

ORDINANCE NO. 2022-05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TOM BEAN, TEXAS, ESTABLISHING AND REGULATING PLAT REVIEW AND INSPECTION FEES; AMENDING ORDINANCE 2019-01, SUBDIVISION ORDINANCE, SECTION 18, FILING FEES; ESTABLISHING STANDARDS AND PROCEDURES; PROVIDING FOR A PENALTY NOT TO EXCEED THE SUM OF FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) FOR EACH OFFENSE AND A SEPARATE OFFENSE SHALL BE DEEMED COMMITTED EACH DAY DURING OR ON WHICH A VIOLATION OCCURS OR CONTINUES; PROVIDING FOR OTHER ENFORCEMENT PROCEEDINGS; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING FOR AN EFFECTIVE DATE AS THE DATE OF PUBLICATION AS REQUIRED BY LAW; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Tom Bean, Texas, has determined that the review of plats and the inspection of infrastructure are important issues and concerns affecting the City and its residents; and,

WHEREAS, the City Council of the City of Tom Bean, Texas, has previously adopted the Subdivision Ordinance and other ordinances regulating subdivision, development and the platting process; and,

WHEREAS, the City Council of the City of Tom Bean, Texas, as part of the development process, may be asked to accept as public infrastructure various infrastructure such as water lines, sanitary sewer lines, streets, drainage and storm sewer, and other items intended for public use pursuant to the Subdivision Ordinance and other ordinances regulating subdivision and development; and,

WHEREAS, the review of proposed design and layout of land use and infrastructure affects the public health, safety and welfare: and

WHEREAS, the City Council of the City of Tom Bean, Texas, has previously adopted various codes regulating development; and

WHEREAS the review of proposed infrastructure, both private and proposed public infrastructure, and their compliance with applicable ordinances, codes and standards affect the public health, safety and welfare; and,

WHEREAS, the City Council of the City of Tom Bean, has determined that there is a need to establish fees and procedure to review plats, plans, construction

documents and other matters related to the development of property in the City of Tom Bean; and,

WHEREAS, the design and condition of proposed public and private infrastructure and its compliance with applicable codes affect the public health, safety and welfare; and,

WHEREAS, the City Council of the City of Tom Bean, Texas, has determined that there is a need to establish a procedure to inspect infrastructure in the City of Tom Bean: and,

WHEREAS, the provisions herein are necessary to promote and protect the health, safety, and welfare of the public by creating review and inspection fees and procedures.

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

SECTION 1. Adoption of Findings of Fact

The findings and recitations set out in this Ordinance are found to be true and correct and they are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. Engineering and Staff Review

Plats, plans and other submittals for development shall be reviewed by City Staff and/or the City Engineer, as determined appropriate by City staff and the City Engineer. The review is intended to confirm compliance with the requirements of all applicable ordinances and building code regulations, including but not limited to water, sewer and electrical service, applicable codes and the comprehensive zoning ordinance. If violations are found the building official may deny any applicable permit, prohibit occupancy of any structure and shall direct the owner or tenant to take such action as is necessary to bring the premises into compliance with applicable codes and ordinances.

The owner, builder or developer shall pay to the City a review fee as set forth in this Ordinance and any City fee schedule adopted in the future prior to final inspection to ensure compliance with City codes and requirements. Each additional review required as a result of a prior failed review shall require the payment of an additional review fee.

SECTION 3. Inspection Required for Public Infrastructure

Prior to acceptance of any proposed dedication of public infrastructure, the requestor and City shall cause an inspection to be made of the proposed infrastructure and/or system to ensure that it complies with applicable City code and any other applicable federal, state and local regulations.

The owner, builder or developer shall pay to the City an inspection fee as set forth in this Ordinance and any City fee schedule adopted in the future to ensure compliance with City codes and requirements and any other applicable federal, state and local regulations. Each additional inspection required as a result of a prior failed inspection shall require the payment of an additional inspection fee.

