

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: May 13, 2014		DATE SUBMITTED: March 28, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Martin Zimmermann	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input checked="" type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input type="checkbox"/> CONSENT	<input type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input type="checkbox"/> STATUTORY		<input checked="" type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
AGENDA ITEM DESCRIPTION: Consideration of an ordinance to amend the text of Bryan Code of Ordinances Chapter 130, Zoning, by adding "credit access business" to the list of potentially allowed land uses in the Retail (C-2) zoning district with prior approval of a Conditional Use Permit, and adding use-specific standards that shall apply to credit access business uses city-wide, and amending existing zoning district regulations accordingly.			
SUMMARY STATEMENT: On February 3, 2014, the Bryan City Council adopted an amendment to Chapter 18 of the Bryan Code of Ordinances, to establish business regulations for credit access businesses. These new regulations will go into effect on August 1, 2014.			
<p>City Council directed staff to research zoning regulations for credit access businesses to help prevent the continued proliferation and clustering of these types of businesses in Bryan and stem the perceived detrimental effect on local property values and economic development. Staff provided the Planning and Zoning Commission with background information on the subject of credit access businesses during the Commission's workshop meetings on February 6 and March 6, 2014. Information reviewed included zoning regulations other Texas cities such as Fort Worth, Garland, Irving, Little Elm, Mesquite, Richardson, Sachse, Sanger, and San Antonio.</p> <p>Based on the review of other the Texas cities' zoning regulations regarding credit access businesses and feedback received from the Planning and Zoning Commission, staff drafted the attached ordinance. The draft ordinance provides for the following:</p> <ol style="list-style-type: none"> 1. Credit access business uses would only be allowed in Bryan's C-2 (Retail) zoning districts, with prior approval of a Conditional Use Permit from the Planning and Zoning Commission. 2. A structure containing a credit access business must be located at least 1,000 feet from another structure containing another credit access business. 3. A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses. 4. A lot containing a credit access business shall: <ol style="list-style-type: none"> a. be located at least 200 feet from any lot zoned or used for residential purposes; and b. not be located on property fronting a street classified as a Major Arterial or greater, as designated by the Bryan Thoroughfare Plan; and c. not be wholly or partially located within the West Villa Maria Corridor Overlay District, the FM 2818 Corridor Overlay District, the FM 158 Corridor Overlay District, or the SH 47 Corridor Overlay District. <p>The text amendment is proposed to become effective on August 1, 2014, the same day as the already-approved business regulations in Chapter 18 of the Bryan Code of Ordinances.</p>			

STAFF ANALYSIS AND RECOMMENDATION: Several communities around Texas have chosen to limit credit access business locations either to certain zoning districts or to adopt specific use restrictions, such as locational separation requirements and prohibiting credit access businesses in certain district. Staff believes that this text amendment to the Zoning Ordinance, if approved, would help curb the proliferation and clustering of credit access businesses in Bryan. The text amendment can thereby help protect and enhance the livability of the City, encourage the stabilization of property and property values, and ensure harmonious, orderly and efficient growth and development. Staff recommends approving the proposed text amendment to the Zoning Ordinance.

During its regular meeting on March 20, 2014, the Planning and Zoning Commission unanimously recommended approval of the proposed text amendment to the Bryan City Council.

OPTIONS (In Suggested Order of Staff Preference)

1. approve the proposed text amendment;
2. approve the proposed text amendment with modifications, which may require consideration at a future City Council meeting; or
3. reject the proposed text amendment.

ATTACHMENTS:

1. draft ordinance;
2. memorandum to the P&Z of March 20, 2014; and
3. excerpt from the P&Z's regular meeting minutes of March 20, 2014.

FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 3-31-2014; Joey Dunn, 4-7-14

APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 4/11/2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 04/14/2014

ORDINANCE No. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, OF THE CITY OF BRYAN CODE OF ORDINANCES, BY ADDING “CREDIT ACCESS BUSINESS” TO THE LIST OF POTENTIALLY ALLOWED LAND USES IN THE RETAIL (C2) ZONING DISTRICT WITH PRIOR APPROVAL OF A CONDITIONAL USE PERMIT AND ADDING USE-SPECIFIC STANDARDS THAT SHALL APPLY TO CREDIT ACCESS BUSINESS USES CITY-WIDE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING A PENALTY CLAUSE; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS PASSED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, certain credit access businesses engage in abusive and predatory lending practices, offering easy money to those members of our community who are in a tight spot with onerous terms and fees; and

WHEREAS, the practices of credit access businesses cause members of our community to become trapped in a cycle of short term, high interest loans resulting in large debt and huge payments; and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), wrote that “payday loans are sold as two-week credit products that provide fast cash, but borrowers are actually indebted for an average of five months per year.” The report further noted that “on average, a borrower takes out eight loans of \$375 each per year and spends \$520 on interest;” and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), also noted: “How much borrowers spend on loans depends heavily on the fees permitted by their state. The same \$500 storefront loan would generally cost about \$55 in Florida, \$75 in Nebraska, \$87.50 in Alabama, and \$100 in Texas, even if it were provided by the same national company in all those states. Previous research has found that lenders tend to charge the maximum permitted in a state;” and

WHEREAS, the Pew Charitable Trusts, in their publication entitled *Payday Lending in America: Who Borrows, Where they Borrow, and Why*, (July 2012), also stated that “the vast majority of borrowers use the loans on a long-term basis, not temporary one. Thus it seems that the payday loan industry is selling a product few people use as designed and that imposes debt that is consistently more costly and longer lasting than advertised;” and

WHEREAS, the Community Financial Services Association of America (CFSA), the national trade association for companies that offer small dollar, short-term loans or payday advances includes the following in the “Member Best Practices” as listed on its internet site (<http://cfsaa.com/cfsa-member-best-practices.aspx>): “Members shall not allow customers to rollover a payday advance (the extension of an outstanding advance by payment of only a fee) unless expressly authorized by state law, but in such cases where authorized will limit rollovers to four or the state limit, whichever is less.” The need for consumer understanding was also outlined on this website: “A contract between a member and the customer must fully outline the terms of the payday advance transaction. Members agree to disclose the cost of the service fee both as a dollar amount and as an annual percentage rate (“APR”);” and

WHEREAS, the Center for Responsible Lending, a non-profit, non-partisan organization, states on its internet site (http://www.responsiblelending.org/other-consumer-loans_tools-resources/fast-facts.html) that: “car title loans are based on the value of a borrower’s car - the ability to repay the loans is not a factor in the lending decision...”; “loan rates for a car title are typically 20-30 times that of rates charged by credit card issuers...”; “the average car title customer renews their loan 8 times...”; and, “on a \$500 title loan, this average customer will pay back \$650 in interest over eight months; the principal borrowed will be in addition;” and

WHEREAS, lenders hold onto the motor vehicle title and when borrowers cannot continue to pay the fees, they can lose their vehicles, which can drastically affect the borrower’s means of transportation for work and other essential household functions; and

WHEREAS, the proliferation and clustering of these types of businesses in a community can have a detrimental effect on local property values and economic development; and

WHEREAS, the City Council of the City of Bryan desires to enact additional zoning regulations to protect and enhance the livability of the city, encourage the stabilization of property and property values, and ensure the harmonious, orderly and efficient growth and development of the City; and

WHEREAS, the City Council of the City of Bryan deems it necessary to address the congregation of credit access businesses within the city limits of the City of Bryan; and

WHEREAS, the Planning and Zoning Commission during its regular meeting on March 20th, 2014 recommended that the City’s zoning regulations be amended to include definitions and regulations for credit access businesses; and

WHEREAS, the City Council has held a public hearing on the proposed amendments for which notice was published at least fifteen days prior to the hearing date;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF BRYAN, TEXAS:

1.

That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes them part of this ordinance.

2.

