

## ORDINANCE 2014-06

AN ORDINANCE REGULATING THE ENFORCEMENT OF ANIMAL REGULATIONS INSIDE THE TERRITORIAL CITY LIMITS OF TOM BEAN, GRAYSON COUNTY, TEXAS; REPEALING ORDINANCE NO. 2013-10 OF THE CITY OF TOM BEAN AND ALL OTHER ORDINANCES AND PARTS OF THE ORDINANCES IN CONFLICT THEREWITH.

Whereas: The City Council of the City of Tom Bean, Grayson County, Texas has investigated and determined that it would be advantageous and beneficial to the citizens of the City of Tom Bean, Grayson County, Texas to adopt this Ordinance regulating the enforcement of animal regulations within the territorial city limits of Tom Bean.

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

**Section 1: Purpose and Intent;** it is the purpose of this Ordinance to put in place such regulations as are necessary to;

- a. Preserve, promote and protect the public health, safety, and welfare of the citizens of Tom Bean, Texas.
- b. Preserve, promote and protect private and public property.
- c. Protect all citizens from rabies by specifying such preventative and control measures as may be necessary.
- d. Preserve and protect animals from improper use, neglect, inhumane treatment, and health hazards by providing sanitary and safe conditions.
- e. Preserve and protect animals by ensuring sufficient wholesome food and water, proper shelter and enclosures, protection from weather, veterinary care to prevent undue suffering, and with humane care and treatment.
- f. Provide security to all citizens from disturbances, annoyances, intimidation, and injury from all animals.
- g. To encourage responsible ownership of all animals.

**Section 2: Definitions;** when used in this article, the following words and terms, unless the context indicates a different meaning, shall be interpreted as follows:

Owner. Any person who has right of property in an animal, or who harbors any animal, or allows an animal to remain about his premises for a period of ten (10) days. Harboring. The act of keeping and caring for an animal, or providing a premise to which the animal returns for food, shelter, or care for a period of ten (10) days.

Animal. Includes every warm-blooded living dumb creature.

Domestic Animal. Shall include all species of animals commonly and universally accepted as being domesticated.

Wild Animal. Shall include all species of animals which exist in a natural unconfined state and are not usually domesticated.

Pet Animal. Shall include dogs, cats, rabbits, rodents, birds, reptiles and any other species of animal which are sold or retained as a house pet, but shall not include skunks, non-human primates; and any other species of wild, exotic or carnivorous animal that may be further restricted in this law.

Guard Dog. a large, aggressive dog, trained to guard persons or property and. often to attack or restrain on command.

Dog. A domestic canine of either sex, including one neutered or sterilized. Cat. A domestic feline of either sex, including one neutered or sterilized.

Swine. Shall include pigs, miniature pigs, hogs, sow, shout, or any combination thereof.

Vicious (Dangerous) Animal. Any animal that commits an unprovoked attack that inflicts bodily injury or death upon a person or another animal on public or private property, or that attacks, threatens to attack or terrorizes a person on public property or in a public place.

Serious bodily injury. Means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Stray Animal. Any animal roaming with no physical restraint beyond the premises for which there is no identifiable owner or harborer.

Running at Large. Shall pertain to an animal off the premises (property) of the owner and not under the physical control of the owner or his authorized representative. An animal intruding upon the property of another shall be termed "running at large". An animal within an automobile or other vehicle of its owner shall not be deemed "running at large."

Collar. Means any collar constructed of nylon, leather, or similar materials, specifically designed to be use for an animal.

Properly Fitted. Means, with respect to a collar, a collar that measures the circumference of an animal's neck plus at least one inch.

Restraint. Means a chain, rope, tether, leash, cable, or other device that attaches an animal to a stationary object or trolley system.

Rabies Vaccination. Shall mean the vaccination of a dog, cat, or other domestic animal with an antirabies vaccine approved by the United States Department of Agriculture and administered by a veterinarian licensed by the State of Texas.

Quarantine. Strict confinement of an animal, under restraint by closed cage or paddock or in any other manner provided by the Texas Board of Health.

Noisy Animals. Any animal that emits unpleasant, loud, surprising, irritating, or unwanted sounds or combination of sounds and outcry.

