

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: August 12, 2014		DATE SUBMITTED: July 22, 2014	
DEPARTMENT OF ORIGIN: Development Services		SUBMITTED BY: Martin Zimmermann	
MEETING TYPE:	CLASSIFICATION:	ORDINANCE:	STRATEGIC INITIATIVE:
<input type="checkbox"/> BCD	<input type="checkbox"/> PUBLIC HEARING	<input type="checkbox"/> 1ST READING	<input checked="" type="checkbox"/> PUBLIC SAFETY
<input type="checkbox"/> SPECIAL	<input checked="" type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input 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
AGENDA ITEM DESCRIPTION: Consideration of an ordinance to amend Chapter 14, Building and Building Regulations, by amending Article III, Residential Construction Standards, Subsection 14-17, Amendments to Code, by modifying provisions for the placement of single-story detached accessory structures with a floor area of up to 120 square feet on residential lots.			
SUMMARY STATEMENT: The City of Bryan adopted the 2009 Edition of the International Residential Code, published by the International Code Council. Section R105.2 of said Code exempts certain buildings from requiring permits. In May 2011, the City Council adopted an amendment to that Code section, allowing one-story detached accessory structures with a floor area of up to 120 square feet to be installed on residential properties, without building permits, so long as the accessory structure is: <ul style="list-style-type: none"> 1. not located in a surface drainage easement; 2. not permanently affixed to the ground; 3. located in the rear yard; and 4. not provided with utilities (sewer, water, gas or electricity). <p>Earlier this year, the City Council directed staff to research options for an amendment to these provisions, which, if approved, would allow the installation of one-story detached accessory structures with up to 120 square feet of floor area not only in rear yards, but also in side yards on residential properties.</p> <p>Staff submits the attached draft ordinance amending Section R105.2 for City Council consideration. The amendment, if approved, would:</p> <ul style="list-style-type: none"> 1. allow one structure (<120 square feet) on a residential lot to extend all the way to the side or rear lot lines on a property, so long as: <ul style="list-style-type: none"> (a.) a 7.5-foot wide margin of open space is retained around the periphery of the principal building on the lot; and (b.) the structure is also set back at least 7.5 feet from a principal building on an adjoining lot. 2. prohibit structures to be installed in front of the principal structure on the lot (i.e., in the front yard). 3. prevent structures from being installed in any public utility easement and/or surface drainage easements, to allow unencumbered access to public utilities located in those easements and to prevent the obstruction of storm water runoff. 4. specify that the structure is taken into consideration when calculating the allowable cumulative square footage for accessory structures on a single property (as provided for in Bryan Code of Ordinances Section 130-34(a)). 5. require building permits for additional structures, which would be required to observe adopted building setbacks. 			

STAFF ANALYSIS AND RECOMMENDATION: If the City Council desires to establish provisions that would allow one-story detached accessory structures with a floor area of up to 120 square feet to be installed in side yards on residential properties, staff recommends approving the suggested amendments included in the attached draft ordinance. The proposed changes, if approved, will still only allow one (1) small structure to be installed on a residential lot without building permits. The suggested standards are intended to expand options for the placement of portable storage sheds on residential lots, but also help prevent the overcrowding of lots with buildings, and help ensure adequate access for emergency personnel.

OPTIONS (In Suggested Order of Staff Preference):

1. approve ordinance;
2. approve ordinance with modifications (which may require City Council consideration at a future City Council meeting); or
3. do not approve this ordinance at this time.

ATTACHMENTS:

1. draft ordinance;

FUNDING SOURCE: N/A

APPROVALS: Kevin Russell, 7-25-14; Hugh R. Walker, 07/30/2014

APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton 08-04-2014

APPROVED FOR SUBMITTAL: CITY MANAGER

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 14, BUILDING AND BUILDING REGULATIONS, BY AMENDING ARTICLE III, RESIDENTIAL CONSTRUCTION STANDARDS, SUBSECTION 14-17, AMENDMENTS TO CODE, BY MODIFYING PROVISIONS FOR THE PLACEMENT OF SINGLE-STORY DETACHED ACCESSORY STRUCTURES WITH A FLOOR AREA OF UP TO 120 SQUARE FEET ON RESIDENTIAL LOTS; 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, the City of Bryan adopted the 2009 Edition of the International Residential Code, published by the International Code Council; and