That Chapter 130, Zoning, of the Bryan Code of Ordinance is hereby amended by adding the following definition to Section 130-3:

Credit access business means a credit services organization that obtains for a consumer or assists a consumer in obtaining an extension of consumer credit in the form of a deferred presentment transaction or a motor vehicle title loan, as those terms are defined in Section 393.601 of the Texas Finance Code, as amended.

3.

That Chapter 130, Zoning, of the Bryan Code of Ordinances is hereby amended by adding the use “Credit Access Business” to the list of potentially allowed land uses in the Retail (C2) zoning district with prior approval of a Conditional Use Permit in Section 130-14(c) (Retail District) as follows:

(c) *Conditional uses.* Any conditional use allowed in the office district with the addition of:

- Automobile repair/sales/rental;
- Boat repair/sales/rental;
- Commercial amusement (outdoor);
- Credit access business;
- Heating or air conditioning sales or service;
- Heliport or helistop;
- Ice company sales--Wholesale;
- Mini-warehouse or self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Night club or tavern(<= 5,000 square feet);
- Office--Showroom/warehouse;
- Theater--Outdoor;
- Printing company;
- Recycling collection point;
- Trailer rental;
- Truck rental.

4.

That Chapter 130, Zoning, of the Bryan Code of Ordinances is hereby amended by removing the use “Credit Access Business” from the list of potentially allowed land uses in the Commercial (C3) zoning district with prior approval of a Conditional Use Permit in Section 130-15(c) (Commercial District) as follows:

(c) *Conditional uses.* Any conditional use allowed in the retail district with the exception of credit access business, and with the addition of:

- Cabinet shop;
- Cemetery;
- College or university;
- Flea market;
- Golf course or country club;
- Heliport or helistop;
- Manufacturing;
- Machine shop;
- Moving company;
- Multifamily dwelling;
- Recovery facility;
- Refuse systems;
- Rodeo grounds;
- Stable--Commercial.

5.

That Chapter 130, Zoning, of the Bryan Code of Ordinances is hereby amended by adding a new subsection 130-34(n) to read as follows:

(n) *Credit Access Business:*

- (1) A structure containing a credit access business shall be located at least 1,000 feet from another structure containing another credit access business, as measured in a straight line between the nearest points of one structure to the other structure.
- (2) A lot containing a credit access business shall be located at least 200 feet from any lot zoned or used for residential purposes, as measured in a straight line between the nearest points of one lot to the residential lot.
- (3) A lot containing a credit access business shall not be located on property fronting a street classified as a Major Arterial or greater, as designated by the Bryan Thoroughfare Plan.
- (4) No credit access business shall be permitted on a lot wholly or partially located within the West Villa Maria Corridor Overlay District, the FM 2818 Corridor Overlay District, the FM 158 Corridor Overlay District, or the SH 47 Corridor Overlay District.
- (5) A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.

6.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

7.

That the Code of the City of Bryan, as amended, shall remain in full force and effect, save and except as amended by this ordinance.

8.

That if any section, paragraph, sentence, clause, phrase or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

9.

That it is hereby found and determined that the meetings at which this ordinance was passed were open to the public, as required by Section 551.001 et seq., Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given.

10.

It is the intention of the City Council that this ordinance shall become a part of the Bryan City Code and it may be renumbered and codified therein accordingly

11.

That a person who violates any section of this ordinance is guilty of a misdemeanor and upon conviction is punishable in accordance with Section 1-14 of the City of Bryan Code.

12.

That the City Secretary is directed to publish this ordinance in a newspaper of general circulation in the City of Bryan in compliance with the provisions of the City Charter, which publication shall be sufficient if it contains the title of this ordinance, the penalty provided therein for violation thereof, and the effective date of the ordinance.

13.

That this ordinance shall take effect from and after its final passage and publication as required by law. The effective date of this Ordinance will be August 1, 2014.