Abandoned Animal. Forsaken or deserted: *an abandoned kitten.*

Kennel. Any lot or premises on which four (4) or more dogs, cats or other domestic animals more than four (4) months of age are housed or accepted for boarding, breeding, training, selling, grooming, and/ or bathing for which remuneration is received.

Secure. Means to take steps that a reasonable person would take to ensure an animal remains on the owner's property, including confining the dog in an enclosure that is capable of preventing the escape or release of the animal.

Ordinance Officer. Shall be any Animal Warden, Health Authority, Police Officer, Chief of Police or an Animal Control Officer acting for the City of Tom Bean, Grayson County, and State of Texas.

Cruelly Treated. Includes tortured, seriously overworked, unreasonably abandoned, unreasonably deprived of necessary food, care, or shelter, cruelly confined, or caused to fight with another animal.

ETJ. Extra Territorial Jurisdictions.

Livestock. Livestock are domesticated animals raised in an agricultural setting to produce commodities such as food, fiber and labor.

Large Livestock. Horses, cattle, mules, jacks, jennets, llamas, and alpacas.

Small Livestock. Sheep, goats.

### **Section 3: Enforcement of Animal Regulations;**

The Ordinance Officer of the City of Tom Bean shall have the responsibility and authority to enforce any animal regulations of the city and to impound and dispose of any animals found in violation of any animal regulation.

### **Section 4: Noise Nuisance - Barking Dogs;**

No person shall willfully or knowingly keep or permit any dog, cat, bird or fowl, or any animal on his premises or in or about his premises that barks, howls, cry, whine, or emit loud noises day or night repeatedly in such a manner as to disturb the peace and quiet of the neighborhood or the occupants of adjacent premises. A person shall be deemed to have willfully and knowingly violated the terms of this section if such person shall have been notified by the Ordinance Officer of any such disturbance and shall have refused, for a period of twenty-four (24) hours, to correct such disturbance and prevent its reoccurrence.

### **Section 5: Animal Defecation;**

It shall be unlawful for an owner or harbinger of any animal to defecate on any school grounds, public streets, alley, sidewalk, park, or any other public grounds or any private property within the territorial city limits of Tom Bean, other than the premises of the owner or harbinger of said animal, unless defecation is removed immediately.

### **Section 6: Running at Large;**

The owner or harbinger of any animal(s) shall keep it under restraint or contained at all times in such a manner as to prevent the dog from leaving the owners property and the animal(s) shall not be permitted to run at large within the territorial city limits of Tom Bean. By "restraint" it is meant that the owner or harbinger shall keep the animal(s) on their premises (property), in a secure enclosure, fence (wood, chain link, or electric). Every owner shall restrain their animal(s) on a leash while off the owner's property, for the exception of hunting, ranching, farming, law enforcement, or to aid a person with sight or hearing, or on the owner's property. It shall be unlawful for any person owning chickens, turkeys, ducks, geese, guineas, or other fowl to permit such fowl to run at large within the city limits of Tom Bean. Whenever an animal(s) is observed as roaming freely and not under the control of the owner, the animal(s) shall be immediately apprehended and impounded. Any person may apprehend a stray animal and inform the Ordinance Officer so that the animal(s) can be impounded or owner located.

### **Section 7: Unlawful Restraint;**

- a. An owner may not leave a dog outside and unattended by use of a restraint that unreasonably limits the dog's movement:
  1. Between the hours of 10 p.m. and 6 a.m.;
  2. Within 500 feet of the premises of a school; or
  3. Cross over the owner or harbinger's property line;

4. In the case of extreme weather conditions, including conditions in which:
  - A. The actual or effective outdoor temperature is below 32 degrees Fahrenheit;
  - B. A heat advisory has been issued by a local or state authority or jurisdiction; or
  - C. A hurricane, tropical storm, or tornado warning has been issued for the jurisdiction by the National Weather Service.
- b. In this section, a restraint unreasonably limits a dog's movement if the restraint:
  1. Uses a collar that is pinch-type, prong-type, or choke-type, or that is not properly fitted to the dog;
  2. Is a length shorter than the greater of:
    - A. Five times the length of the dog, as measured from the tip of the dog's nose to the base of the dog's tail, or
    - B. 10 feet;
  3. Is in an unsafe condition; or
  4. Causes injury to the dog.