SECTION 4. Amendment of Ordinance 2019-01, Section 18, Filing Fees

Ordinance 2019-01, Subdivision Ordinance, Section 18, Filing Fees is amended by repealing existing language and being amended to read:

SECTION 18, FILING AND OTHER FEES ESTABLISHED

A. Fee Schedule Authorized.

- 1) A fee schedule and schedule of charges shall be established by the City, including fees and charges to be paid when any plat or other matter requiring City review is submitted to the City. Each of the fees and charges so established shall be paid in advance, and the City council, commission or board shall take no action until said fees and charges have been received by the appropriate City staff.
- 2) All future authority to draft, amend, approve and/or adopt any and all fee schedules and checklists for review and inspection related matters are delegated to the City Mayor, or his/her designee, with the input of the City Engineer. The fee schedule may be drafted, amended, approved and/or adopted, from time to time, at the discretion and determination of the City Mayor, or his/her designee, with the input of the City Engineer.

B. Construction Permit Fee.

The City staff or engineer may compute the Construction Permit Fee or it may be set by the fee schedule.

C. Other Fees Authorized.

The City staff or engineer shall establish other fees including, but not limited to, fees for the filing and review of construction plans, drainage plans, grading, traffic studies or similar design or construction plans and inspection fees. These fees are in addition to other customary fees such as building and construction inspection fees related to code enforcement.

SECTION 5. Fee Schedules and Checklists Authorized

The following schedule of fees and charges shall be paid to the City when any preliminary plat or final plat or other filing is tendered to the Planning and Zoning Commission or any other authorized board or agency of the City. Each of the fees and charges provided herein shall be paid in advance, and no action of the commission or any other board or agency of the City shall be valid until the fees and charges shall have been paid to the City. Further, permits, inspections and certificates of occupancy may be denied if any fees are unpaid or outstanding. Except as hereinbefore provided, these fees and charges shall be charged on all plats and filings, regardless of the action taken by the commission or any other board or agency of the City, and whether the plat or filing is approved or denied by the City Council.

- (a) *Residential.* For single-family and multifamily uses:
 - (1) Preliminary plat—Five Hundred Dollars (\$500.00) per plat, plus Fifteen Dollars (\$15.00) per lot.
 - (2) Final plat—Five Hundred Dollars (\$500.00) per plat, plus Twenty Dollars (\$20.00) per lot.
 - (3) Combination—Preliminary/Final plat—Seven Hundred Fifty Dollars (\$750.00) per plat, plus Twenty Dollars (\$20.00) per lot.
- (b) *Manufactured Housing (manufactured home and modular home)—* For developments for locating Manufactured Housing (manufactured home and modular home):
 - (1) Preliminary filing—Five Hundred Dollars (\$500.00) per filing, plus Fifteen Dollars (\$15.00) per lot or space.
 - (2) Final filing—Five Hundred Dollars (\$500.00) per filing, plus Twenty Dollars (\$20.00) per lot or space.
 - (3) Combination—Preliminary/Final plat—Seven Hundred Fifty Dollars (\$750.00) per plat, plus Twenty Dollars (\$20.00) per space.
- (c) *Other uses—*For commercial, industrial, institutional, and other uses not normally platted in lots:
 - (1) Preliminary plat—Five Hundred Dollars (\$500.00) per plat, plus Twenty-Five Dollars (\$25.00) per acre.
 - (2) Final plat—Five Hundred Dollars (\$500.00) per plat, plus Twenty-Five Dollars (\$25.00) per acre.
 - (3) Combination—Preliminary/Final plat—Seven Hundred Fifty Dollars (\$750.00) per plat, plus Twenty-Five Dollars (\$25.00) per acre.
- (d) *Refiling—*When a plat has not been accepted by the commission or council, and the subdivider refiles a new design for all or a lesser portion of the preliminary plat a new fee shall be charged unless reduced by the City Engineer based upon reduced review time. If a plat is approved subject

to conditions and the subdivider refiles the plat within ninety (90) days of such conditional acceptance to address the conditions, no new fee shall be charged for the refiling.

