



19-0007M2

**TITLE:** Conduct a Public Hearing to Consider/Discuss/Act on a Request by the City of McKinney to Amend Certain Provisions of Chapter 146 (Zoning Regulations) of the Code of Ordinances that Regulate the Building Products, Materials, or Methods Used in the Construction or Renovation of Residential or Commercial Buildings to Bring Such Provisions into Conformity with New State Laws Adopted by and through House Bill 2439, and Accompanying Ordinance

**COUNCIL GOAL:** Operational Excellence  
(2C: Identify opportunities for internal efficiencies and continuous improvement to effect a high performing organizational culture)

**MEETING DATE:** August 20, 2019

**DEPARTMENT:** Planning

**CONTACT:** Jennifer Arnold, AICP, Director of Planning  
Samantha Pickett, AICP, Planning Manager  
Kaitlin Gibbon, Planner I

**RECOMMENDED CITY COUNCIL ACTION:** Staff recommends approval of the proposed amendments.

**ITEM SUMMARY:** Given the recent changes to state law that will take effect on September 1, 2019, Staff has proposed several modifications to the Zoning Ordinance to ensure compliance. More specifically, these changes are in reference to House Bill 2439, which limits the ability a City has to enforce architectural requirements.

In order to align the Zoning Ordinance with the new state law regulations (Chap. 3000 of the Texas Local Government Code), Staff has modified sections of the Ordinance related to applicability and enforcement of architectural requirements. More specifically, sections that are no longer enforceable have been removed, while additional language has been added to clarify where they regulations can be enforced (i.e., within areas of historical, cultural or architectural significance).

**BACKGROUND INFORMATION:** Following the closing of the 86<sup>th</sup> Legislature, several changes to Texas Local Government Code (TLGC) were adopted on June 16, 2019 and take effect on September 1, 2019, including:

- HB No. 2436 which limits governmental entities from adopting or enforcing a rule, ordinance, code, or provision that “prohibits or limits, directly or indirectly, the use or installation of a building product or material in the construction, renovation, maintenance, or other alteration of a residential or commercial building” if it is allowed by a national model code.
  - Restricts a City’s ability to regulate: materials or percentages of materials; color; building massing; rooflines; fenestration; or any other aesthetic details.
  - Applies retroactively; meaning that as of September 1, Staff will no longer be able to enforce architectural requirements dictated by the Zoning Ordinance or by existing Planned Development Districts.
  - Does not apply to our historic areas or areas with specific architectural requirements in development agreements.

**PROPOSED AMENDMENTS:**

- Proposed Changes to Sec. 146-40 (Nonconforming uses and nonconforming structures): These changes specifically relate to reconstruction of a non-conforming building that was damaged or destroyed. Currently, reconstructed buildings must conform to the previous “appearance”; since these requirements are no longer enforceable outside of the Historically Significant Area, references to appearance or design have been removed, except for certain allowances by Chap. 3000 of the TLGC.
- Proposed Changes to Sec. 146-41 (Specific use permits): Currently, specific use permits for mini-warehouse uses dictate a certain material percentage. Since this is no longer enforceable outside of the Historically Significant Area, references to certain materials have been removed, except for certain allowances by Chap. 3000 of the TLGC.
- Proposed Changes to Sec. 146-46 (Definitions): The proposed amendments update the definitions of building and structure to better align with the definition in national model codes. Additionally, two new terms, “Historically Significant Area” and “Significantly Important Building”, have been added to protect buildings within a “place or area designated for historical, cultural, or architectural importance and significance” as established in Chap. 3000 of the TLGC.
- Proposed Changes to Sec. 146-82 (MP - Mobile Home Park District), Sec. 146-

92 (AP - Airport District), Sec. 146-93 (GC - Governmental Complex District), and Sec. 146-101 (CC - Corridor Commercial overlay District): The noted sections include references to materials or construction methods; as these are no longer enforceable outside of the Historically Significant Area, references to certain materials have been removed, except for certain allowances by Chap. 3000 of the TLGC.

- Proposed Changes to Sec. 146-94 (PD - Planned Development District): Currently, proposed Planned Development Districts should include architectural elevations or standards. As architectural standards within a Planned Development District are no longer enforceable outside of the Historically Significant Area, references to this requirement have been removed, except for certain allowances by Chap. 3000 of the TLGC.
- Proposed Changes to Sec. 146-133 (Accessory buildings and uses): This section requires that accessory buildings match the primary building; however, this is no longer enforceable outside of the Historically Significant Area. As such, references to this requirement have been removed, except for certain allowances by Chap. 3000 of the TLGC.
- Proposed Changes to Sec. 146-139 (Architectural and site standards): The proposed amendments modify or remove architectural requirements since these are no longer enforceable outside of the Historically Significant Area, as allowed by Chap. 3000 of the TLGC. More specifically, the multi-family residential portion has been reconfigured to separate architectural requirements of buildings and site specific standards. This division allows site standards to still be applicable to all multi-family projects, whereas architectural requirements are only applicable for the Historically Significant Area.
- Proposed Changes to Appendix B (Urban Design Standards for the Regional Employment Center): This section contains references to preferred or required architectural design standards; however, as these no longer enforceable outside of the Historically Significant Area, references to this requirement have been removed.

**OPPOSITION TO OR SUPPORT OF REQUEST:** Staff has not received any letters in support of or in opposition to the proposed amendments.

**BOARD OR COMMISSION RECOMMENDATION:** On August 13, 2019 the Planning and Zoning Commission voted 6-0-0 to recommend approval of the proposed Zoning Ordinance amendments.

**SUPPORTING MATERIALS:**

[PZ Minutes DRAFT](#)

[HB 2439](#)

[Chap. 146 Redlines HB 2439](#)

[Proposed Ordinance](#)

[Proposed Exhibit A](#)