**Section 8: Exceptions;**

- a. Section 8 does not apply to:
  1. A dog restrained to a running line, pulley, or trolley system and that is not restrained to the running line, pulley, or trolley system by means of a pinch-type, prong-type, choke-type, or improperly fitted collar;
  2. A dog restrained in compliance with the requirements of a camping or recreational area as defined by a federal, state, or local authority or jurisdiction;
  3. A dog restrained for a reasonable period, not to exceed three (3) hours in a 24-hour period, and no longer than is necessary for the owner to complete a temporary task that requires the dog to be restrained;
  4. A dog restrained while the owner is engaged in, or actively training for, an activity that is conducted pursuant to a valid license issued by this state if the activity for which the license is issued is associated with the use or presence of a dog;
  5. A dog restrained while the owner is engaged in conduct directly related to the business of shepherding or herding cattle or livestock; or
  6. A dog restrained while the owner is engaged in conduct directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.
- b. This section does not prohibit a person from walking a dog with a hand-held leash.

**Section 9: Abandoning Animals;**

It is hereby prohibiting and shall be unlawful for any person to willfully and knowingly abandon or "dump" any animal within the territorial city limits of Tom Bean including the ETJ.

**Section 10: Humane Treatment of Animals;**

The following requirements are established for pets and animal care and not intended to contravene with the provisions for animal cruelty as provided in the Texas Penal Code and Health and Safety Code Chapter 821.

The owner or harbinger of animal(s) must provide their animal(s) with sufficient wholesome food and water; provide proper shelter and protection from weather, veterinary care when needed to prevent suffering, and humane care and treatment.

### **Section 11: Sanitary Condition Requirements;**

The owner or harbinger in possession of animal(s) shall keep yards, pens and enclosures in which animals are confined in such a manner as to not give off odors offensive to persons of ordinary sensibilities, breed or attack flies, mosquitoes or other noxious insects, or in any manner, to endanger the public health or safety, or to create a public nuisance. Failure of any person to not maintain any enclosure in a sanitary manner or condition shall be unlawful.

### **Section 12: Kennel;**

See Zoning Ordinance Volume 3 Ordinance No. 2008-15 Section 23.2.20,

### **Appendix 1 Section 10: Guard Dogs;**

It shall be unlawful to place or maintain any dog which has been specifically trained to attack, in any area for protection of person or property, unless the dog is physically confined to a specific area, or is under complete and absolute control of owner. The area or premises in which a guard dog is confined must be conspicuously posted with warning signs bearing letter not less than two inches (2") high.

### **Section 13: Vicious (Dangerous) Dogs;**

No person or keeper shall own, harbor or keep upon his public or private property any vicious or dangerous animal, whether wild or domestic, that may have killed, attacked, threaten to attack, or that may terrorize any person on any public or private property. Dangerous dogs, as defined in the Health and Safety Code, Section 822.041, shall be regulated in accordance with the provisions of the Health and Safety Code, Chapter 822, Subchapter D.

### **Section 14: Destruction or Damage;**

The owner or harbinger of any animal(s) that committed damage or injury to any person or damage to any property shall be deemed fully responsibility and liable for any said injuries or death inflicted on to another person or animal, and for any damage done to private or public properties belonging to another.

### **Section 15: Keeping of Wild and Exotic Animals and Poisonous Reptiles;**

It shall be unlawful to harbor, keep, or maintain any wild or exotic animals or poisonous reptiles within the city limits such as bats, skunks, coyotes, foxes, wolves, alligators, lions,

tigers, leopards, monkey, Gila monsters, rattlesnakes, cobra snakes, etc. The city however may grant exceptions from time to time, such as for special events like circuses, menagerie, animal auctions, etc.

#### **Section 16: Keeping of Livestock;**

It shall be unlawful for any person, firm, corporation, or entity to keep no more than (2) two or any combination of (2) two horses, cattle, llamas, alpacas, mules, jacks, jennets, sheep, and/or goats per acre within the city limits of City of Tom Bean.

#### **Section 17: Keeping of Swine Prohibited;**

It shall be unlawful for any person, firm, corporation, or entity to keep any swine within the city limits of City of Tom Bean, with the exception that hogs may be kept on the Tom Bean Public School grounds for agricultural and educational purposes.

