



## **ORDINANCE NO. 2018-20**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS, ADOPTING AN INTERNET WEBSITE AND SOCIAL MEDIA POLICY TO ESTABLISH REGULATIONS FOR THE DEVELOPMENT, OPERATION, AND ADMINISTRATION OF THE CITY'S WEBSITE AND SOCIAL MEDIA PLATFORMS AND TO ENSURE THAT THE CITY'S WEBSITE AND SOCIAL MEDIA PLATFORMS REMAIN NON- PUBLIC FORUMS SUBJECT TO THE CITY'S EXCLUSIVE USE AND CONTROL**

**WHEREAS**, the City Council ("City Council") of the City of Tom Bean, Texas ("City") has determined that new regulations should be established for the development, operation, and administration of the City's Website and Social Media Platforms and to ensure that the City's website and social media presence remain non-public forums subject to the City's exclusive use and control; and

**WHEREAS**, the City Council finds that the purposes of the City's website and social media presence are as follows:

- a. To provide a convenient and information-rich resource for residents, visitors, businesses, non-profit organizations, schools, other public agencies, and to access their City government.
- b. To provide information and resources that contributes to the health, safety and welfare of the citizens of, and visitors to, the City of Tom Bean.
- c. To contribute to the improvement of City services, foster economic development, and enhance the sense of community within the City.
- d. To establish and strengthen long-term partnerships between the City and individuals and entities in the public and private sectors where such partnerships further the public health, safety and welfare.
- e. To provide information about the City and its local services in a manner that is as manageable, efficient, and organized as possible.
- f. To provide an opportunity and means to supply businesses and individuals contemplating locating or moving to the City with an opportunity to see and hear firsthand why persons who call the City home enjoy living there.
- g. To provide an opportunity and means to create a personalized face for the City to display to citizens, businesses, governmental agencies, or individuals who may have heard about the City or are curious about the City but have yet to visit there or meet anyone who calls the City home.

- h. To encourage and generate civil pride and foster a sense of community among its residents.
- i. To create awareness of and reinforce the City's unique municipal brand.

**WHEREAS**, the City Council has determined that it is in the best interest of the City and its citizens to adopt the Internet Website and Social Media Policy attached hereto as Exhibit A, which is incorporated herein by reference for all purposes.

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

**Section 1. Recitals Incorporated.**

The determinations, findings and recitals above are incorporated herein as if set forth in full for all purposes.

**Section 2. Adoption of New Policy.**

The City Council hereby adopts the policy attached to this ordinance as Exhibit "A" and incorporates same herein by reference to be the City of Tom Bean's Internet Website and Social Media Policy.

**Section 3. Severability.**


It is hereby declared to be the intention of the City, that sections, paragraphs, clauses, and phrases of this ordinance are severable, and if any section, paragraph, clause or phrase of this ordinance shall be declared unconstitutional or illegal by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or illegality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance since the same would have been enacted by the City without the incorporation in this ordinance of any such unconstitutional or illegal section, paragraph, clause or phrase.

**Section 4. Passage.**

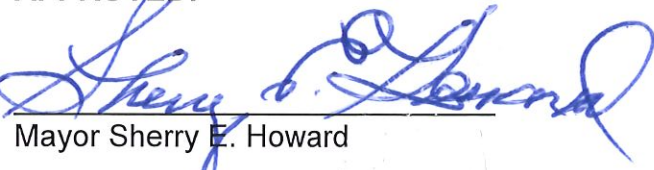
This ordinance shall be in full force and effect from and after the date of its passage.

PASSED AND APPROVED by the City Council of the City of Tom Bean, Texas this the 10th day of December, 2018.

