

Building Materials

Planner: Nathan Warren

Request:

Consideration of amending Chapters 51 and 51A of the Dallas Development Code by deleting certain prohibitions, limitations, or requirements of building materials in accordance with state law.

Background:

- On June 14, 2019, House Bill No. 2439 ("HB 2439") was signed into Texas law by Governor Abbott. (see appendix)
- HB 2439 became effective on September 1, 2019.

Intent:

The proposed amendments to the Dallas Development Code intend to bring Chapters 51 and 51A of the Dallas Development Code into compliance with the newly effective state law.

General Information/Staff Analysis:

HB 2439 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 the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

This bill prohibits local governments from regulating building materials with the following exceptions:

- a program established by a state agency that requires particular standards, incentives, or financing arrangements in order to comply with requirements of a state or federal funding source or housing program
- a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code
- an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places

Program; or applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted

- an ordinance or order that regulates outdoor lighting and is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code
- a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission
- a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019
- a building located in an area designated as a historic district on the National Register of Historic Places
- a building designated as a Recorded Texas Historic Landmark
- a building designated as a State Archeological Landmark or State Antiquities Landmark
- a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity
- a building located in a World Heritage Buffer Zone
- a building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014

On December 12, 2019, this code amendment was brought before the Zoning Ordinance Advisory Committee. That draft ordinance had included sections that have been removed from the current draft ordinance. Previous SECTIONS 1, 3, 6, and 7 mirror the language of the Texas Occupations Code of state law that reference industrialized housing. Because this language is mirrored in state law, those sections have been removed from consideration. Previous SECTIONS 15 and 16 are tied to a regulation bonus. As these requirements are optional, they have been removed from consideration.

On January 9, 2020, this code amendment was brought before the Zoning Ordinance Advisory Committee. SECTIONS 1, 3, 4, 7, 14, 16, and 23 were revised according to ZOAC comment.

On January 23, 2020, this code amendment was brought before the Zoning Ordinance Advisory Committee. SECTIONS 1, 2, 3, 4, 9, 10, 14, and 16 were revised according to ZOAC comment. Additionally, SECTIONS 8 and 11 were deleted because a change of material was one of several options. A change of material in these sections were not necessarily a requirement. A new section defining transparency in Article II has been added. The transparency definition in Article XIII was amended. This change in language allowed all charts and graphics, that is SECTIONS 12, 13, 15, 17, 18, 19, 20, 21, and 22, to no longer require amendment. Also, SECTION 23 no longer required amendment due to the new definition of transparency in Article XIII.

Proposal:

The following sections are the effected as called out in the updated draft ordinance:

SECTION 1

Section 51-4.201(b)(1)(E)(viii)(ff)

"Accessory structures must have a ~~a [exterior siding, roofing,] roof-pitch[, foundation fascia,] and fenestration compatible with the main building. It is recommended that accessory structures have exterior siding, roofing, and foundation fascia compatible with the main building.~~ "Compatible" as used in this provision means similar in application, color, ~~[materials,] pattern, [quality,] shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply the proof of compatibility. Use of similar materials or materials of similar quality to the main building serves as additional evidence that the property owner's burden of proof of compatibility has been met.~~ This provision does not apply to accessory structures with a floor area of 200 square feet or less."

- Compatible exterior siding, roofing, foundation fascia, materials, and quality imply restriction of building material. Because the language requires compatibility to existing single-family dwelling units, the possible building materials that could be used would be limited. Therefore, all language that limits what building materials may be used must be removed. However, language was added to give direction through recommendations.

SECTION 2

Section 51A-2.102(140.1)

"TRANSPARENCY means the total area of window opening, door opening, or other opening, expressed as a percentage of the total facade area by story."

- This new paragraph defines transparency for all of Chapter 51A.

SECTION 3

Section 51A-4.127(c)(8)(F)(i)

"Building facades. Building facades must be as close as possible to the pedestrian zone. Columns of an arcade must be on the building line, and the internal facade of an arcade must be set back from the building line no more than 10 feet. Parking deck and garage facades visible at ground level from any street or alley must have the appearance of a multiple-story building, ~~and be of similar material finish as the building on the site for which the parking is being provided].~~ It is recommended that parking deck and garage facades visible at ground level from any street or alley have the appearance of similar material finish as the building on the site for which the parking is being provided."