- (e) Construction plans, drainage plans, grading, traffic studies or similar design or construction plans – \$3,000.00 for Construction Plan Review Fee. Said fee shall be limited to a maximum of two (2) reviews. Additional review, comment and communications would be on an hourly basis at the City engineer's standard rate for the applicable personnel. Additional fees shall be set for other plans and submittals based upon type, size of project, complexity and other relevant cost factors. Such fee shall be limited to a maximum of two (2) reviews. Additional review, comment and communications would be on an hourly basis at the City engineer's standard rate for the applicable personnel.
- (f) Drainage or Flood Study Review – In the event a drainage study is required under the Code of Ordinances, the developer shall pay the City, in advance, a drainage study review fee to offset the City's costs of reviewing the required drainage study. The initial amount of the drainage study review fee is two thousand five hundred dollars (\$2,500.00). In the event that the City's costs to review the required drainage study are less than the initial amount paid by the developer under this section, the City shall refund the excess amount to the developer after the City's review is completed. In the event that the City's costs to review the required drainage study are more than the initial amount paid by the developer under this section, the developer shall be required to pay an additional amount as determined by the City Engineer, and the City shall refund any excess amount to the developer after the City's review is completed.
- (g) Inspection Fee—An inspection fee of 2.5% of the total cost of site and/or subdivision construction of public and private improvements, including but not limited to, landscaping, grading, paving, utility, drainage, hardscaping, lighting, screening and signage improvements, as determined by the City Engineer, shall be paid prior to the initiation of any construction. Inspection fees are in addition to materials testing fees to be borne by the developer.

The fees established in Ord. 2019-01, Sec. 18, and any attached schedule, are hereby amended to be in conformity with this Ordinance.

The City Council hereby delegates all future authority to draft, amend, approve and/or adopt any and all fee schedules and checklists for review and inspection related matters to the City Mayor, or his/her designee, with the input of the City Engineer.

The fee schedule may be drafted, amended, approved and/or adopted, from time to time, at the discretion and determination of the City Mayor, or his/her designee, with the input of the City Engineer.

The City Council hereby delegates all future authority to draft, amend, approve and/or adopt any and all fee schedules, checklists, review criteria and forms, to the City Mayor, or designee, with the input of the City Engineer.

The City of Tom Bean, its staff nor its engineer, makes no representations, guarantees, or warranties as to the accuracy, completeness, currency, or suitability of any review or inspection or a structure or improvement for occupancy or use.

SECTION 6. Penalty

Any person violating any of the provisions of this Ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in the sum of not more than Five Hundred and No/100 Dollars (\$500.00). Each continuing day's violation under this Ordinance shall constitute a separate offense. Unless otherwise specifically set forth in this Section or in state law, as adopted, allegation and evidence of a culpable mental state is not required for proof of the violation of any provision of this Section.

SECTION 7. Injunctive Relief

In addition to and accumulative of all other penalties, Tom Bean shall have the right to seek injunctive relief for any and all violations of this Ordinance.

SECTION 8. Severability Clause

It is the intention of the City Council that this Ordinance, and every provision thereof, shall be considered severable and the invalidity of any section, clause or provision or part or portion of any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 9. Repealing and Saving Clauses

This Ordinance creates review and inspection fee requirements and is not intended to repeal any existing review or inspection requirements. In the event of a conflict, the more stringent requirement applies. Only those Ordinances in direct conflict herewith are repealed and only to the extent they are in direct conflict and cannot be reconciled by applying the more stringent requirement. Any remaining portions of conflicting ordinances shall remain in full force and effect.

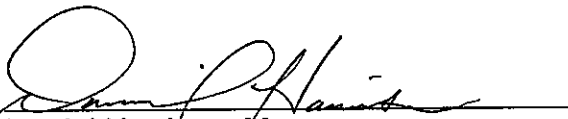
SECTION 10. Effective Date

This Ordinance shall become effective from and after its adoption and publication as required by the City ordinance and by law.


SECTION 11. Lawful Meeting

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

PASSED AND APPROVED THIS 12th day of December, 2022.


Daniel Harrison, Mayor

ATTEST



Rae Roth, City Secretary

