

## Agenda Item Details

Meeting	Dec 14, 2021 - Bryan City Council Second Regular Meeting
Category	5. Public Hearings and First and Only Readings of Ordinances - Open public hearing, hear citizen comments, close public hearing, staff presentation, and consider first and only reading of ordinance.
Subject	A. Public hearing, presentation, and consideration of the first and only reading of an ordinance of the City of Bryan, Texas, to amend the text of City of Bryan Code of Ordinances, Chapter 62, Land and Site Development, regarding minimum side and rear building setback requirements
Type	Action
Preferred Date	Dec 14, 2021
Absolute Date	Dec 14, 2021
Fiscal Impact	No
Budgeted	No
Recommended Action	Open public hearing, hear citizen comments, close public hearing. Motion to approve the first and only reading of an ordinance to amend the text of Bryan Code of Ordinances Chapter 62, Land and Site Development, regarding minimum side and rear building setback requirements.
Goals	Quality of Life Economic Development

### Summary:

Minimum building setbacks, like all development regulations, are intended to help promote public health, safety, and orderly development. By limiting the location of buildings on a lot, setbacks help preserve open space for light and air circulation, provide area for landscaping and recreation, promote privacy, mitigate noise and odor pollution, reduce fire danger, and create uniform development. Setbacks also provide room for emergency access between structures and space for utility access and building maintenance.

In Bryan, minimum side and rear building setbacks were designated as 5-feet as early as 1967, when the Subdivision Control Ordinance was enacted. This setback was measured as the distance between the property line and any portion of a building. Several plats recorded prior to 1967 also note 5-foot side and rear building setbacks. In March 1998, the Bryan City Council voted to increase side and rear building setbacks from 5 feet to 7.5 feet in an effort to align with development requirements in College Station and help spur residential

development in Bryan. This 7.5-foot minimum side and rear building setback remains in effect today for most standard zoning districts, and is measured as the distance from the property line to the outside wall of a structure. Roof overhangs may extend up to 18 inches into the setback.

In 2000, shortly after the adoption of 7.5-foot setbacks, Bryan adopted a local amendment to its building code that removed reference to a table that listed specific fire-resistance ratings for exterior walls and projections, thereby eliminating the requirement for portions of a structure located within 5 feet of an adjacent property line to be fire-resistance rated. With 7.5-foot minimum building setbacks in place, in theory this amendment should not lead to major concerns, as buildings or roof overhangs would not be allowed within 5-feet of an adjacent property line.

However, since the adoption of 7.5-foot setbacks, the City has received numerous requests for development with 5-foot setbacks measured to the slab or outside wall of a building. Nearly all of these requests have been approved, either through Planned Development District (PD) zoning or with individual planning variances. In these situations, the amendment to the building code adopted in 2000 created fire safety concerns, as the City was no longer able to require proper fire rating for development with reduced setbacks.

In June 2013, after approval of a Planned Development rezoning request, which included 5-foot setbacks, the Planning and Zoning Commission formed a subcommittee to consider reducing minimum setback requirements from 7.5 feet to 5 feet citywide. The subcommittee made the following findings and recommendations, which were adopted as a resolution of the Planning and Zoning Commission on March 6, 2014:

#### Subcommittee Findings:

- The amendment to the building code adopted in 2000 renders Bryan's current building code unable to mandate the proper design and construction techniques that would help prevent undesirable or unsafe conditions when development is allowed with reduced side setbacks.
- More information should be required when considering the reduction of side setbacks. For example, applicants should be required to submit specific information showing how physical conditions could be mitigated to avoid compromise to public safety as the result of the revised standard.
- It is unlikely that failure to accept reduced building setback standards will decrease the availability of adequate housing or place the development community in a position of competitive disadvantage.

#### Subcommittee Recommendations:

- No changes be made to the 7.5-foot side building setback standard.
- The exception made in 2000 to the building code granting relief from providing proper fire rated design and materials be removed.
- Future requests for reduction of side building setbacks clearly address the issue of fire safety and employ specific measures to mitigate against the resulting lack of open space and increased fire danger.

Since this time, the recommendations made by the subcommittee have each been addressed. In August 2017, Bryan adopted the 2015 International Building Code (IBC) and 2015 International Residential Code (IRC). The local amendment, which previously eliminated fire-resistance rating requirements for exterior walls and projections, was removed. Fire rating is now required for any

portions of a structure located within five feet of an adjacent property line. In addition, requests for PD District zoning to allow development with 5-foot setbacks since this time have included specific construction and use standards offered in response to the subcommittee findings, to ensure fire safety concerns are mitigated.

### **Analysis and Recommendation:**

Staff presented this text amendment proposal to the Planning and Zoning Commission during a workshop meeting on October 21, 2021, and the Commission directed staff to proceed with this item for their recommendation, as is, to their next regular meeting.

During their regular meeting on November 4, 2021, the Planning and Zoning Commission **unanimously voted to recommend approval** of the proposed amendments to the text of Bryan Code of Ordinances in Chapter 62, Land and Site Development, specifically to reduce the side and rear building setbacks from 7.5 feet to 5 feet in every zoning district with the exception of Agricultural – Open District (A-O), Residential Neighborhood Conservation District (R-NC), and the Downtown Districts as well as revise the definition of “setback” to apply to any structure.

- The proposed amendments can now be implemented safely due to recent adoptions of new building codes.
- This reduction in the side and rear building setback is supported by the Fire Marshal and Chief Building Official.
- This proposal creates flexibility for new development as well as for existing homeowners.
- While the proposed 5-foot setbacks will represent a minimum standard, developers can choose to impose larger setbacks, and neighborhoods may enact deed restrictions that specify larger setbacks.

### **Options:**

1. approve ordinance text amendment as recommended by the Planning and Zoning Commission;
2. approve ordinance text amendment with modifications (which may require City Council consideration at a future City Council meeting);
3. or not approve this ordinance amendment at this time and provide direction to staff and the Planning and Zoning Commission.

### **Attachments:**

1. draft ordinance;
2. excerpt from November 4, 2021 Planning and Zoning Commission regular meeting minutes; and
3. memorandum to the Planning and Zoning Commission.

[ORD\\_Ch 62, 5-foot Setbacks.pdf \(384 KB\)](#)

### **Motion & Voting**

Open public hearing, hear citizen comments, close public hearing.

Motion to approve the first and only reading of an ordinance to amend the text of Bryan Code of Ordinances Chapter 62, Land and Site Development, regarding minimum side and rear building setback requirements.

Motion by Brent Hairston, second by Reuben Marin.

Final Resolution: Motion Carries

Aye: Andrew Nelson, Prentiss Madison, Reuben Marin, Brent Hairston, Bobby Gutierrez, Flynn Adcock