



ORDINANCE 2006-09

AN ORDINANCE OF THE CITY COUNCIL OF TOM BEAN, TEXAS REPEALING THE APPLICATION OF THE EXEMPTION FROM LOCAL SALES AND USE TAXES ON RECEIPTS FROM THE RESIDENTIAL USE OF NATURAL GAS AND ELECTRICITY WITHIN THE CITY LIMITS OF TOM BEAN, TEXAS AS PROVIDED IN SECTION § 321.105 TAX CODE, V.A.T.C.S.; IMPOSING A LOCAL SALES AND USE TAX ON THE RECEIPTS FROM RESIDENTIAL USE OF NATURAL GAS AND ELECTRICITY WITHIN THE CITY LIMITS OF TOM BEAN, TEXAS; PROVIDING FOR THE NOTIFICATION TO THE COMPTROLLER OF THE STATE OF TEXAS; PROVIDING THAT NO SUCH TAX PROVIDED FOR HEREUNDER SHALL SERVE AS AN OFFSET TO OR TO REDUCE ANY AMOUNT PAYABLE BY ANY PROVIDER OF GAS OR ELECTRICITY PURSUANT TO ANY FRANCHISE, STREET USE ORDINANCE, CHARTER PROVISION, STATUTE OR ANY OTHER IMPOSITION OF THE CITY OF TOM BEAN, TEXAS; MAKING THIS ORDINANCE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Whereas: on August 9, 1978 the majority of the governing body of the City of Tom Bean, Texas voted to exempt from the taxes authorized by the Local Sales and Use Tax Act (Article 1066C, Vernon's Texas Civil Statutes) currently § 321.101, Tax Code, V.A.T.C.S.; and

Whereas: Section § 321.105, Tax Code (Local Taxation), V.A.T.C.S. exempts from the local sales and use tax the taxation of receipts from the residential use of gas and electricity within the City; and

Whereas: Section § 321.105, subsection C Tax Code (Local Taxation), V.A.T.C.S., the City is eligible to repeal the application of the exemption from local sales and use taxes on receipts from residential use of gas and electricity within the City; and

Whereas: the repeal of the application of the exemption would allow the City to impose a sales and use tax on the receipts from the residential use of gas and electricity within the City; and

Whereas: the City Council finds that the repeal of the application of the exemption and the imposition of a sales and use tax on the receipts from the residential use of gas and electricity within the City is in the best interests of the citizens of the City.

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

Section 1: That all of the above premises are found to be true and correct and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2: **A.** A tax is hereby authorized and imposed on all receipts from residential use of gas and electricity within the City of Tom Bean, Texas as is provided for by State law.

B. The application of the exemption provided for in § 321.105, Tax Code V.A.T.C.S., is hereby repealed by the City as authorized by Section §321.105 thereof.

C. The rate of tax imposed by this section shall be the same as the rate imposed by the City for all other local sales and use taxes as authorized by the legislature of the State of Texas.

D. The City Secretary shall forward to the Comptroller of the State of Texas by United States Registered or Certified Mail a copy of this Ordinance along with a copy of the minutes of the City Council's vote on this Ordinance.

Section 3: This Ordinance shall be and is hereby declared to be cumulative of all other Ordinances of the City and this Ordinance shall not operate to repeal or affect any of such other Ordinances. The tax provided for hereunder shall not serve as an offset to, be in lieu of, or in any way reduce the amount payable to the City pursuant to any franchise, street use, ordinance, charter provision, statute, or without limitation by the foregoing enumeration, otherwise payable by any provider of gas or electricity within the City; it is being the express intent hereof that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect, without reduction or limitation hereby.

Section 4: This Ordinance is to be liberally construed to achieve its remedial purposes.

Section 5: If any section, article, paragraph, sentence, clause, phrase or word in this Ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a Court of competent jurisdiction, such holding shall not effect the validity of the remaining portions of this Ordinance, and the City Council hereby declares it would have passed such remaining portions of this Ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6: This Ordinance shall become effective from and after its passage as provided by law, and it is accordingly so ordained.

DULY PASSED AND APPROVED BY VOTE OF THE CITY COUNCIL OF TOM BEAN, TEXAS this 11th day of April, 2006.

Mayor - City of Tom Bean, Texas

Attest:

City Secretary