WHEREAS, Section R105.2 of said Code exempts certain buildings from requiring permits; and

WHEREAS, the City Council adopted an amendment to said Section R105.2 with the adoption of Bryan City Council Ordinance No. 1915, approved on May 24, 2011; and

WHEREAS, it is the desire of the City Council of the City of Bryan to change the previously-approved amendment to said Section 105.2, by modifying provisions for the placement of single-story detached accessory structures with a floor area of up to 120 square on residential lots;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF 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 14, Building and Building Regulation, Article III, Residential Construction Standards, Subsection 14-17, Amendments to Code, is hereby amended to read as follows:

Chapter 14. Buildings and Building Regulations

Article III. Residential Construction Standards

Subsection 14-17. Amendments to Code

The following sections of the Residential Code are hereby amended:

Section R102.4 (Referenced codes and standards) is amended by adding the following to said section: Any reference to the ICC Electrical Code shall mean the National Electrical Code, as adopted and amended by the city.

Section 102.7 (Existing structures) is amended by deleting the reference to the "International Property Maintenance Code" and replacing with the "City of Bryan Code of Ordinances."

Section 103 (Department of Building Safety) is amended by deleting "Department of Building Safety" and replacing "Building Services Division of the Development Services Department".

Section R104.10 (Modifications) is amended by deleting the last sentence and replacing with: The details of action granting modifications shall be recorded and entered in the files of the Building Services Division.

Section R105.2 (Work exempt from permit) is amended by deleting number one under "Building" and replacing with the following:

1.

One single-story detached accessory structure per residential lot, provided the floor area does not exceed 120 square feet and the structure complies with all of the following:

- a. The accessory structure is not located in any public utility easement and/or surface drainage easements.
- b. The accessory structure is not permanently affixed to the ground.
- c. The accessory structure is not provided with utilities (sewer, water, gas or electricity).
- d. Any such accessory structure that is proposed to be located within 7.5 feet of a principal building shall be considered integral to the principal building, and shall meet the same minimum building setback requirements as the principal building.
- e. Any such accessory structure that is proposed to be located 7.5 feet or more from a principal building on a lot shall be allowed to extend into the minimum required side or rear yards, and no minimum building setback from side or rear lot lines shall be required, so long as the structure will also not be located closer than 7.5 feet to any principal building on an adjoining lot,
- f. Under no circumstance shall any such accessory structure be located in front of the principal structure on a lot, or within the minimum required front yard.
- g. Any such accessory structure shall be taken into consideration when calculating the allowable cumulative square footage for accessory structures on a single property.

- h. If more than one such accessory structure is proposed to be installed on a lot, then any such additional structure must comply with applicable building setback requirements and shall require a building permit prior to installation.

Section R105.2 (Work exempt from permit) is amended by adding the following under "Building":
10.

Uncovered decks not more than 30 inches above adjacent grade.

Section R105 (Permits) is amended by adding section R105.2.4 to read as follows:

R105.2.4 Homeowner permit. A property owner shall obtain a building permit to perform work on a building owned and occupied by the owner as his or her homestead without registering with the city as a contractor. On all new residential construction, electrical, plumbing and mechanical systems must be permitted and installed by licensed contractors.

Section R108.3 (Building permit valuations) is amended by adding the following to said section: If, in the opinion of the chief building official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the chief building official. Final permit valuation shall be set by the chief building official.

Section R108.5 (Refunds) is amended by deleting the text in said section and replacing it with the following: The city manager or his or her designee is authorized to establish a refund policy.

Section 108.6 (Work commencing before permit issuance) is amended by deleting said section and replacing with the following: Any person who commences any work on a building or structure before obtaining the necessary permits shall be subject to a penalty of two times the usual fee.

Section R110.3 (Certificate issued) is amended by deleting items 4, 5, 7, 10, and 11.

Section R113.4 (Violation penalties) is amended to read as follows: Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters or repairs a building or structure in violation of the approved construction documents or directive of the chief building official, or of a permit or certificate issued under the provision of this code, shall be subject to penalties as prescribed by Section 1-14 of the Bryan Code.