#### **Section 18: Dwellings, Pens and Enclosures;**

- a. See Zoning Ordinance Volume 3 Ordinance No. 2008-15 Section 24.9 Fences, Appendix 1; area, setbacks, height, and coverage
- b. The outer perimeter of a pen must have at least twenty-five feet (25') set back from the front property line.
- c. All yards, pens and enclosures in which large livestock are confined shall be no less than one-half acre of area per animal, and shall be a minimum of 200 feet from every building or structure used for sleeping, dining, or living, except for buildings and structures owned or controlled by the owner of such animals.
- d. All yards, pens and enclosures in which small livestock are confined shall be no less than 500 square feet of area per animal, and shall be a minimum of 150 feet from every building or structure used for sleeping, dining, or living, except for buildings and structures owned or controlled by the owner of such animals.
- e. No person shall maintain fowl within the City of Tom Bean, Texas unless the following requirements are met:
  1. There shall be a minimum of ten (10) square feet of combined coop and accessible yard space for each fowl kept in the city limits. An enclosure shall be provided on the premises which shall be no closer than twenty-five feet (25') from every building or structure used for sleeping, dining, or living, except for buildings and structures owned or controlled by the owner of such animals. The enclosure must be of such construction as will allow for ease in cleaning and airing and kept in such a manner as not to become offensive to adjacent neighbors or the public.
  2. It shall be the duty of every person raising, keeping, or harboring any fowl to keep the premises and/or pen or other enclosure in a sanitary condition, so that it will not become foul or offensive to person of ordinary sensibilities residing in the vicinity or to breed or attract flies, mosquitoes or other noxious insects, or in any manner to endanger the public health or safety.

### **Section 19: Impoundment of Animals Generally;**

The impounding and disposition of all animals with the City of Tom Bean will be handled with and in compliance with the rules promulgated and granted to the animal control division of The Grayson County Health Department in said countywide order and ordinance passed and adopted by the commissioner's court of Grayson County, Texas, February 13, 1978 and adopted by the City of Tom Bean heretofore referred to and made a part here of all purposes.

- a. Any animal found in violation of any provision of this article or any animal that is treated in a cruel or inhumane manner may be impounded by the city and placed in an animal shelter or veterinary hospital. Any impounded animal, vicious or wild, unless there is reason to believe that it has an owner, may be immediately be disposed of as may be deemed appropriate.
- b. A reasonable effort will be made by the Ordinance Officer to contact the owner of any impounded animal which is wearing a license tag; however, the ultimate responsibility for location of an impounded animal is that of the owner.

### **Section 20: Disposition of Rabid, Vicious, or Wounded Animals;**

The Ordinance Officer of this city shall have the right to shoot or kill any rabid, vicious, or wounded dog, cat, or animal in the streets or any public place, or any dog, cat, or animal(s) in the streets or any others public place that shall manifest a disposition to attack or bite.

### **Section 21: Vaccinations Required;**

It shall be unlawful for any person to harbor any dog or cat that has not been vaccinated and cannot be identified as being current vaccination certificates within the city limits of Tom Bean, Grayson County, Texas.

Every owner of a dog or cat is hereby required have his or her dog or cat vaccinated against rabies by a licensed veterinarian by the time it is four (4) months of age and annually thereafter, or every three years if the dog or cat receives the three-year rabies vaccination. Any person moving into the city shall comply with this requirement within ten (10) days after having moved into this city. If the dog or cat has inflicted a bite on any person or other animal within the last ten (10) days, the owner of said dog or cat shall report such fact to the veterinarian who is going to administer such rabies vaccine and such rabies vaccine shall then not be administered until after a ten (10) day observation period.

### **Section 22: Vaccination Certificate and Tag;**

- a. Rabies vaccinations shall only be given by a duly licensed and practicing veterinarian and upon vaccination, the veterinarian shall execute and furnish to the owner of the dog or cat as evidence of such vaccination, a certificate and metal tag. Such certificate shall at least contain the following information:

1. Owner's name, address, and telephone number;
  2. The date of vaccination;
  3. The type of rabies vaccine used, producer, expiration date, and serial number;
  4. The year and number of rabies tag; and
  5. A description of the dog or cat.
- b. Concurrent with the issuance and delivery of the certificate of vaccination, the veterinarian shall also issue a metal tag, serially numbered to correspond with the vaccination certificate number and bearing the year of issuance and the name of the issuing veterinarian and his address. The owner of such dog or cat shall have the metal vaccination tag attached to a collar and to be worn by his or her dog or cat at all times and not allow any animal(s) to run freely without the proper collar and tags. Failure to comply can result in impoundment of animal(s) and shall be considered a violation of this ordinance.