- Similar material finish implies restriction of building material. If material finish must be similar to an existing material finish, then the possible building materials that could be used would be limited. All language that limits what building materials may be used must be removed. However, language was added to give direction through recommendations.

SECTION 4

Section 51A-4.127(c)(8)(F)(iii)

"Storefront treatments. The following provisions apply to all uses at ground level except church use and residential uses.

(aa) All street-fronting street-level portions of a building must have windows and primary entrances facing the street or a plaza. No more than 10 continuous linear feet of street-fronting street-level facade may lack a transparent opening [surface] (e.g. a window or a transparent door).

(bb) Corner lot structures must have corner entrances in compliance with the visibility triangle standards set by the department of sustainable development and construction.

(cc) Street-fronting, street-level windows must:

~~[(aa) be clear, unpainted, or made of similarly treated glass allowing visibility within street-level uses;]~~

(bb) cover 50 percent or more of street-level frontage;

~~[(cc)]~~ not have a bottom edge higher than three feet above the base of building; and

~~[(dd)]~~ be less than 10 feet high.

(dd) It is recommended that street-fronting, street-level windows be clear, unpainted, or made of similarly treated glass allowing visibility within street-level uses."

- Cannot require a transparent surface because not all building materials are transparent. Requiring only transparent material limits building material choice. However, language was added to give direction through recommendations.

SECTION 5

Section 51A-4.209(b)(6)(E)(vii)(ff)

"Accessory structures must have a [exterior siding, roofing,] roof-pitch[, foundation fascia,] and fenestration compatible with the main building. It is recommended that accessory structures have exterior siding, roofing, and foundation fascia compatible with the main building. "Compatible" as used in this provision means similar in application, color, [materials,] pattern, [quality,] shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply the proof of compatibility. Use of similar materials or materials of similar quality to the main building serves as additional evidence that the property owner's burden of proof of compatibility has been met. This provision does not apply to accessory structures with a floor area of 200 square feet or less."

- Compatible exterior siding, roofing, foundation fascia, materials, and quality imply restriction of building material. Because the language requires compatibility to existing single-family dwelling units, the possible building materials that could be used would be limited. Therefore, all language that limits what building materials may be used must be removed. However, language was added to give direction through recommendations.

SECTION 6

Section 51A-4.217(b)(12)(F)(xii)

~~"Reserved. [At least 70 percent of the side walls must be open, or glass or transparent material with a light transmission of not less than 36 percent and a luminous reflectance of not more than six percent. "Light transmission" means the ratio of the amount of total light to pass through the material to the amount of total light falling on the material and any glazing. "Luminous reflectance" means the ratio of the amount of total light that is reflected outward by a material to the amount of total light falling on the material.]"~~

- Cannot require transparent material because not all building materials are transparent. Requiring a percentage of transparent material limits building material choice.

SECTION 7

Section 51A-4.217(b)(12)(G)

"At least 70 percent of the side walls should be open, or glass or transparent material with a light transmission of not less than 36 percent and a luminous reflectance of not more than six percent. "Light transmission" means the ratio of the amount of total light to pass through the material to the amount of total light falling on the material and any glazing. "Luminous reflectance" means the ratio of the amount of total light that is reflected outward by a material to the amount of total light falling on the material."

- Although transparent material cannot be required, it can be recommended under the section "Recommended Pedestrian Skybridge Standards".

SECTION 8

Section 51A-4.345(k)

"Facade.

(1) These facade requirements apply to any portion of a building containing mechanized parking except when accessory to a single family or duplex use. If there is a conflict between the regulations within a zoning district that require concealment of parking structure facades, this subsection controls.

(2) An aboveground mechanized parking facility must be concealed by a facade. ~~that~~
It is recommended that the facade be:

(A) compatible in appearance with the facade of the main building it serves, or

(B) compatible in appearance with other buildings within a one block radius.

~~(3) The burden is on the property owner or applicant to supply proof of compatibility.]~~

~~(3)~~⁽⁴⁾ Aperture area or articulation must be provided at a minimum of 20 percent and a maximum of 80 percent for any street facing facade.

~~(4)~~⁽⁵⁾ Articulation must be provided at least every 30 feet, measured horizontally and vertically.