**ATTESTED:**

  
City Secretary Cathy Pugh

**APPROVED:**

  
Mayor Sherry E. Howard

# **EXHIBIT "A"**

## **CITY OF TOM BEAN INTERNET WEBSITE AND SOCIAL MEDIA POLICY**

### **1. Purpose.**

The purpose of the City of Tom Bean Internet Website and Social Media Policy ("Policy") is to establish regulations for the development, operation, and administration of the City Webs

ite and Social Media Presence(s) (collectively, "Programs"), and to ensure that these Programs remain as non-public forums subject to the City's exclusive use and control. The purposes of the City's website are as follows:

- a. To provide a convenient and information-rich resource regarding the City for residents, visitors, businesses, non-profit organizations, schools, and other public agencies.
- b. To provide information and resources that contributes to the health, safety, and welfare of the citizens of, and visitors to, the City of Tom Bean.
- c. To contribute to the improvement of City services, foster economic development, and enhance the sense of community within the City.
- d. To establish and strengthen long-term partnerships between the City and individuals and entities in the public and private sectors where such partnerships further the public health, safety, and welfare.
- e. To provide information about the City and local services in a manner that is as manageable, efficient, and organized as possible.
- f. To provide an opportunity and means to supply businesses and individuals contemplating locating or moving to the City with an opportunity to see and hear firsthand why persons who call the City home enjoy living and/or working here.
- g. To provide an opportunity and means to create a personalized face for the City to display to citizens, businesses, governmental agencies, or individuals who may have heard about the City or are curious about the City but have yet to visit or meet anyone who calls the City home.
- h. To encourage and help generate civic pride and foster a sense of community among the City's residents.
- i. To provide City history and information.

- j. To create awareness of and reinforce the City's unique municipal brand.
- k. To provide a convenient means by which the City can transmit information to the public at large.
- l. To establish awareness of and reinforce the City's unique municipal brand within various and increasingly prevalent communication platforms.
- m. To establish an additional mechanism by which the City can disseminate important information to the public during emergency situations.
- n. To complement and increase awareness of the City's website.

## **2. Policy.**

The City shall operate and maintain the City Website and engage in use of Social Media Platforms as provided in this Policy.

## **3. Definitions.**

The following definitions shall apply to this Policy:

- a. "City Website" means the official City Website available at [www.tombean.net](http://www.tombean.net), and any additional domain name(s) that the City acquires for official City use.
- b. "External Website" means a website maintained by a third party, and not by the City.
- c. "External Link" is a hyperlink from the City Website or City Social Media content to an External Website.
- d. "Security Measures" means practices for protection of physical configuration and environment, software, information-handling processes, and User practices.
- e. "User" or "Users" means an individual or individuals who access the City webpage through the Internet or who access City information provided through any Social Media Platform.
- f. "Social Media" means the various electronic communication systems established for the purposes of mass communications and/or social networking, including the third-party services of Twitter, LinkedIn, Facebook, and MySpace.
- g. "Social Media Account" and "Social Media Presence" means and includes the electronic data, user profile, login, or other similar means of controlled access and designations of content authorship, which are associated with an individual or entity in order to facilitate the use of a Social Media Platform, website, computer

software, mobile telephonic device application, or other interface mechanism for mass communication.

- h. "Social Media Platform", "Social Media Software", "Social Websites", and "Mass Communication Platforms" all mean the websites, internet services, computer software, mobile telephonic device applications, and other electronic interface mechanisms used to access and interface with Social Media, and includes both those interfaces which are or may be, owned by the City and those which are owned and/or operated by any third party.
- i. "Social Link" means any reference, group association, External Link, or other social networking connection (including but not limited to "friends lists", "circles", "follows", "networks", "likes/dislikes" etc.) that is accomplished by some method within the control of a Social Media account holder.

#### **4. Emergency Service Requests**

Requests for emergency services, such as those seeking assistance from police, firefighting, or EMS/ambulance services should NOT be directed to the City Website or any City Social Media Presence. Persons needing immediate help should contact 9-1-1 or request such emergency services by some other recognized and reliable method.