Section R202 (Definitions) is amended by adding the following definition:

Maintenance easement. A maintenance easement shall be dedicated between the two property owners to allow for maintenance or repair of the house built on the lot line. The easement shall be located on the adjacent property abutting the sidewall and must be a minimum of 7½ feet in width. Required maintenance easements shall be shown on the recorded plat.

Section R202 (Definitions) is amended by deleting the definition of "Townhouse" in its entirety and replacing it with the following:

Townhouse. A single-family dwelling unit constructed in a group of attached units separated by property lines in which each unit extends a common wall from foundation to roof and with open space on at least two sides.

Section R302.1 (Exterior walls) is amended by deleting the existing text and replacing it with the following:

R302.1 Exterior walls. Exterior walls with a fire separation distance less than three feet shall have not less than a one-hour fire-resistive rating with exposure from both sides. The above provisions shall not apply to walls which are perpendicular to the line used to determine the fire separation distance.

Exception: Tool and storage sheds, playhouses and similar structures exempted from permits by section R105.2 are not required to provide wall protection based on location on the lot.

Projections. Projections may extend beyond the exterior wall on zero lot line construction. Projections shall be constructed from noncombustible material on the underside and may allow manufactured perforated soffit material installed for attic ventilation. The soffit may project a maximum of 18 inches, excluding noncombustible gutters, over the adjacent property line.

Exception: Tool and storage sheds, playhouses and similar structures exempted from permits by section R105.2 shall not extend over the lot line in zero lot line construction.

Combustibles in maintenance easement. The construction of any structure utilizing combustible material or the storage of combustible material is prohibited within the maintenance easement. The term "maintenance easement" is defined in amendments to Section R202.

Exception: A wood fence may be installed in the maintenance easement.

Section 302.2 (Townhouses) is amended by deleting the said section and replacing with the following: "Each townhouse shall be considered a separate building and shall be separated by a UL rated two hour fire wall". The exception is amended by adding the following sentence at the beginning of the exception: "When all townhouses are fire sprinklered throughout:" Reason: The exception reduced the fire separation between units from 2-hour to 1-hour under the assumption that townhouses would be sprinklered in accordance with a later code section.

Section R305.5 (Separation required) is amended by adding the following exception: Exception: One unprotected attic access opening, not exceeding 30 inches by 54 inches in size, is allowed per garage.

Section R311.5.6.2 (Continuity) is amended by deleting the following text in said section: Handrail ends shall be returned or shall terminate in newel posts or safety terminals.

Section R313 (Automatic Sprinkler Systems) is amended by deleting the section in its entirety.

Section R318.2 (Chemical Termiticide treatment) is amended by adding the following to the end of said section: The method of application and contractor hired to apply the chemicals shall

submit to the Building Department when applying for the Building Permit, and verification of the application turned in prior to issuance of the Certificate of Occupancy.

Section R319.1 (Premises identification) is amended by deleting the existing text in its entirety and replacing it with the following: Premises identification shall comply with Section 501.2, International Building Code, as amended.

Section 322.1 (General) is amended by adding the following to the last sentence: and with chapter 46.

Section 322.2.1 (Elevation requirements) is amended by deleting the existing text, save the exception, and replacing it with the following:

1.

Buildings and structures shall have the lowest floors elevated in accordance with chapter 46.

2.

In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated above the highest adjacent grade as the depth number specified in feet on the flood insurance rate maps, or at least two feet if a depth number is not specified, plus the additional footage requirements in chapter 46.

3.

Basement floors that are below grade on all sides shall be elevated in accordance with chapter 46.

4.

Equipment and appliances located on property with 100 year flood plain limits and where a City Development Permit and/or Elevation Certificates are required shall be elevated one foot minimum above the base flood elevation as established by the city. All installations of appliances, systems, and equipment in flood hazard areas shall comply with flood-resistant construction requirements of the International Building Code.

Section R403.1.3.2 (Slabs-on-ground with turned-down footings) is amended by deleting the section in its entirety and replacing it with the following: All slabs-on-grade with turned-down footings shall comply with the minimum foundation standard outlined in section 1910.2, 2009 International Building Code, as amended.

