

## ACTION FORM BRYAN CITY COUNCIL

<b>DATE OF COUNCIL MEETING:</b> May 13, 2014		<b>DATE SUBMITTED:</b> May 2, 2014	
<b>DEPARTMENT OF ORIGIN:</b> Legal/CMO		<b>SUBMITTED BY:</b> Hugh R. Walker	
<b>MEETING TYPE:</b>	<b>CLASSIFICATION:</b>	<b>ORDINANCE:</b>	<b>STRATEGIC INITIATIVE:</b>
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input checked="" type="checkbox"/> 1ST READING	<input checked="" 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 checked="" type="checkbox"/> STATUTORY		<input type="checkbox"/> ECONOMIC DEVELOP.
<input type="checkbox"/> WORKSHOP	<input type="checkbox"/> REGULAR		<input type="checkbox"/> INFRASTRUCTURE
			<input checked="" type="checkbox"/> QUALITY OF LIFE
<b>AGENDA ITEM DESCRIPTION:</b> Consideration of an ordinance to amend Chapter 118, Article II, of the Bryan City Code of Ordinances by adding Section 118-99; providing the authority of the City to enforce State law governing privileged parking on private property under the Texas Transportation Code Chapter 681; providing for codification; providing a savings clause; providing for severability; and providing an effective date.			
<b>SUMMARY STATEMENT:</b> The proposed ordinance is required by State law, if the City of Bryan wants authority to enforce the Texas Transportation Code (Chapter 681) regulations regarding disabled (handicap) parking on private property. If approved, the ordinance will provide the City with authority to enforce disabled parking on private property where appropriate signage designating such parking exists.			
Currently, if the City cites a person for parking in a disabled space on private property, the Courts will not uphold the citation. That is, citing violators under the current City ordinance results in wasting violator's time, the officer's time, and the court's time as the citation is invalid. The proposed ordinance will allow citations to have validity in court, at least from a perspective of whether the City may enforce the State law.			
<b>STAFF ANALYSIS AND RECOMMENDATION:</b> City staff recommends approving the proposed ordinance. By approving the proposed ordinance, the City may enforce the Texas Transportation Code regulations regarding disabled parking on private property. If the ordinance is not approved, future citations do not make practical business sense as the courts likely will dismiss the case since the City does not have legal standing to enforce that section of the State Code.			
<b>OPTIONS (In Suggested Order of Staff Preference):</b>			
<ol style="list-style-type: none"> <li>1. Approve the proposed ordinance</li> <li>2. Do not approve the proposed ordinance and provide direction staff</li> </ol>			
<b>ATTACHMENTS:</b>			
<ol style="list-style-type: none"> <li>1. Proposed ordinance</li> </ol>			
<b>FUNDING SOURCE:</b> na			
<b>APPROVALS:</b> Hugh R. Walker, 05/02/2014			
<b>APPROVED FOR SUBMITTAL: CITY MANAGER</b>			
<b>APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton,05-06-2014</b>			

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 118, ARTICLE II, OF THE BRYAN CITY CODE OF ORDINANCES BY ADDING SECTION 118-99; PROVIDING THE AUTHORITY OF THE CITY TO ENFORCE STATE LAW GOVERNING PRIVILEGED PARKING ON PRIVATE PROPERTY UNDER TEXAS TRANSPORTATION CODE CHAPTER 681; PROVIDING FOR CODIFICATION; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bryan (“City”) is a Texas home rule city in Brazos County, Texas; and

**WHEREAS**, pursuant to Section 681.011 of the Texas Transportation Code, the City has the authority to enforce privileged parking on private property that is designated in compliance with state law; and

**WHEREAS**, the City has determined a need to clarify the City’s authority to enforce privileged parking on private property; and

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

1.

The following section is added to the City of Bryan Code of Ordinances:

Sec. 118-99. Disabled parking on private property.

Violations of disabled parking regulations on private property are governed by, and may be enforced pursuant to, Chapter 681, Texas Transportation Code, as amended.

2.

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

3.

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.

4.

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.*, of the Texas Government Code, and that advance public notice of the time, place and purpose of said meetings was given, pursuant to all applicable law.

5.

This ordinance shall take effect immediately upon its second and final reading and passage.

**PRESENTED AND GIVEN** first reading the 13<sup>th</sup> day of May, 2014, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, passed and approved on the 27<sup>th</sup> day of May, 2014, by a vote of \_\_\_\_ ayes and \_\_\_\_ noes at a regular meeting of the City Council of the City of Bryan, Texas.

ATTEST:

CITY OF BRYAN:

\_\_\_\_\_  
Mary Lynne Stratta, City Secretary

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Jason P. Bienski, Mayor

APPROVED AS TO FORM:

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Janis K. Hampton, City Attorney