#### **5. Non-Public Forum Status.**

The City Website and any Social Media account established by the City are non-public forums. While the City encourages the public to use these mechanisms to access information and resources, the City expressly reserves the right to impose certain restrictions on the use of the City's Website and its Social Media Accounts. The City Website is reserved for the exclusive control of the City for the purposes of one-way communication to Users of the City Website. Neither the City Website, nor any Social Media Platform associated with an authorized City Social Media Account, shall be used to facilitate a general debate, public discourse or the free exchange of ideas; all of these services are restricted to only those users authorized by the City.

#### **6. Authority of Mayor.**

- a. The Mayor or his or her designee shall have the sole authority and responsibility for the implementation of this Policy. The Mayor may also make interpretations on issues that are not clearly articulated or not included in this Policy, so long as the Mayor's discretion is exercised in a manner consistent with the stated purposes of this Policy.
- b. Only the Mayor, or the Mayor's authorized designee, shall be authorized to perform any of the following functions:
  - i. create, establish, register, or otherwise initiate any Social Media Account on behalf of the City or which appears to be established by the City, or to use

- any Social Media Platform in such fashion;
  - ii. modify the content of any City Social Media Account;
  - iii. to set, remove, or otherwise modify any User-controlled settings associated with a City-associated Social Media Account;
  - iv. publish any information on a Social Media Platform on the City's behalf, or in any fashion which could be attributable to the City;
  - v. create, destroy, or modify a Social Link to the Social Media Account of any other person or entity;
  - vi. use any function of a Social Media Platform which states (or implies) an opinion or position held by the City regarding any person or entity; or
  - vii. modify the City Website or any City Social Media Platform.
- c. This Policy will be posted on the City Website for review by the public at any time. If technologically feasible, any Social Media Account established by the City will include a copy of this Policy or a link to this Policy published on the City Website.
  - d. Questions or comments regarding any subjects or issues addressed in this Policy may be directed to:

City of Tom Bean  
Attn: Mayor  
PO Box 659, Tom Bean, TX 75489

## **7. Privacy.**

- a. The City is sensitive to the privacy interests of the Users of the City Website and that of Users accessing any City Social Media Platform and believes that the protection of those interests is important. The City's goal in collecting personal information online is to provide the User with the most personalized and effective service possible. By understanding the User's needs and preferences, the City may provide Users with improved service. The City strives to protect online personal information in the same manner that the City protects citizen and business information obtained through other means. The following information explains the City's policy regarding any personal information supplied when using the City Website or accessing City Social Media content.
- b. City Website Privacy Policy: When you visit the City of Tom Bean Website, we use automated tools to log information about each visit. We process this information in the aggregate to determine site performance issues, such as popular pages, most frequently downloaded forms, and other site performance



characteristics. This information does not identify you personally. We do not track or record information about individuals and their visits.

- c. **Social Media Privacy Policy:** By their nature, Social Media Platforms are accessible by a vast number of persons and entities over which the City has no control. We may use automated tools to log information about visitors to City Social Media Accounts and associated websites. We process this information in the aggregate to determine Social Media Platform issues, such as popular posts or messages, links established with Social Media Accounts, tracking information which originated from a City Social Media Account and is retransmitted by other parties, and other usage information. However, we cannot guarantee that the information available to the City or a third party through a particular Mass Communication Platform will not identify you personally. To determine whether or not personally identifiable information will be accessible to the City or a third party when interfacing with a City Social Media Account, you must refer to the privacy policies and terms of use applicable to each Social Media Platform. We will not track or record information about individuals and their visits, except to the extent required by law.
- d. **Sensitive Communications:** Visitors to the City Website, and those interacting with or accessing the City's Social Media Presences, are hereby notified that any information provided to the City by either means may not be maintained confidentially by the City. Information received by the City by any person through a Social Media Platform or the City Website may be later shared with third parties, particularly when such information is subject to disclosure under the Texas Public Information Act or other law. Content is subject to all applicable records retention and public disclosure laws. Any person wishing to communicate confidentially with the City or any City official, officer, or employee should first contact the City to determine the appropriate channel for such communication, prior to revealing any sensitive material that they do not wish shared with third parties. City employees are prohibited from using any City Social Media Account to transmit or otherwise allow access to any information to which the City employee has any special right or ability to access or any information which is maintained confidentially by the City.
- e. **Disclaimer:** While every effort is made to keep information provided over the internet accurate and up-to-date, the City of Tom Bean does not certify the authenticity or accuracy of such information. No warranties express or implied, are provided for the content, records and/or mapping data herein, or for their use or interpretation by the User.
- f. The City of Tom Bean, its elected officials, officers, employees, and agents assume no legal responsibilities for the information or accuracy contained in this data, including any action taken from reliance on any information contained herein and shall have no liability for any damages, losses, costs, or expenses, including, but not limited to attorney's fees, arising from the use or misuse of the information provided herein. The User's use thereof shall constitute an