### **Section 23: Animals Subject to Quarantine for Biting;**

- a. When a dog or cat, which has bitten or scratched a human or attacks another animal, has been identified, the owner will be required to produce the animal for ten (10) days confinement to determine whether such dog or cat has been exposed to rabies. Any unclaimed animal may be destroyed for rabies diagnosis prior to the end of this observation period. The dog or cat may be released from quarantine if a veterinarian determines that the animal does not show the clinical signs of rabies, provided the owner has paid all reasonable cost associated with the quarantining. Refusal to produce such animal is a misdemeanor and each day of such refusal constitutes a separate and individual violation.
- b. No animal which has a high probability of transmitting rabies, including skunks, bats, foxes and raccoons, will be placed in quarantine for observation. All such animals involved in biting incidents will be humanely killed in such a manner that the brain is not mutilated. The brain shall be submitted to a laboratory certified by the Texas Department of Health for rabies diagnosis.
- c. The Grayson County Health Authority may require an animal which has inflicted multiple bite wounds, punctures, or lacerations to the face, head, or neck of a person to be humanely killed and the brain tested for rabies.
- d. If any person shall make an affidavit before the judge of the municipal court that any dog has bitten any person within the limits of the City of Tom Bean, it shall be the duty of the Ordinance Officer on duty to direct the owner or keeper of said dog to keep him or her securely confined for not less than ten (10) days and to release said dog only upon written permission of a duly licensed veterinarian, and the failure of such owner or keeper to comply with such directions shall be deemed guilty of a misdemeanor.

### **Section 24: Reporting of Suspected Rabies;**

Any person having knowledge of the existence of any animal known to have been or suspected of being exposed to rabies or having knowledge of an animal bite or scratch to an individual that the person could reasonably foresee as capable of transmitting rabies must immediately report such knowledge or incident to the Ordinance Officer, and in no case longer than twenty-four (24) hours from the time of the incident.

### **Section 25: Authority to Quarantine;**

The Ordinance Officer shall have the authority to order the quarantine of animals responsible for bite incidents or suspected of having any zoonotic disease considered to be a hazard to human population or other animals.

### **Section 26: Disposition of Animals Exposed to Rabies;**

- a. Domestic Animals. Vaccinated animals which have been bitten or otherwise significantly exposed to a rabid animal should be humanely destroyed or if sufficient justification for preserving the animal exists, the exposed vaccinated animal should be immediately given a booster rabies vaccination and placed in strict isolation for forty-five (45) days. Unvaccinated animals shall be immediately given a rabies vaccination and placed in strict isolation for ninety (90) days and given booster vaccinations during the third (3rd) and eighth (8th) weeks of isolation. If the unvaccinated animal is under three (3) months of age at the time of the second vaccination, an additional booster should be given when the animal reaches three (3) months of age.
- b. If a veterinarian determines that a quarantined animal does not show the clinical signs of rabies, it may be released to the owner prior to or upon expiration of the quarantine period, provided the owner has paid all of the reasonable costs of such quarantine and any veterinarian bills. However, if the quarantined animal shows the clinical sign of the disease of rabies, the animal shall be humanely destroyed and its head or brain submitted to the nearest laboratory certified by the Texas Department of Health for rabies diagnosis for testing.
- c. Wild or Exotic Animals. No wild or exotic animal will be placed in quarantine. All wild or exotic animals will be humanely destroyed in such a manner that the brain is not mutilated. The brain will then be submitted to a laboratory certified for rabies diagnosis in order to be tested.
- d. Quarantining Facilities. Any animal to be placed in quarantine must be placed in an animal control facility approved by the Texas Department of Health as directed by the Grayson County Health Department. However, the owner of the animal may request permission for home quarantine if the following criteria can be met:
  1. Secure facilities must be available at the home of the animal owner and must be approved by a licensed veterinarian.
  2. The animal is currently vaccinated against rabies.
  3. A licensed veterinarian must observe the animal at least on the first and last days of the quarantine period. If the animal becomes ill during the observation

period, the city and the veterinarian must be notified by the person having possession of the animal. At the end of the observation period the release from quarantine must be provided in writing by the attending veterinarian and approved by the city.