PRESENTED AND GIVEN first reading the 13th day of May, 2014, at a regular meeting of the City Council of the City of Bryan, Texas; and given a second reading, passed and approved on the 27th day of May, 2014, by a vote of _____ yeses and _____ noes at a _____ meeting of the City Council of the City of Bryan, Texas.

ATTEST:

Mary Lynne Stratta, City Secretary

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis Hampton, City Attorney

**PLANNING AND ZONING COMMISSION
MEMORANDUM**

March 20, 2014

Memorandum

To: Planning and Zoning Commission
From: Maggie Dalton, Staff Planner
Date: March 20, 2014
Re: proposed amendments to the Zoning Ordinance concerning credit access business uses

BACKGROUND:

On February 3, 2014, the Bryan City Council adopted an amendment to Chapter 18 of the Bryan Code of Ordinances, to establish business regulations for credit access businesses. These new regulations will go into effect on August 1, 2014.

City Council directed staff to research zoning regulations for credit access businesses to help prevent the continued proliferation and clustering of these types of businesses in Bryan and stem the perceived detrimental effect on local property values and economic development. Staff provided the Planning and Zoning Commission with background information on the subject of credit access businesses during the Commission's workshop meetings on February 6 and March 6, 2014. Information reviewed included zoning regulations other Texas cities such as Fort Worth, Garland, Irving, Little Elm, Mesquite, Richardson, Sachse, Sanger, and San Antonio.

ANALYSIS:

Based on the review of other the Texas cities' zoning regulations regarding credit access businesses and feedback received from the Planning and Zoning Commission, staff drafted the attached ordinance. The draft ordinance provides for the following:

1. Credit access business uses would only be allowed in Bryan's C-2 (Retail) zoning districts, with prior approval of a Conditional Use Permit from the Planning and Zoning Commission.
2. A structure containing a credit access business must be located at least 1,000 feet from another structure containing another credit access business.
3. A credit access business shall be situated only within a freestanding structure and shall not be collocated in the same structure as other uses.
4. A lot containing a credit access business shall
 - a. be located at least 200 feet from any lot zoned or used for residential purposes; and

- b. not be located on property fronting a street classified as a Major Arterial or greater, as designated by the Bryan Thoroughfare Plan; and
- c. not be wholly or partially located within the West Villa Maria Corridor Overlay District, the FM 2818 Corridor Overlay District, the FM 158 Corridor Overlay District, or the SH 47 Corridor Overlay District.

The proposed text amendment is proposed to become effective on August 1, 2014, the same day as the already-approved business regulations in Chapter 18 of the Bryan Code of Ordinances.

RECOMMENDATION:

Staff recommends **approving** the proposed amendment to the text of Bryan's Zoning Ordinance. The attached draft ordinance will help curb the proliferation and clustering of these types of businesses in Bryan and thereby protect and enhance the livability of the city, encourage the stabilization of property and property values, and ensure the harmonious, orderly and efficient growth and development of the City.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING
MINUTES OF MARCH 20, 2014:**

**8. PROPOSED AMENDMENTS TO THE TEXT OF BRYAN'S CODE OF ORDINANCES – A
PUBLIC HEARING WILL BE HELD FOR EACH ITEM (Commission makes
recommendation; City Council has final approval).**

a. Credit Access Businesses

A recommendation to the Bryan City Council regarding an amendment to the text of Bryan Code of Ordinances Chapter 130, Zoning, by adding “credit access business” to the list of potentially allowed land uses in the Retail (C-2) zoning district with prior approval of a Conditional Use Permit, and adding use-specific standards that shall apply to credit access business uses city-wide, and amending existing zoning district regulations accordingly. (M. Zimmermann)

Mr. Zimmermann presented the staff report (on file in the Development Services Department). Staff recommends approval of the proposed text amendment.

The public hearing was opened.

None came forward.

The public hearing was closed.

Commissioner Madison moved to recommend to the Bryan City Council the changes to the text of the Zoning Ordinance (Bryan Code of Ordinances Chapter 130), as presented by staff. Commissioner Beckendorf seconded the motion, and the motion passed unanimously.