agreement by the User to release the City of Tom Bean, its elected officials, officers, employees and agents from such liability.

- g. By accessing the City Website or Social Media Presence and using any information therein, the User is stating that the above Disclaimer has been read and that he/she has full understanding and is in agreement with the contents.

## **8. Security.**

The City Website applies Security Measures to protect the loss, misuse and alteration of the information under the City's control. From time to time, Security Measures may be upgraded or otherwise modified to meet changing needs. While the City endeavors to keep secure all information it receives via the City Website, the City cannot guarantee the security of the information. The City may or may not have full control over Security Measures associated with its Social Media Accounts, and those Security Measures may be subject to control by fully independent service providers. While the City endeavors to keep secure all information it receives via Social Media, the City cannot guarantee the security of the information. Users should refer to the individual Social Media Platform's terms of use, privacy policy, and security policies for more information.

## **9. External Links and Social Links.**

- a. The City has a legitimate interest in limiting persons or organizations that might be linked to the City Website or be associated with the City's Social Media Presence(s). The City may exercise discretion to ensure that the links to these services are consistent with the purpose of this Policy, as set forth in Section 1. Neither the City Website nor the External Links listed on the City Website constitute a forum for expressive activity by members of the public. No City Social Media Account, City Social Media Presence, or any method of displaying information associated with a City Social Media Presence constitute a forum for expressive activity by members of the public; nor do the City's use or nonuse of Social Links constitute a forum for any expressive activity by members of the public. Information, Social Links, or External Links may be excluded from the City Website or City Social Media Presence where such additional material would create visual clutter, disorganization, or otherwise interfere, as determined at the sole discretion of the City, with the City's intended content.
- b. Each proposed External Link on the City Website or Social Link to a City Social Media Account shall be reviewed to determine its relevance and appropriateness to the purpose of the City Website or Social Media Presence. The Mayor or his or her designee shall review the merits of the proposed External Link or proposed Social Link based upon the stated purposes of this Policy, as set forth above in Section 1.e. A proposal for an External Link or proposed Social Link will not be denied based solely on the viewpoint espoused by the individual, entity, or the content of the External Website.



- c. The City Website and City Social Media Accounts will not provide External Links to websites or create Social Links with other persons or entities that:
  - i. promote or exhibit hateful ideas or content, unlawful discrimination, obscenity, pornography, libel, or defamation;
  - ii. have a primary purpose of furthering the agenda of a political organization or a candidate running for office (regardless of the political viewpoint), or defeating any candidate for elective office;
  - iii. violate any of the City's equal opportunity policies or nondiscrimination policies;
  - iv. consist of personal home pages operated by individuals; or
  - v. are used in whole or part as a public forum to facilitate a general debate, public discourse, or the free exchange of ideas.
- d. The City may provide External Links or Social Links to certain private commercial sites that maintain and display government-related information which fulfills the purposes of the City Website as set forth in Section 1, and which is not generally available through a governmental agency due to the cost of compiling, maintaining and/or displaying such information. To support the cost of compilation and maintenance of this information, these private commercial sites may include advertising or promotional material in the information display. Accordingly, External Links or Social Links to such sites which contain this information, but also display commercial advertising or promotional material, may be included within the City Website or Social Media Presence when the City Manager or his or her designee has made a good faith determination that:
  - i. the City's independent replication of the information targeted for linkage is infeasible due to financial or other considerations;
  - ii. no non-commercial site provides the information targeted for linkage; and,
  - iii. the information targeted for linkage greatly enhances the usefulness of the City Social Media Presence or the City Website and services it provides.
- e. The City reserves the right to determine whether, how and where External Links and/or Social Links will appear on the City Website.