~~(5)~~⁽⁶⁾ Except for pedestrian and vehicular entrances, the aperture area must be screened. It is recommended that the required screening be constructed with an opaque or translucent material that may be permeable or impermeable and that ~~Screening materials for~~ the aperture area ~~may~~ have no more than 36 square inches of transparent material in any given square foot of surface and ~~may~~ have no more than 25 percent transparency.

~~(6)~~⁽⁷⁾ The board of adjustment may grant a special exception to the standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property. The alternative facade must provide adequate screening of equipment and structures and mitigate noise."

- Cannot compel development to have compatible building materials because compatibility to the main building, or other buildings within a one block radius, would limit the choice of building materials to be used. Also, building material type to be used for screening cannot be limited. However, language was added to give direction through recommendations.

SECTION 9

Section 51A-4.605(a)(6)

"Materials and colors.

(A) No more than 75 percent of the area of a facade wall, exclusive of fenestration, may have a single material or color.

(B) It is recommended that t[he] following materials are ~~may~~ only ~~be~~ used on rear facade walls:

- (i) Smooth-faced concrete block that is non-tinted or non-burnished.
- (ii) Tilt-up concrete panels that are unadorned or untextured.
- (iii) Prefabricated steel panels."

- Cannot limit building material choice. The language limits those materials from being used anywhere other than on the rear façade wall.

SECTION 10

Section 51A-4.906(b)(3)

"The design ~~[and materials]~~ of SAH units must be equivalent to the design ~~[and materials]~~ of other units located on the same lot. It is recommended that the materials of SAH units be equivalent to the materials of other units located on the same lot. The size of bedrooms in SAH units must be consistent with the size of bedrooms in other units located on the same lot."

- Cannot mandate building material type. By requiring materials to be equivalent to that of other units on the same lot, building material choice is limited to those that are equivalent to that of other units on the same lot. This would limit the type of building material that can be used. However, language was added to give direction through recommendations.

SECTION 11

Section 51A-13.201(34)

"TRANSPARENCY means the total area of window opening ~~[and]~~ door opening, or other opening ~~[filled with glass]~~, expressed as a percentage of the total facade area by story."

- This definition of transparency does not limit building material choice. Therefore, all charts and graphics in Article XIII do not require recommendations as the current standards comply with HB 2439.

SECTION 12

Section 51A-13.304(b)(6)

“Ground-Story Shopfront Windows. A minimum of 60 percent of the street-fronting, street-level window openings ~~[pane surface area]~~ must allow views into the ground-story use for a depth of at least four feet. If glass is installed, it is recommended that it ~~[Windows must]~~ be clear or unpainted, or, if treated, ~~[must]~~ be translucent. ~~[Spandrel glass or backpainted glass does not comply with this provision.]”~~

- Cannot require shopfront windows to be measured by pane surface area as a specific building material type is implied. However, language was added to give direction through recommendations if glass were the material type chosen.

SECTION 13

Section 51A-13.304(c)(6)

“Ground-Story Shopfront Windows. A minimum of 60 percent of the street-fronting, street-level window opening ~~[pane surface area]~~ must allow views into the ground-story use for a depth of at least four feet. If glass is installed, it is recommended that it ~~[Windows must]~~ be clear or unpainted, or, if treated, ~~[must]~~ be translucent. ~~[Spandrel glass or backpainted glass does not comply with this provision.]”~~

- Cannot require shopfront windows to be measured by pane surface area as a specific building material type is implied. However, language was added to give direction through recommendations if glass were the material type chosen.

DRAFT ORDINANCE

1-30-20

ORDINANCE NO. _____

An ordinance amending Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," and Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code by amending Sections 51-4.201, 51A-2.102, 51A-4.127, 51A-4.209, 51A-4.217, 51A-4.345, 51A-4.605, 51A-4.906, 51A-13.201, and 51A-13.304; deleting building materials requirements to comply with state law; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

WHEREAS, the 86th Texas Legislature met between January 8, 2019 and May 27, 2019; and

WHEREAS, H.B. 2439 prohibits a city from prohibiting or limiting, 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 the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; and

