (3) per cent of being accurate, it shall be repaired or replaced and the water bill adjusted appropriately up to a maximum of three (3) months. If upon test the meter is found to be within three (3) per cent of accuracy the consumer shall pay a fee of thirty five dollars (\$35.00). If the

consumer is still not satisfied with the results of the meter test and requests a new meter then the Public Works Director or his/her authorized agent will install a new meter at the cost of one hundred twenty-five dollars (\$125.00) to the consumer.

Section 118. Rate schedule for water sewer and trash.

The water, sewer, and trash rates set by prior ordinance if not in conflict with this ordinance remain in effect and may be changed from time to time by ordinances in the future.

Section 119. When payment due.

All bills for utility services furnished by the City shall be due and payable, in full, prior to midnight of the tenth (10th) of the month or before the open of business on the eleventh (11th); provided, however, that if such date shall fall on a Saturday, Sunday, or legal holiday observed by the City, then such bill shall be due and payable by midnight of the following business day. Bills paid after their due date shall have twenty dollar late fee added (\$20.00) added to the outstanding bill. The City shall be entitled to collect a service fee of thirty dollars (\$30.00) for all checks given in payment of bills for utility services or charges that are returned unpaid.

Section 120. Disconnection for nonpayment.

Water, sewer, and garbage collection services to any customer are subject to discontinuation on, or after the seventh (17th) day of the month, if not paid in full. The following policies will be followed by the city regarding discontinuation of services for nonpayment.

(a) When it becomes necessary for the city to discontinue utility service to a customer for nonpayment of bill, service will be reinstated only after all bills for service then due and reconnect charges have been paid and any required deposit have been made.

(b) It is the policy of the city to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The notices sent to the customer should set out the reasons for the discontinuance and the procedure for requesting a hearing. The City's form for application for utility services and all bills shall contain, in addition to the title, address, and telephone number of the public works department, who is in charge of billing, clearly visible and easily readable provisions to the effect:

- (1) That all bills are due and payable on or before the tenth (10th) of the month;
- (2) That if any bill is not paid before the seventh (17th) day of the month, service will be discontinued for nonpayment; and

(3) That any customer disputing the correctness of this bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing their complaint and contentions to the Public Works Department. The City Secretary and or Mayor shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

Section 121. Reconnection after disconnection.

(a) In the event that utility service is disconnected for nonpayment of the bill, the consumer thereof shall have the right to have the same reconnected only upon the payment by the consumer of all outstanding utility charges owed to the city, and in addition a reconnection fee of fifty dollars (\$50.00) if the request is during normal business hours. If the consumer turns the water back on, the meter shall be removed or locked, and the reconnection fee shall be one hundred dollars (\$100.00) if the request is outside of normal business hours. If the water is turned on by anyone other than city personnel, the meter shall be removed or locked, and an additional reinstallation/unlock fee of two hundred dollars (\$200.00) plus the cost to repair any damage to the meter, cut off, or lock shall be collected, in addition to the reconnection fee, from utility account holder.

(b) In the event that utility service is temporarily disconnected at the request of the consumer, a service charge of ten dollars (\$10.00) shall be charged for disconnection and reconnection of utility service during normal working hours of the city. If the request is outside of normal business hours an additional twenty-five dollars (\$25.00) shall be added to the fee.

Section 122. Voluntary discontinuance of service.

Consumers wishing to discontinue the use of any utility service shall give written notice thereof at the city hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

Section 123. Franchised public utilities.

The City Council shall fix and approve the rates charged by any private public utility company franchised by the city and doing business within the city. It shall be unlawful for any such public utility company or any officer or employee thereof to assess or charge for services rendered any rate other than the rate so fixed or approved.

Section 124. System Connection Fees.

Each consumer requesting to connect to the water or sewer system shall pay to the City a connection fee based on the size of the tap connecting the service to the water or sewer main. This fee is payable only at the time the connection is made to the water or sewer system through a new tap. This fee will be based upon the actual costs of parts,

labor and use of equipment related to making the tap plus a 15% administrative transaction fee. The actual costs will be periodically reviewed by the Mayor and adjusted accordingly.