#### **10. Application for External Link or Social Link.**

To request the addition of an External Link to the City Website, or to create a Social Link between a City Social Media Account and a Social Media Account of another person or entity, the applicant shall send the relevant URL, address, website description and purpose, identity and contact information of the site owners and operators, and a brief statement as to how the proposed website or Social Media Association fulfills the

purpose of the City Website or Social Media Presence as set forth in Section 1. Contact information shall include name, phone number and email address sent to:

City of Tom Bean  
Attn: Mayor  
PO Box 659, Tom Bean, TX 75489

#### **11. Disclaimer of External Links and External Websites.**

- a. The information posted on the City Website includes hypertext External Links to information created and maintained by other public and/or private organizations. The City's Social Media Content may also include hypertext External Links or other information referring Users to non-City content. The City provides these links solely for the User's information and convenience.
- b. When the User selects an External Link to an External Website, the User leaves the City Website or City Social Media Content and is subject to the privacy and security policies of the owners/sponsors of the External Website.
- c. The City does not control or guarantee the accuracy, relevance, timeliness or completeness of information contained on an External Website accessed through the City Website or City Social Media Content by External Link.
- d. The City does not endorse or recommend any third-party website, product, service, view, or opinion, unless expressly noted.
- e. The City does not authorize the use of copyrighted materials contained on External Websites.
- f. The City is not responsible for transmissions from External Websites or Social Media Accounts held by any other person or entity.

#### **12. Final Decision.**

The decision to post or not post content and/or links on the City Website or via Social Media resides solely with the Mayor or his or her designee. The decision of the Mayor or his or her designee is final and binding. Under no circumstances will individuals or entities be entitled to compensation or damages in the event that the Mayor or his or her designee directs the City to include or exclude the content or link.

#### **13. Links to the City of Tom Bean's Website and Social Media Accounts.**

Advance permission to link to the City Website or Social Media Accounts is not necessary. However, the Mayor or his or her designee has complete discretion to accept or reject any Social Link, by use of a Social Media Platform feature or otherwise, between a City Social Media Presence and any other Social Media Account or website. No person is entitled to have a proposed Social Link and the decision of the Mayor (or

his or her designee) whether or not to accept any proposed association is final. The decision by the Mayor (or his or her designee) to accept or reject a proposed association or Social Link shall not constitute any comment by the City on any material, person, or entity referenced.

Any party linking to the City Website or Social Media Account should be aware that the site construction and subpages, whether maintained by the City or a service provider, may change at any time without notice. Individuals and entities linking to the City Website shall not capture pages within frames, present the City Website content as its own, or otherwise misrepresent the City Website's content or misinform Users about the origin or ownership of its content. Any link to the City Website should be a full forward link that passes the User's browser to the City Website unencumbered. The web browser's "back" button should return the User to the originating site if the User wishes to back out.

#### **14. Posting of Events.**

Information regarding community events may be posted on the City Website or broadcast using Social Media, so long as the posting of such information is consistent with the purposes set forth in Section 1, and meets any applicable criteria for External Links, as set forth in Section 9. While the Mayor or his or her designee may consider suggestions of events to post on the City Website or to communicate to the public via Social Media Platforms, the decision of the Mayor or his or her designee is final and binding.