WHEREAS, H.B. 2439 was approved by both chambers of the Texas Legislature;
and

WHEREAS, H.B. 2439 was signed by Governor Greg Abbott on June 14, 2019;
and

WHEREAS, H.B. 2439 became law on September 1, 2019; and

WHEREAS, the city plan commission and the city council, in accordance with the Charter of the City of Dallas, the state law, and the ordinances of the City of Dallas, have given the required notices and have held the required public hearings regarding this amendment to the Dallas City Code; Now, Therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Item (ff) of Romanette (viii) of Subparagraph (E) of Paragraph (1), "Single Family," of Subsection (b), "Specific Residential Uses," of Section 51-4.201, "Residential Uses," of Division 51-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51, "Dallas Development Code: Ordinance No. 10962, as amended," of the Dallas City Code is amended to read as follows:

"(ff) Accessory structures must have a [exterior siding, roofing,] roof-pitch[, foundation fascia,] and fenestration compatible with the main building. It is recommended that accessory structures have exterior siding, roofing, and foundation fascia compatible with the main building. "Compatible" as used in this provision means similar in application, color, ~~[materials,]~~ pattern, ~~[quality,]~~ shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply the proof of compatibility. Use of similar materials or materials of similar quality to the main building serves as additional evidence that the property owner's burden of proof of compatibility has been met. This provision does not apply to accessory structures with a floor area of 200 square feet or less."

SECTION 2. That Section 51A-2.102, "Definitions," of Article II, "Interpretations and Definitions," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as

amended,” of the Dallas City Code is amended by adding a new Paragraph (140.1) to read as follows:

“(140.1) TRANSPARENCY means the total area of window opening, door opening, or other opening, expressed as a percentage of the total facade area by story.”

SECTION 3. That Romanette (i), “Building Facades,” of Subparagraph (F), “Building Envelope Design Requirements,” of Paragraph (8), “Site Design Requirements,” of Subsection (c), “UC Districts,” of Section 51A-4.127, “Urban Corridor Districts,” of Division 51A-4.100, “Establishment of Zoning Districts,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(i) Building facades. Building facades must be as close as possible to the pedestrian zone. Columns of an arcade must be on the building line, and the internal facade of an arcade must be set back from the building line no more than 10 feet. Parking deck and garage facades visible at ground level from any street or alley must have the appearance of a multiple-story building~~[, and be of similar material finish as the building on the site for which the parking is being provided]~~. It is recommended that parking deck and garage facades visible at ground level from any street or alley have the appearance of similar material finish as the building on the site for which the parking is being provided.”

SECTION 4. That Romanette (iii), “Storefront Treatments,” of Subparagraph (F), “Building Envelope Design Requirements,” of Paragraph (8), “Site Design Requirements,” of Subsection (c), “UC Districts,” of Section 51A-4.127, “Urban Corridor Districts,” of Division 51A-4.100, “Establishment of Zoning Districts,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(iii) Storefront treatments. The following provisions apply to all uses at ground level except church use and residential uses.

(aa) All street-fronting street-level portions of a building must have windows and primary entrances facing the street or a plaza. No more than 10 continuous linear feet of street-fronting street-level facade may lack a transparent opening ~~[surface]~~ (e.g. a window or a transparent door).

(bb) Corner lot structures must have corner entrances in compliance with the visibility triangle standards set by the department of sustainable development and construction.

(cc) Street-fronting, street-level windows must:

~~[(aa) be clear, unpainted, or made of similarly treated glass allowing visibility within street-level uses;]~~

~~[(bb)] cover 50 percent or more of street-level frontage;~~

~~[(cc)] not have a bottom edge higher than three feet above the base of building; and~~

~~[(dd)] be less than 10 feet high.~~

(dd) It is recommended that street-fronting, street-level windows be clear, unpainted, or made of similarly treated glass allowing visibility within street-level uses.

SECTION 5. That Item (ff) of Romanette (vii), "Accessory Structures," of Subparagraph (E) of Paragraph (6), "Single Family," of Subsection (b), "Specific Uses," of Section 51A-4.209, "Residential Uses," of Division 51A-4.200, "Use Regulations," of Article IV, "Zoning Regulations," of Chapter 51A, "Dallas Development Code: Ordinance No. 19455, as amended," of the Dallas City Code is amended to read as follows:

"(ff) Accessory structures must have a a ~~[exterior siding, roofing,] roof-pitch[, foundation fascia,]~~ and fenestration compatible with the main building. It is recommended that accessory structures have exterior siding, roofing, and foundation fascia compatible with the main building. "Compatible" as used in this provision means similar in application, color, ~~[materials,]~~ pattern, ~~[quality,]~~ shape, size, slope, and other characteristics; but does not necessarily mean identical. The burden is on the property owner or applicant to supply the proof of compatibility. Use of similar materials or materials of similar quality to the main building serves as additional evidence that the property owner's burden of proof of compatibility has been met. This provision does not apply to accessory structures with a floor area of 200 square feet or less."