Section 125. Meter Installation Fees.

Each consumer requesting to connect to the water system shall pay to the City a meter installation fee based upon the actual cost of parts, labor and use of equipment related to making the tap plus a 15% administrative transaction fee. The actual cost will be periodically reviewed by the City Mayor and adjusted accordingly.

Section 126. Statement of Intent to Change Rate/Rate Change Procedures.

The City will not make changes in its rates except by delivering a statement of intent to each utility account holder at least 30 days before the effective date of the proposed change. The effective date of the new rates must be the first day of a billing period, and the new rates may not apply to service received before the effective date of the new rates. The statement of intent must include:

1. The rules stated above.
2. A billing comparison regarding the existing water rate and the new water rate computed for the use of 5,000 gallons of water, 10,000 gallons of water, and 30,000 gallons of water.
3. A billing comparison regarding the existing sewer rate and the new sewer rate computed for the use of 5,000 gallons and 10,000 gallons unless a flat rate for sewer services is decided upon.

A copy of the statement of intent shall be posted at City Hall.

If there is a written complaint to the proposed rate changes signed by five per cent (5%) of the account holders within thirty (30) days of the first utility bills being mailed after adoption of the rate change, the City may suspend the effective date of a rate change for not more than 90 days from the proposed effective date to allow for a hearing of the citizens. The hearing may be informal. If, after the hearing, the rates being charged or those proposed to be charged are found unreasonable by the City Council or in violation of law, the City Council shall approve new rates.

Sections 127. Adjustments to Utility Bills for Water Leaks.

The City of TOM BEAN provides for an adjustment to a utility bill when a customer has experienced a hidden or concealed water leak occurring on their property. (This policy does not apply to wastewater or sewer leaks.) An adjustment may be granted in cases where the leak caused a substantial or material increase in the water consumption. Only two adjustments may be made for the same location in a rolling 12 month period. The customer must request a leak adjustment in writing on or before the due date of the utility bill. The customer shall pay the average amount of their utility bills for the prior 3 months or the amount of the utility bill for the same month the

previous year, whichever is higher, on or before the due date of the utility bill. The excess amount attributable to a suspected leak shall be temporarily suspended during a review process. Within two (2) weeks of requesting a leak adjustment, the customer is required to submit a statement of repairs that includes the following:

1. Date repairs were completed
2. Address of the property
3. Water utilities account number
4. Brief description of the repairs with repair invoice or parts receipt
5. Contact phone number

The water usage will be reviewed after the first full billing cycle following the repair date to confirm the leak was repaired. This review may include the usage in the first billing cycle after the repairs, the same billing month in the previous year; or an average usage of three previous months prior to the leak. The process typically takes at least one billing cycle from the repair date to the date of adjustment. The customer is required to continue paying all other utility bills in full during the review process. At the end of the review process, the customer will be notified of the amount of the leak adjustment. If any amount is still owed on the adjusted bill, the customer shall pay it in full by the date their then outstanding utility bill is due.

Repair statements or correspondence may be mailed, delivered, faxed, or emailed to the following. Customer will receive a response via mail or email upon receipt of leak documentation.

Mail: City of Tom Bean
Attn: Leak Adjustment
PO Box 659
Tom Bean, Texas 75489

Office: 903-546-6321

Fax: 903-546-4878

Adjustments shall be calculated as follows:

1. An average usage is determined by reviewing the account history for a three (3) months.
2. The average usage costs are calculated according to the applicable rates.
3. Excess usage (all usage above the average) is then calculated at the lowest rate of the current rate of the current rate scale. The sewer cut-off at the average rate.

Overage: Will always be credit to current or future bills, no check issued and no refunds.

Section 128. Rates.

