

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

**AN ORDINANCE OF THE CITY OF BRYAN, TEXAS, AMENDING CHAPTER 130, ZONING, SPECIFICALLY TO REMOVE ADULT ENTERTAINMENT AS A PERMITTED USE WITHIN INDUSTRIAL DISTRICT (I) AND INCLUDE ADULT ENTERTAINMENT AS A CONDITIONAL USE WITHIN INDUSTRIAL DISTRICT (I); REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Bryan has adopted Chapter 130, Zoning, of the City of Bryan Code of Ordinances, as amended, which divides the City of Bryan into various zoning districts; and

**WHEREAS**, the City Council recognizes the need from time to time to amend these regulations to clarify and/or update requirements and better reflect the values of the community; and

**WHEREAS**, the Bryan Planning and Zoning Commission, during its meeting on August 5, 2021, recommended approval of an amendment to Sections 130-23(b) and 130-23(c) of Chapter 130, Zoning, to remove “adult entertainment” as a permitted use within the Industrial District (I) and include “adult entertainment” as a conditional use within the Industrial District (I).

**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 Bryan Code of Ordinances, Chapter 130, Zoning, Section 130-23(b), Industrial District (I), is hereby amended, by removing “adult entertainment” from the list of permitted uses, as follows:

**Sec. 130-23. – I, industrial district.**

1. *Permitted uses.*

- ~~Adult entertainment;~~

3.

That Bryan Code of Ordinances, Chapter 130, Zoning, Section 130-23(c), Industrial District (I), is hereby amended, by adding “adult entertainment” to the list of conditional uses, as follows:

(c) *Conditional uses.*

- Adult entertainment;

4.

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

5.

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.

6.

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.

7.

That it is hereby found and determined that the meeting at which this ordinance was passed was 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 meeting was given.

8.

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

9.

That this ordinance shall take effect immediately upon its first and only reading and passage.

**PASSED, ADOPTED and APPROVED** the 14<sup>th</sup> day of September 2021, at a regular meeting of the City Council of the City of Bryan, Texas, by a vote of \_\_\_ yeses and \_\_\_ noes.

**ATTEST:**

**CITY OF BRYAN:**

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

\_\_\_\_\_  
Andrew Nelson, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Thomas A. Leeper, Interim City Attorney

**EXCERPT FROM PLANNING AND ZONING COMMISSION WORKSHOP MEETING MINUTES OF OCTOBER 15, 2020:**

**3. PRESENTATIONS.**

**a. Staff presentation and discussion regarding adult entertainment use in the Industrial District.**

Ms. Hackett gave a presentation regarding changing “adult entertainment” from a permitted use to a conditional use in the Industrial District (I). Commissioners directed questions to staff.

Without objection, Commissioners directed staff to continue research of this topic and prepare a text amendment for consideration at a future meeting of the Commission.

**EXCERPT FROM PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES OF AUGUST 5, 2021:**

**6. 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. Bryan Code of Ordinances, Zoning Ordinance Section 130-23- I, Industrial District**

*A proposal to amend the text of Bryan Code of Ordinances to amend Zoning Ordinance Section 130-23 -I, Industrial District, specifically to remove “adult entertainment” as a permitted use and include it as a conditional use. (K. Williams)*

Ms. Williams presented the proposed amendments to the text of the Bryan Code of Ordinances. Staff recommends approval of these amendments.

The public hearing was opened. No one came forward.

The public hearing was closed.

**Commissioner Bush moved to recommend approval of the proposed text amendments to the Bryan Code of Ordinances, as presented, to the Bryan City Council. Commissioner Conlee seconded the motion.**

Commissioners commented that a previous staff presentation answered their questions regarding the topic.

**The motion passed unanimously.**

# Memorandum

To: Planning and Zoning Commission  
From: Katie Williams, AICP, Project Planner  
Date: August 5, 2021  
Re: proposed amendment to Bryan Code of Ordinances Chapter 130, Zoning, regarding adult entertainment use in the Industrial District (I).

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## BACKGROUND AND ANALYSIS:

“Adult entertainment” is defined in Chapter 130, Zoning, of the Bryan Code of Ordinances, as “a group of land uses involved in providing entertainment or amusement to a person or persons, such a type of land use being an adult arcade, adult bookstore, adult cabaret, adult escort agency, adult massage establishment, adult motel, adult movie theater, adult novelty store, adult service establishment, adult video store, sex parlor, sexual encounter center, nude modeling studio, or other adult entertainment uses.”

Currently, this use is only allowed in Bryan on properties zoned Industrial District (I). Staff proposes that “adult entertainment” be changed from a permitted use to a conditional use in the Industrial District.

The potential adverse impacts of adult entertainment uses are well documented, and are detailed in Bryan Code of Ordinances Sec. 130-34(c). Specifically, the City Council has found that “the unrestricted operation of certain sexually oriented businesses may be detrimental to the public health, safety, and welfare by contributing to the decline of residential and business neighborhoods and the growth of criminal activity.” Limiting adult entertainment uses to the I District helps protect residential and commercial areas from negative impacts, but staff contends that the conditional use permit (CUP) process would provide an additional level of review and discretion to reduce harmful impacts and promote appropriate land use.

The conditional use permit process is intended to identify uses that might be appropriate within a zoning district, but due to either their location, function, or operation, could have a potentially harmful impact on adjacent properties or the surrounding area. CUPs require a public hearing and approval from the Planning and Zoning Commission, and allow specific conditions or restrictions to be added to that approval. This additional level of review and control helps mitigate any adverse impacts that may be associated with a specific land use.

In addition, land that is rezoned for industrial use in Bryan is often zoned Planned Development – Industrial District (PD-I), rather than the standard I District. PD-I District zoning allows all land uses permitted in the I District with the exception of adult entertainment. PD Districts are typically reserved

for new or innovative concepts in land utilization not permitted by other standard zoning districts, and creating numerous PD Districts that differ only slightly from standard zoning districts contributes to an unstable regulatory environment. Staff contends that designating adult entertainment as a conditional use in the I District, rather than a use permitted by right, would provide a reasonable alternative to PD-I District zoning. The CUP process provides an opportunity to review each proposal for adult entertainment use individually to ensure negative impacts are mitigated, while still allowing a reasonable path for approval of these requests on property zoned Industrial District (I) where appropriate.

**RECOMMENDATION:**

Staff recommends **approving** the proposed changes to the text of Bryan’s Zoning Ordinance, specifically Sections 130-23(b) and 130-23(c), to designate “adult entertainment” as a conditional use in the Industrial District.

**Sec. 130-23. – I, industrial district.**

4. *Permitted uses.*

- Accessory/incidental uses to the main use;
- ~~Adult entertainment;~~
- Airport/airfield (public or private);
- Antenna, commercial;
- Automobile repair;
- Auto sales/rental/service;
- Boat sales/rental/service;
- Building materials/hardware;
- Bus terminal/station;
- Cabinet shop;
- Cemetery;
- City of Bryan Fire Department Training Tower;
- Commercial amusement (indoor);
- Commercial bakery;
- Commercial laundries;
- Concrete or asphalt batching plant;
- Essential municipal uses;
- Fabrication;
- Farm equipment sales and service;
- Feed store;
- Flea market;
- Gaming establishments;
- Government (federal or state) owned structures, facilities, and uses;
- Heating and air conditioning sales and service;
- Ice company—Sales;
- Ice company—Wholesale;
- Incidental living quarters;
- Indoor archery or shooting range;
- Landscape service;
- Lumberyard;
- Machine shop;

- Manufacturing;
- Mini-warehouse/self-storage;
- Motorcycle sales/rental/service;
- Moving company;
- Nightclub/tavern;
- Office—Showroom/warehouse;
- Oil and gas well operations;
- Oil field equipment industrial outdoor storage yard;
- Industrial outdoor storage of materials and goods;
- Overnight delivery company;
- Paper/chemical suppliers;
- Place of worship;
- Plumbing shop;
- Power plants;
- Printing company;
- Public utility company with industrial outdoor storage;
- Recycling centers;
- Recycling collection point;
- Recreational/community center;
- Refuse systems;
- Restaurant;
- Roofing and siding company;
- Service facilities owned and operated by other municipalities;
- Service operations;
- Soil, crushed rock, gravel sales and industrial outdoor storage;
- Tattoo/piercing studio (see section 130-34(n));
- Temporary structures for uses incidental to construction work on the premises, which said buildings shall be removed upon the completion or abandonment of construction work;
- Tool and machinery rental;
- Trailer rental;
- Truck rental;
- Truck repair/truck stop;
- Trucking company;
- Veterinary services with outdoor pens and runs;
- Warehousing;
- Well service operations;
- Wholesale operations;
- Wrecking yards (junkyards).

(c) *Conditional uses.*

- Adult entertainment;
- Commercial amusement (outdoor);
- Heliport/helistop;
- Municipal services support facilities;
- Recovery facility