SECTION 6. That Romanette (xii) of Subparagraph (F), “Mandatory Pedestrian Skybridge Standards,” of Paragraph (12), “Pedestrian Skybridges,” of Subsection (b), “Specific Accessory Uses,” of Section 51A-4.217, “Accessory Uses,” of Division 51A-4.200, “Use Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(xii) Reserved. [~~At least 70 percent of the side walls must be open, or glass or transparent material with a light transmission of not less than 36 percent and a luminous reflectance of not more than six percent. “Light transmission” means the ratio of the amount of total light to pass through the material to the amount of total light falling on the material and any glazing. “Luminous reflectance” means the ratio of the amount of total light that is reflected outward by a material to the amount of total light falling on the material.]~~”

SECTION 7. That Subparagraph (G), “Recommended Pedestrian Skybridge Standards,” of Paragraph (12), “Pedestrian Skybridges,” of Subsection (b), “Specific Accessory Uses,” of Section 51A-4.217, “Accessory Uses,” of Division 51A-4.200, “Use Regulations,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended by adding a new Romanette (vii) to read as follows:

“(xii) At least 70 percent of the side walls should be open, or glass or transparent material with a light transmission of not less than 36 percent and a luminous reflectance of not more than six percent. “Light transmission” means the ratio of the amount of total light to pass through the material to the amount of total light falling on the material and any glazing. “Luminous reflectance” means the ratio of the amount of total light that is reflected outward by a material to the amount of total light falling on the material.”

SECTION 8. That Subsection (k), “Facade,” of Section 51A-4.345, “General Standards,” of Division 51A-4.340, “Mechanized Parking,” of Article IV, “Zoning

Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(k) Facade.

(1) These facade requirements apply to any portion of a building containing mechanized parking except when accessory to a single family or duplex use. If there is a conflict between the regulations within a zoning district that require concealment of parking structure facades, this subsection controls.

(2) An aboveground mechanized parking facility must be concealed by a facade. ~~[that] It is~~ recommended that the facade be:

(A) compatible in appearance with the facade of the main building it serves, or

(B) compatible in appearance with other buildings within a one block radius.

~~[(3) The burden is on the property owner or applicant to supply proof of compatibility.]~~

~~(3)~~ (4) Aperture area or articulation must be provided at a minimum of 20 percent and a maximum of 80 percent for any street facing facade.

~~(4)~~ (5) Articulation must be provided at least every 30 feet, measured horizontally and vertically.

~~(5)~~ (6) Except for pedestrian and vehicular entrances, the aperture area must be screened. It is recommended that the required screening be constructed with an opaque or translucent material that may be permeable or impermeable and that ~~Screening materials for~~ the aperture area ~~[may]~~ have no more than 36 square inches of transparent material in any given square foot of surface and ~~[may]~~ have no more than 25 percent transparency.

~~(6)~~ (7) The board of adjustment may grant a special exception to the standards in this subsection when, in the opinion of the board, the special exception will not adversely affect neighboring property. The alternative facade must provide adequate screening of equipment and structures and mitigate noise.”

SECTION 9. That Paragraph (6), “Materials and Colors,” of Subsection (a), “Design Standards for Large Retail Uses,” of Section 51A-4.605, “Design Standards,” of Division 51A-4.600, “Regulations of Special Applicability,” of Article IV, “Zoning

Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(6) Materials and colors.

(A) No more than 75 percent of the area of a facade wall, exclusive of fenestration, may have a single material or color.

(B) It is recommended that t[he] the following materials are [may] only ~~[be]~~ used on rear facade walls:

(i) Smooth-faced concrete block that is non-tinted or non-burnished.

(ii) Tilt-up concrete panels that are unadorned or untextured.

(iii) Prefabricated steel panels.”