4. The animal was not a stray at the time of the bite incident.
- e. If the biting animal cannot be maintained in secure quarantine, it shall be humanely destroyed and the brain submitted to a laboratory certified by the Texas Department of Health for rabies diagnosis.

### **Section 27: Notice of Violation;**

- a. An Ordinance Officer who has probable cause to believe that an owner is violating any section of this Ordinance shall provide the owner with a written statement of that fact. The statement must be signed by the officer and plainly state the date and time at which the statement was provided to the owner. The statement must provide, name, address, contact number of owner if known, the nature of the violations, and the place the violation occurred.
- b. A person commits an offence if that person fails to comply within ten (10) days from the date noted the owner is provided the statement of violation.
- c. Each person keeping animals within the territorial city limit of Tom Bean shall, upon request of the Ordinance Officer, after proper identification and during reasonable times, permit access to the area or places of keeping of animals or fowl, for the purpose of carrying out this code. Should the Ordinance Officer be denied entry, then he shall make application for a search warrant to enter the premises, such warrant to be issued by the Municipal Court Judge of the City of Tom Bean upon proper application therefore.

### **Section 28: Penalty for Violations;**

(1<sup>st</sup> Violation) Any person who violates any provisions or part of these rules or does not comply with the requirements of these regulations shall be guilty of a Class C Misdemeanor and shall be fined no less than twenty-five and no/100 (\$25.00) dollars, court cost fees, and restitution fees (based on current Grayson County Animal Control Fees) in accordance with the general penalty per violation; each day of violation constitutes a separate offense.

(2<sup>nd</sup> Violation) Any person who violates any provisions or part of these rules or does not comply with the requirements of these regulations shall be guilty of a Class C Misdemeanor and shall be fined no less than Fifty and no/100 (\$50.00) dollars, court cost fees, and restitution fees (based on current Grayson County Animal Control Fees) in accordance with the general penalty per violation; each day of violation constitutes a separate offense.

(3<sup>rd</sup> Violation) Any person who violates any provisions or part of these rules or does not comply with the requirements of these regulations shall be guilty of a Class C Misdemeanor and shall

be fined no less than One Hundred and no/100 (\$100.00) dollars, court cost fees, and restitution fees (based on current Grayson County Animal Control Fees) in accordance with the general penalty per violation; each day of violation constitutes a separate offense.

It is the intention of the city council of Tom Bean, that each separate provision in this ordinance shall be deemed independent of all other provisions herein and it is further the intention of the city council that, if any provisions of this article are declared invalid or unconstitutional, all other provisions thereof shall remain valid, enforceable and constitutional.

**Section 29: Right to Appeal;**

An owner or harbinger, who has received a violation under any section of the said ordinance, has the right to appeal and request a hearing before the judge of the Tom Bean Municipal Court. Request for a hearing must be in writing and received by the court in no less the ten (10) business days after the date violation(s) were issued. The court will then notify the defendant within two (2) weeks prior to hearing with the appearance date, time and any other instructions. If owner or harbinger fails to appear at their requested hearing, the court will issue a violation of promise appear violation.

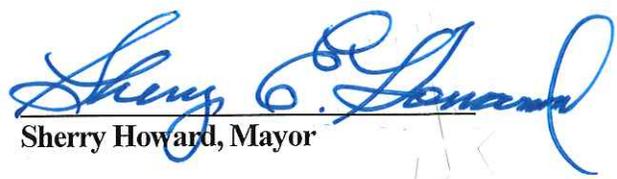
**Section 30: Repeal of Conflicting Ordinances;**

All existing ordinances of the City of Torn Bean, Grayson County, Texas are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF TOM BEAN, TEXAS THIS 8<sup>th</sup> DAY OF SEPTEMBER, 2014.**

Attest:

  
Cathy Pugh, City Secretary

  
Sherry Howard, Mayor