Chapter 11 (Energy Efficiency) is amended by deleting this chapter in its entirety and replacing it with the following: One and two family dwellings shall comply with the 2009 adopted International Energy Conservation Code as amended.

Section M1305.1.3 (Appliances in attics) is amended by adding exception number 2 to read as follows:

Exception: Where the passageway is not less than six feet high for its entire length, the passageway shall be not greater than 50 feet in length.

Section M1305.1.4.1 (Ground clearance) is amended by replacing "six inches (152 mm)" with "three inches" and adding the following sentence to end of said section: "See amended section R322.2.1 for flood hazard areas".

Section M1411.3 (Condensate disposal) is amended by deleting the existing text and replacing with the following:

Condensate from all cooling coils or evaporators shall be conveyed from the drain pan outlet to the sanitary sewer system, if available. The condensate drain shall be connected to the sanitary sewer system in a manner approved by the code official.

Exception: When a sanitary sewer system is not available on the premises, or connection thereto is not practical, the condensate shall discharge into an approved place of disposal per city policy.

Section M1501.1 (Outdoor discharge) is amended by deleting the last sentence in said section.

Section M1503.1 (General) is amended by adding the following sentence to beginning of said section: Range hoods are required over all residential ranges or cook tops where combustibles are 30" or less from cooktop.

Section G2414.4.2 (Steel) is amended by adding: galvanized pipe shall not be used.

Section G2417.1.2 (Repairs and additions) is amended by deleting the existing text in its entirety and replacing it with the following: In the event repairs or additions are made after the pressure test, the affected piping shall be tested. If approved by the code official, minor repairs and additions are not required to be pressure tested provided the work is inspected and connections are tested with a noncorrosive leak detecting fluid or other leak detecting methods.

Section G2417.4 (Test pressure measurement) is amended by deleting the existing text in its entirety and replacing it with the following: Test pressure measurement shall comply with section 406.4, 2009 International Fuel Gas Code, as amended.

Section G2417.4.1 (Test pressure) is amended by deleting the existing text in its entirety and replacing it with the following: Test pressure shall comply with section 406.4.1, 2009 International Fuel Gas Code, as amended.

Section P2503.8 (Inspection and testing of backflow prevention devices) is amended by deleting the section in its entirety and replacing with the following: Inspection and testing of backflow prevention devices shall comply with section 312.10, 2009 International Plumbing Code, as amended.

Section P2803.6.1 (Requirements for discharge pipe) is amended by deleting number five and replacing it with the following: Discharge to an indirect waste receptor or the outdoors.

Section P2902.5.3 "Lawn irrigation system" is amended by deleting and adding Requirements for lawn irrigation systems as established in Appendix H of Article V, Chapter 14, of the City of Bryan Code of Ordinances.

Table P2905.4 (Water service pipe) is amended by deleting the following materials:

Acrylonitrile butadiene styrene (ABS) plastic pipe;

Asbestos-cement pipe;

Polybutylene (PB) plastic pipe and tubing;

Polyethylene (PE) plastic pipe;

Polyethylene (PE) plastic tubing;

Polyethylene/aluminum/polyethylene (PE-AL-PE) pipe.

Section P2905.5 (Water distribution pipe) is amended by deleting the reference to "Polybutylene (PB) plastic pipe and tubing; Polyethylene/aluminum/polyethylene (PE-AL-PE) composite pipe".

Section P2904.5.1 (Under concrete slabs) is amended by deleting the existing text and replacing it with the following: Inaccessible water distribution piping under slabs shall be copper (minimum type K), cross-linked polyethylene (PEX) tubing, or cross-linked polyethylene/aluminum/cross-linked polyethylene (PEX-AL-PEX) pipe, all installed without joints or connections. All water pipe under the slab shall be sleeved continuous with a material that has a 0.025 inch wall thickness.

Section P2905 is amended by adding the following section after P2905.5:

P2905.5.2 (Sleeved cross-link polyethylene piping or tubing) When a sleeve is provided for cross-linked polyethylene(PEX) plastic piping or tubing installed under concrete slabs the annular space between the piping or tubing and the sleeve must be caulked, foamed, or otherwise sealed to prevent the entrance of termiticide.

