



## CITY OF TOM BEAN

### ORDINANCE NO. 2004-5

**AN ORDINANCE THAT AUTHORIZES ANY UTILITY OR COMMERCIAL COMPANY WHO USES THE CITY OF TOM BEAN, TEXAS RIGHT OF WAYS, WHETHER IT BE ABOVE GROUND, UNDER GROUND, OR CROSSING CITY BOUNDARIES, ARE REQUIRED TO NEGOTIATE WITH THE CITY OF TOM BEAN A CONTRACT TO PROVIDE A FRANCHISE FEE FOR RIGHTS AND PRIVILEGES TO USE THE CITY OF TOM BEAN RIGHT OF WAYS.**

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

**Section 1:** A short title for this ordinance shall be called the **FRANCHISE FEE ORDINANCE**.

**Section 2:** That the City of Tom Bean, Texas, hereinafter to be called "City" and any utility or commercial company will be called "Company".

**Section 3:** That any "Company", who uses and conducts business in the City of Tom Bean, Texas and uses said right of ways for conducting business will negotiate a Franchise Fee Agreement with the "City."

**Section 4:** The Franchise Fee agreement will consist of a standard number of years agreed upon by both the "City" and "Company."

**Section 5:** The "Company" shall be responsible to maintain, construct, operate and replace any and all parts of their franchise so as to interfere as little as possible with traffic flow and shall promptly clean up and restore to an approximate original condition at its cost, all thoroughfares and other surfaces which it might disturb.

**Section 6:** When the "Company" shall make or cause to be made excavations or shall place obstructions in any street, alley, or other public places, the public shall be protected

by barriers and lights placed, erected, and maintained by the "Company", and in the event of injury to any person or damage to any property by reason of the construction, operation, or maintenance of the construction area, the "Company" will be responsible for all costs incurred resulting from the injury or damage.

**Section 7:** The rights, privileges, and franchises granted by this ordinance are not to be considered exclusive, and the "City" hereby expressly reserves the right to grant, at any time, like privileges, rights, and franchises as it may see fit.

**Section 8:** That any ordinance previously adopted by the City of Tom Bean and all other ordinances in conflict herewith are hereby repealed.

**Section 9:** If any provision, section, subsection, sentence, clause or phrase of this ordinance, or the application of same to any person or set of circumstances for any reason is held to be unconstitutional, void or invalid or for any reason unenforceable, the validity of the remaining portions of this ordinance of the application thereby shall remain in effect, it being the intent of the City Council of the City of Tom Bean, Texas in adopting this ordinance, that no portion thereof or provision contained herein shall become inoperative or fall by any reason of unconstitutionality or invalidity of any portion or provision.

**Section 10:** That the City Secretary shall certify to the adoption of this ordinance and cause the same to take effect and be in force from and after its approval as required by law.

**PASSED AND APPROVED BY THE CITY COUNCIL OF TOM BEAN, TEXAS  
ON THIS 13<sup>TH</sup> DAY OF APRIL, 2004 A.D.**

  
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Mayor

Attest:

  
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City Secretary