

ACTION FORM BRYAN CITY COUNCIL

DATE OF COUNCIL MEETING: July 28, 2015		DATE SUBMITTED: July 10, 2015	
DEPARTMENT OF ORIGIN: Water Services		SUBMITTED BY: M. Jurica	
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 type="checkbox"/> CONSENT	<input checked="" type="checkbox"/> 2ND READING	<input checked="" type="checkbox"/> SERVICE
<input checked="" type="checkbox"/> REGULAR	<input checked="" 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: Consider approving a proposed ordinance change to Chapter 50 "Health and Sanitation" of the City of Bryan Code of Ordinances by amending Section 50-90(b).			
SUMMARY STATEMENT: Water Services respectfully requests the City Council approve amendment of Section 50-90(b) of the Bryan Code of Ordinances which provides exemptions for enforcement of weeds and grass violations. Currently, "grazing areas" with no criteria of area is listed as an exemption for enforcement for weeds and grass violations. Staff recommends that grazing areas be exempted from enforcement when performed on individual parcels measuring a total area of one (1) acre or larger. This change will prevent property owners from placing livestock (goats, horses, cattle, etc.) on property for grazing instead of mowing.			
Placement of livestock on property for grazing prevents staff's ability to enforce weed and grass violations. This practice tends to occur with the animal being tied to a fixed object (tree, post, etc.) on vacant properties located in areas without an HOA or other binding covenants to prevent such action. Hardship is placed on Code Enforcement and Animal Control to ensure requirements of the City's Health and Sanitation Code and Animal Code are met.			
Adopting staff's recommended change to Section 50-90(b) will provide staff with the ability to uphold standards for abatement of weeds and grass on properties which are less than one (1) acre and typically not intended and/or located for agriculture grazing.			
STAFF ANALYSIS AND RECOMMENDATION: Water Services respectfully requests City Council approval of the recommended changes to Chapter 50 "Health and Sanitation". Approval of the proposed changes will improve neighborhood integrity and community aesthetics relating to weeds and grass violations.			
OPTIONS (In Suggested Order of Staff Preference):			
1. Approve proposed ordinance change			
2. Do not approve the proposed ordinance change and provide alternative direction			
ATTACHMENTS: Proposed Ordinance Amendment			
FUNDING SOURCE: N/A			
APPROVALS: Jayson E. Barfknecht 07/13/15			
APPROVED FOR SUBMITTAL: CITY MANAGER Kean Register, 7-10-2015			
APPROVED FOR SUBMITTAL: CITY ATTORNEY Janis K. Hampton, 07-13-2015			

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING SECTION 50-90 OF CHAPTER 50, NUISANCES, ARTICLE IV OF THE CITY OF BRYAN CODE OF ORDINANCES, AMENDING EXEMPTION REQUIREMENTS FOR WEEDS AND GRASS; FINDING AND DETERMINING THAT THE MEETINGS AT WHICH THIS ORDINANCE WAS CONSIDERED WERE OPEN TO THE PUBLIC AS REQUIRED BY LAW; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, weeds and grass, or other uncultivated plants on a premise exceeding 12 inches in height have the ability to harbor rodents, create a fire hazard, and is declared a public nuisance; and

WHEREAS, grazing of livestock in a defense to a property owner's abatement of weeds and grass from his property; and

WHEREAS, clarifying the use of grazing on a property will compliment community aesthetics while ensuring property owners employ necessary action to abate high weeds and grass from their property.

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

Section 1.

That Chapter 50, Nuisances, Article IV, Health and Sanitation, Section 50-90(b) of the Bryan Code of Ordinances is hereby amended as follows:

“Sec. 50-90. Same – Weeds and grass.

- (a) *Height limit.* It shall be unlawful and a violation of this Code for any person, firm, corporation, partnership, association of persons, owner, agent, occupant or anyone having supervision or control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to suffer or permit grass, weeds or brush that is uncultivated to grow to a greater height than 12 inches on any lot, tract or parcel of land within the corporate limits of the city.
- (b) *Exemptions.* Exempted from the weed provisions of this section are the following:
 - (1) State highway rights-of-way;
 - (2) Actively utilized crop production ~~and/or grazing areas~~;
 - (3) ~~Actively used~~ grazing areas where each parcel shall measure a total area of one (1) acre or larger;
 - ~~(3)~~(4) Heavily wooded areas filled with uncultivated underbrush;
 - ~~(4)~~(5) The cultivation of concentrated wildflowers from March 1 until June 15 of each year in areas where grasses and weeds do not exceed 18 inches in height.

Section 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.

Section 3.

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

Section 4.

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.

Section 5.

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.

Section 6.

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.

Section 7.

This ordinance shall become effective after its second and final reading.

PRESENTED AND GIVEN first reading the 28th day of July, 2015, at a regular meeting of the City Council of the City of Bryan, Texas; and given second reading, **PASSED AND APPROVED** on the 4th day of August, 2015, 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

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WHEREAS, weeds and grass, or other uncultivated plants on a premise exceeding 12 inches in height have the ability to harbor rodents, create a fire hazard, and is declared a public nuisance; and

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 - (3) Actively used grazing areas where each parcel shall measure a total area of one (1) acre or larger;
 - (4) Heavily wooded areas filled with uncultivated underbrush;
 - (5) The cultivation of concentrated wildflowers from March 1 until June 15 of each year in areas where grasses and weeds do not exceed 18 inches in height.
- (c) *Penalty.* Violations of this section may be fined up to \$2,000, as outlined in Sec. 50-95 of this chapter, and violations may be cited per day, per violation.

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