(a) **Water Rates**

(1) The following monthly water rates shall apply to all customers within the corporate limits of the City of TOM BEAN, Texas:

A. Monthly minimum charge based on meter size:

3/4 inch	\$32.55
1 inch	\$40.66
1 1/2 inch	\$56.87
2 inch	\$77.70
3 inch	\$110.11

B. Volume charge for all consumption (per thousand gallons)

1 - 2,000 gallons	\$32.55
2,001 - 6,000 gallons	\$5.25
6,001 - 10,000 gallons	\$5.91
10,001 - 20,000 gallons	\$6.24
20,001 - 50,000 gallons	\$6.57
50,001 – 100,000 and above	\$6.90

(2) Any bulk water customer, who desires to withdraw water from a hydrant or other source, shall fill out a water application form stating the number of gallons desired and sign the form in the same manner as a regular metered customer. ***ALL CHARGES SHALL BE PAID PRIOR TO TAKING THE WATER.***

A. Minimum charge based on meter size:

3/4 inch	\$40.71
1 inch	\$101.77
1 1/2 inch	\$203.54
2 inch	\$325.67
2 ½ inch	\$488.49
3 inch	\$610.62

B. Volume charge for every 1,000 gallons or increment thereof: \$8.00

(3) The monthly water charge for any customers located outside the corporate limits of the City of TOM BEAN, Texas, shall be at the rate of 150 percent (150%) of the rate charged to customers inside the corporate limits of the City.

(b) **Sewage Collection and Treatment Rates**

(1) The following monthly sewage collection and treatment rates shall apply to all customers within the corporate limits of the City of TOM BEAN, Texas:

A. Monthly minimum charge based on meter size:	
3/4 inch	\$24.90
1 inch	\$29.96
1 1/2 inch	\$42.93
2 inch	\$58.87
3 inch	\$85.87

B. Volume charge for all consumption (per thousand gallons thereafter \$3.4755):

(2) The monthly sewer charge for any customers located outside the corporate limits of the City of Tom Bean, Texas, shall be at the rate of 150 percent (150%) of the rate charged customers inside the corporate limits of the City.

(3) All references to gallons and consumption in this section shall mean water usage, which shall be used to determine the sewer rates herein imposed.

(c) Solid Waste Collection Rates

- (1) Solid waste collection rates for residential services shall be the monthly amount authorized in the franchise agreement between the City and the service provider, plus applicable taxes and fees. This rate may be adjusted as authorized in the franchise agreement between the City and the service provider. This rate applies to "residential units" as defined in the franchise agreement between the City and the service provider.
- (2) Solid waste collection rates for non-residential services shall be the amount billed by the service provider in accordance with the franchise agreement between the City and the service provider.

Section 129– 139 Reserved.

ARTICLE VII

Section 140. Repeal of Prior Ordinances.

Tom Bean Ordinance No. 2015-07, 2015-03, 2008-07, 95-01 and 82-100 are repealed in their entirety and replaced by this Ordinance. The effective date of the repeals discussed in this Section shall not occur until the first billing cycle occurring after the effective date of this Ordinance. Such repeal shall not abate any pending fees, rates, charges, fines or penalties owed under Ordinance No. 2015-07, 2015-03, 2008-07, 95-01, and/or Ordinance No. 82-100, nor affect the repeal of any ordinances repealed therein.

Section 141. Penalty.

Any person or corporation violating any of the provisions of this ordinance, except where specified otherwise in the ordinance shall upon conviction be fined a sum not to exceed five hundred dollars (\$500.00) per day and each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense.

Section 142. 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. Tom Bean hereby declares that is 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 143. Savings/Repealing Clause.

All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

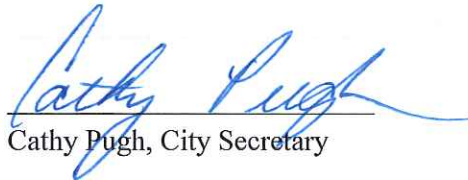
Section 144. Effective Date.

This ordinance shall be effective upon the posting and/or publication of its caption as required by law.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF
TOM BEAN, TEXAS** on this 15th day of November, 2016.


Sherry E. Howard, Mayor

ATTEST:


Cathy Pugh, City Secretary