

Agenda Item Details

Meeting	Jul 09, 2019 - Bryan City Council Second Regular Meeting
Category	5. Statutory (Automatic Approval) Agenda - This agenda consists of items previously approved by Council action such as adoption of items that are part of an approved budget or capital improvement projects, first and only readings of ordinances, interlocal agreements, or action that is required by law or delegated to the City Manager. Items may be removed from the statutory agenda for separate consideration at the request of two Councilmembers.
Subject	H. First and only reading of an ordinance of the City of Bryan, Texas, amending Chapter 50 "Health and Sanitation," Article IV "Nuisances," Division 3 "Smoking" of the Bryan City Code
Type	Action (Statutory)
Preferred Date	Jul 09, 2019
Absolute Date	Aug 20, 2019
Fiscal Impact	No
Budget Source	na
Goals	Quality of Life

Summary:

On May 14, 2019, the City Council approved Ordinance No. 2351, which amended Chapter 50 "Health and Sanitation," Article IV "Nuisances," Division 3 "Smoking" of the Bryan City Code. While not identical, Ordinance No. 2351 introduced smoking revisions that enable ordinances in the cities of Bryan and College Station to more closely parallel one another.

Upon unanimously approving Ordinance No. 2351, the City Council directed staff to bring the ordinance back for review after the end of the 86th Session of the Texas Legislature to ensure it is compatible with any new State laws.

On February 25, 2019, Senate Bill (SB) 21 was filed during the 86th Texas Legislative Session. Per a state analysis of SB21, the bill "seeks to raise the minimum legal age (MLA) of purchase for cigarettes, e-cigarettes, and tobacco products from 18 years of age to 21. Raising the MLA to 21 for this offense would help keep cigarettes, e-cigarettes, and tobacco products out of Texas public schools by creating more "social distance" between younger high school students and of-age purchasers. By raising the age, S.B. 21 seeks to reduce early addiction to tobacco and nicotine products." On June 7, 2019, the Governor signed the bill, which is effective September 1, 2019.

The proposed ordinance removes Section 50-153 (Electronic cigarettes); this section specifically addresses minors who may not possess and use electronic cigarettes (a.k.a., e-cigarettes), and the solicitation or sale of electronic cigarettes to minors. For consistency, the proposed ordinance changes the definition of "Minor" in Section 50-147 (Definitions) such that the legal age of a minor within this section of the Code of Ordinances is revised from 18 years of age to 21 years of age. Additionally, the proposed ordinance revises Section 50-148(b)(5) (Smoking prohibited in public places) to reflect the change from 18 to 21 years of age for entry into a bingo hall.

Staff Analysis and Recommendation:

Since the 86th Legislature passed and the Governor signed SB21 into law (effective September 1, 2019), staff recommends removing Section 50-153 of the City's Code of Ordinances, as the existing Bryan City Code is in conflict with the new State statute. Additionally and for consistency, the proposed ordinance revises the definition of a "minor" in Section 50-147 by changing the age of a minor, for this specific Section of the City's Code of Ordinances, from the age of 18 years to 21 years, and revises Section 50-148(b)(5) to reflect the age change from 18 to 21 years for entry into a bingo hall.

SB21 includes certain exceptions to the 21 years of age requirement, including but not limited to an individual who is required in the performance of the employee's duties as an employee, and/or being part of an inspection or test of compliance in accordance with Section 161.088 (Enforcement; Unannounced Inspections), and/or the individual is at least 18 years of age and presents a valid military identification card of the United States military forces or state military forces.

In summary, the proposed ordinance reflects the change in State law as provided by SB21 by revising the change in age from 18 to 21 years, with a few specific listed exceptions. The proposed ordinance's effective date is September 1, 2019, which coincides with SB21.

City staff recommends approving the proposed ordinance. If the City Council does not approve the proposed ordinance, the Bryan City Code will be in conflict with State statute.

Options:

1. Approve the proposed ordinance
2. Do not approve the proposed ordinance
3. Revise the proposed ordinance and then approve, which may require consideration at a future City Council meeting
4. Other

Attachment:

1. Redline version of the proposed ordinance
2. Clean version of the proposed ordinance
3. Ordinance No. 2351
4. Code of Ordinance prior to May 14, 2019 (for the cities of Bryan and College Station)
5. Senate Bill 21 and related State analysis

[Smoking_Ordinance Redline 07112019.pdf \(169 KB\)](#)

[Smoking_Ordinance_Clean_07112019.pdf \(166 KB\)](#)

[Ordinance 2351 - 05_14_2019.pdf \(215 KB\)](#)

[Pre05142019_COB_COCS_SmokingOrdinances.pdf \(236 KB\)](#)

[SB21.pdf \(74 KB\)](#)