#### **15. Accessibility.**

The City Website is intended to be accessible to people with disabilities. Requests for reasonable accommodations relating to equal access to communication, or other issues relating to City Website or City Social Media accessibility, should be directed to:

City of Tom Bean  
Attn: Mayor  
PO Box 659, Tom Bean, TX 75489

#### **16. No Warranty or Representation.**

The City's web server(s) are maintained to provide public access to City information via the Internet. The City's web services and the content of its web servers and databases are updated on a regular basis. While the City attempts to maintain the information contained within the City Website and associated with its Social Media Presences as accurate and timely, the City does not warrant or make representations or endorsements as to the quality, content, accuracy, or completeness of the information, text, graphics, hyperlinks, and other items within Social Media content or its website, whether contained on its server or any other server. Materials on the City Website or published through Social Media Platforms have been compiled from a variety of sources, and are subject to change without notice from the City as a result of updates, corrections, and third party

provider modifications. The City may decide at any time to withdraw content from its website or terminate one or all of the Social Media Accounts it might establish under this Policy, and should it choose to do so, that content or information may not be readily available by other means. Any User seeking up-to-the- moment information, including but not limited to the content of the Code of Ordinances, City of Tom Bean, Texas, should contact the City Secretary.

The City disavows, and is not responsible for any sites, posts, opinions, or content not coordinated through and approved by the Mayor.

#### **17. Brands, Service Marks, Trademarks and Copyright.**

To the extent allowed by the Public Information Act and otherwise legally permissible, commercial use of web materials is prohibited without the written permission of the City. All brands, service marks, trademarks, and copyrighted material shown or referenced herein are the property of their respective owners. The City retains copyright on the City's brand, logo, trademark, seal, all text, graphic images, and other content, unless otherwise noted. No person or entity may use the City brand, logo, trademark, seal, or copyrighted material without approval of the City Council. No person or entity shall engage in any of the following conduct without written permission from the Mayor or his or her designee: (a) modify and/or use the text, images or other City Website content from a web server, (b) distribute the City's web content, and (c) "mirror" the City's information on a non-City server.

#### **18. Notice to the City.**

Communications through the City Website, by e-mail or otherwise, or communications employing Social Media shall in no way be deemed to constitute legal notice to the City of Tom Bean or any of its agencies, officers, employees, agents, or representatives, with respect to any existing or potential claim or cause of action against the City or any of its agencies, officers, employees, agents, or representatives. No communication through the City Website or by means of Social Media shall be deemed to constitute legal or official notice for any purpose.

#### **19. Errors, Omissions, Warranty, Damages.**

The City of Tom Bean is neither responsible nor liable for any viruses or other corruption or contamination of a User's system due to access of the City Website or Social Media Platforms used by the City, nor for any delays, inaccuracies, errors or omissions arising out of the User's access to said services or with respect to the material contained on the City Website or Social Media Accounts, including without limitation, any material posted on the City Website or within a City Mass Communication. The City Social Media Presence, the City Website, and all materials associated with either or both are distributed and transmitted "as is" without warranties of any kind, either express or implied, including without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose. The City is not

responsible for any special, indirect, incidental or consequential damages that may arise from the use of, or the inability to use, any Social Media Platform or access mechanism or the City Website and/or the materials contained on the City Website, whether the materials contained on the City Website or Social Media Platform are provided by the City of Tom Bean or a third party.

**20. Indemnification.**

TO THE EXTENT PERMITTED BY APPLICABLE LAW, BY USING THE CITY WEBSITE AND/OR ACCESSING OR INTERFACING WITH CITY SOCIAL MEDIA ACCOUNTS, THE USER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY OF TOM BEAN, ITS AGENCIES, OFFICERS, EMPLOYEES, REPRESENTATIVES, AND AGENTS FROM AND AGAINST ALL CLAIMS AND EXPENSES, INCLUDING BUT NOT LIMITED TO ATTORNEY'S FEES, ARISING OUT OF THE USER'S USE OF SOCIAL MEDIA, OR ASSOCIATED WITH OR ATTRIBUTED TO THE CITY OR USE OF THE CITY WEBSITE OR MATERIALS AND INFORMATION CONTAINED ON THE CITY WEBSITE OR SOCIAL MEDIA PLATFORMS.

**21. Lawful Conduct**

All personnel that engage in activities under this policy shall adhere to applicable federal, state and local laws, regulations and policies.