Section P3002.2. (Building sewer) is amended by adding P3002.2.1 to read as follows:

P3002.2.1 Depth of building sewer. Building sewer pipe shall be installed with a minimum of 12 inches of cover. Where conditions prohibit the required amount of cover, cast iron pipe with approved joints may be used unless other means of protecting the pipe is provided as approved by the chief building official.

Section P3002 (Materials) is amended by adding the following section:

3002.2.1.2 Acrylonitrile butadiene styrene (ABS) plastic pipe. The reference use of Acrylonitrile butadiene styrene (ABS) plastic pipe in chapter 30 is by special permission only by the chief building official or plumbing official.

Section P3005.2.7 (Building drain and building sewer junction) is amended by deleting the sentence, "The cleanout shall be either inside or outside the building wall and shall be brought up to the finished ground level or to the basement floor level," and replace it with the following: "The cleanout shall be located outside within five feet of the building wall and shall be brought up to the finished ground level."

Section P3102.1 (Required vent extension) is amended by adding the following sentence: The vent to the open air shall be a minimum of three inches in size.

Section E3401.1 (Applicability) is amended by deleting the section in its entirety and replacing with the following: Electrical installations shall comply with the National Electrical Code, as adopted and amended by the city.

Section AE101.1 (General) is amended by adding number 4 to read as follows:

4.

Installation of homes - Prior to used or pre-owned manufactured homes being located in the city, a pre-inspection by the city or an approved licensed or certified third party inspector is required. Homes in poor condition or not meeting definition of Habitability per state definition will not be allowed to be located in the city. Date of manufacture of home allowed per City of Bryan Code of Ordinances.

Section AE101.1 (General) is amended by deleting the text in the Exception and replacing with: Manufactured homes placed on property with Floodplain limits to comply with Chapter 46 of City of Bryan Code of Ordinances.

Section AE102.2 (Additions, alterations or repairs) is amended by adding number 4 to read as follows:

4.

Alterations to a manufactured home to allow access or opening in an original exterior wall to an addition needs to be designed by a licensed design professional and submitted with the permit application.

Section AE102.2 (Additions, alterations or repairs) is amended by amending the Exception to read as follows:

A structural separation need not be provided when structural plans and details are submitted by a licensed design professional to justify the omission of such separation.

Section AE201 (Definitions) is amended by adding the following definition: Licensed design professional. An architect or engineer licensed to practice in State of Texas.

Section AE201 (Definitions) is amended by revising the definition of "Manufactured Home" and replace with "as per defined in Chapter 130 Bryan Code of Ordinances."

Section AE303.4 (Expiration) is amended by replacing "180 days" with "90 Days".

Section AE304 (Fees) is amended by deleting the section and replacing with: Permit Fees, courtesy inspections, and refunds will be required as per adopted Resolution and as adopted by Bryan City Council.

Section AE502 (Foundation Systems) is amended by deleting the section and replacing with the following: Installation of Manufactured homes to comply with State of Texas and Federal requirements and the manufacturer's installation instructions. Manufactured homes located in the flood hazard areas or with any part of the structure higher than 48" off ground (from ground to lowest finished floor) shall have foundations designed by a licensed design professional.

Section AE504 (Structural Additions) is amended to read: Accessory structures shall not be structurally supported by or attached to a manufactured home unless plans and details are submitted by a licensed design professional.

Section AE505 (Building Service Equipment) is amended by deleting the section and replacing with: The installation, alteration, repair, replacement, addition to or maintenance of Building Service Equipment within the manufactured home shall comply with state and federal standards.

Such work located outside the manufactured home shall comply with state requirements and codes adopted by the city. Permits are required per codes adopted by the city.

Section AE506.1 (Site Development) is amended by deleting the section and replacing with the: All exterior doors from a manufactured home shall have landings, guards, handrails, steps, ramps, and egress to public way per requirements of city adopted codes.

Section AE507.1 (General) is amended by deleting "set forth in the Manufactured Home Standards" and replacing with "as required per city adopted codes and NFPA Life Safety Code".

3.

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

4.

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.

5.

Should 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.

6.

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.

7.

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.

8.

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.

9.

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 _____.

PRESENTED AND GIVEN first reading the 12th day of August, 2014, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 26th day of August, 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

Jason P. Bienski, Mayor

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney