

Agenda Item Details

Meeting	Jan 08, 2019 - Bryan City Council Second Regular Meeting
Category	4. 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	B. Public hearing, presentation, and consideration of the first and only reading of an ordinance to amend the text of the Bryan Code of Ordinances Chapter 130, Zoning, specifically by amending and clarifying the definition of "sexual encounter center"
Type	Action
Preferred Date	Jan 08, 2019
Absolute Date	Jan 08, 2019
Fiscal Impact	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 the Bryan Code of Ordinances Chapter 130, Zoning, specifically by amending and clarifying the definition of "sexual encounter center".
Goals	Quality of Life Public Safety

SUMMARY:

Across the state, there has been increasing discussions regarding businesses that incorporate a specific use within a "sexual encounter center". To maintain the intent of the existing adult entertainment regulations, City staff recommends expanding the existing definition of "sexual encounter center" to include language that defines robots and the use of robots for a sexual purpose. The intent is the definition of "adult entertainment" and other related definitions contained under the definition of "adult entertainment" be used to regulate the use of property under the general zoning powers of a home rule City. Furthermore, applicable Texas statutory law authorizes home rule cities to divide cities into districts and regulate the use of property within the districts for the purpose of promotion of the health, safety and morals of the public, and for the protection of the general welfare of the community.

Specifically, the provisions of this portion of the Zoning Ordinance are intended to minimize the negative or adverse secondary effects of adult entertainment uses on the community. The provisions of the ordinance have neither the purpose nor the effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or the effect of the ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the Ordinance to condone or legitimize any activity that may be illegal under other applicable law. Based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the City Council, which are enumerated within the ordinance, the City Council established that adult entertainment is inappropriate in most zoning districts. This proposed text amendment will not have the effect of increasing the locations where such uses are already permitted.

STAFF ANALYSIS AND RECOMMENDATION:

During a special meeting on December 20, 2018, the Planning and Zoning Commission, unanimously voted to **recommend approval** of the proposed amendments to the text of Bryan Code of Ordinances Chapter 130, as presented by staff.

- There is a gap in the City of Bryan Ordinances that does not define a new type of adult entertainment use relating to anthropomorphic robots.

- Expanding and clarifying the definition of “sexual encounter center” will make it possible to regulate developments that may contain this use.
- This proposed text amendment will not have the effect of increasing the locations where such uses are already permitted.

OPTIONS (In Suggested Order of Staff Preference):

1. approve ordinance text amendments, as recommended by the Planning and Zoning Commission;
2. approve ordinance text amendments with modifications (which may require City Council consideration at a future City Council meeting); or
3. 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 December 20, 2018 Planning and Zoning Commission special meeting minutes
3. memorandum to the Planning and Zoning Commission with attachments

[Ch. 130 text amendment - sexual encounter center.pdf \(155 KB\)](#)

[Ch. 130 text amendment - P&Z memo 12.20.18.pdf \(284 KB\)](#)

[News Articles.pdf \(761 KB\)](#)

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 the Bryan Code of Ordinances Chapter 130, Zoning, specifically by amending and clarifying the definition of "sexual encounter center". Planning Manager Martin Zimmermann stated this ordinance clarified the definition that already exists in the city's zoning ordinance, making it clear this falls under sexually oriented business. He answered questions regarding this item. He pointed out health and safety regulations would not fall under the zoning ordinance. Council indicated a desire to learn about other restrictions that could be placed on this type of business. Thomas Leeper stated since this is a new novel idea, it could be argued the City's zoning ordinance did not address them. He said this clarification of the definition makes it plain this type of business falls within the existing ordinance.

Motion by Buppy Simank, second by Greg Owens.

Final Resolution: Motion Carries

Aye: Andrew Nelson, Buppy Simank, Greg Owens, Mike Southerland, Prentiss Madison, Reuben Marin, Brent Hairston