SECTION 10. That Paragraph (3) of Subsection (b), “Standards,” of Section 51A-4.906, “Review by the Director,” of Division 51A-4.900, “Affordable Housing,” of Article IV, “Zoning Regulations,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(3) The design ~~[and materials]~~ of SAH units must be equivalent to the design ~~[and materials]~~ of other units located on the same lot. It is recommended that the materials of SAH units be equivalent to the materials of other units located on the same lot. The size of bedrooms in SAH units must be consistent with the size of bedrooms in other units located on the same lot.”

SECTION 11. That Paragraph (34) of Section 51A-13.201, “Defined Terms,” of Division 51A-13.200, “Definitions,” of Article XIII, “Form Districts,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(34) TRANSPARENCY means the total area of window opening, ~~[and]~~ door opening, or other opening ~~[filled with glass]~~, expressed as a percentage of the total facade area by story.”

SECTION 12. That Paragraph (6), “Ground-Story Shopfront Windows,” of Subsection (b), “Mixed Use Shopfront,” of Section 51A-13.304, “Development Types,” of Division 51A-13.300, “District Regulations,” of Article XIII, “Form Districts,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(6) **Ground-Story Shopfront Windows.** A minimum of 60 percent of the street-fronting, street-level window openings [~~pane surface area~~] must allow views into the ground-story use for a depth of at least four feet. If glass is installed, it is recommended that it [~~Windows must~~] be clear or unpainted, or, if treated, [~~must~~] be translucent. [~~Spandrel glass or backpainted glass does not comply with this provision.~~]”

SECTION 13. That Paragraph (6), “Ground-Story Shopfront Windows,” of Subsection (c), “Single-Story Shopfront,” of Section 51A-13.304, “Development Types,” of Division 51A-13.300, “District Regulations,” of Article XIII, “Form Districts,” of Chapter 51A, “Dallas Development Code: Ordinance No. 19455, as amended,” of the Dallas City Code is amended to read as follows:

“(6) **Ground-Story Shopfront Windows.** A minimum of 60 percent of the street-fronting, street-level window opening [~~pane surface area~~] must allow views into the ground-story use for a depth of at least four feet. If glass is installed, it is recommended that it [~~Windows must~~] be clear or unpainted, or, if treated, [~~must~~] be translucent. [~~Spandrel glass or backpainted glass does not comply with this provision.~~]”

SECTION 14. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 15. That Chapters 51 and 51A of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 16. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal

of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 17. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 18. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By _____
Assistant City Attorney

Passed _____

Appendix:

H.B. No. 2439

AN ACT

relating to certain regulations adopted by governmental entities for the building products, materials, or methods used in the construction or renovation of residential or commercial buildings.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, Government Code, is amended by adding Subtitle Z to read as follows:

SUBTITLE Z. MISCELLANEOUS PROVISIONS PROHIBITING CERTAIN

GOVERNMENTAL ACTIONS

CHAPTER 3000. GOVERNMENTAL ACTION AFFECTING RESIDENTIAL AND

COMMERCIAL CONSTRUCTION

Sec. 3000.001. DEFINITIONS. In this chapter:

(1) "National model code" has the meaning assigned by Section 214.217, Local Government Code.

(2) "Governmental entity" has the meaning assigned by Section 2007.002.

Sec. 3000.002. CERTAIN REGULATIONS REGARDING BUILDING PRODUCTS, MATERIALS, OR METHODS PROHIBITED. (a) Notwithstanding any other law and except as provided by Subsection (d), a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, building code, or other regulation

that:

(1) 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 the building product or material is approved for use by a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building; or

(2) establishes a standard for a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if the standard is more stringent than a standard for the product, material, or aesthetic method under a national model code published within the last three code cycles that applies to the construction, renovation, maintenance, or other alteration of the building.

(b) A governmental entity that adopts a building code governing the construction, renovation, maintenance, or other alteration of a residential or commercial building may amend a provision of the building code to conform to local concerns if the amendment does not conflict with Subsection (a).

(c) This section does not apply to:

(1) a program established by a state agency that requires particular standards, incentives, or financing

arrangements in order to comply with requirements of a state or federal funding source or housing program;

(2) a requirement for a building necessary to consider the building eligible for windstorm and hail insurance coverage under Chapter 2210, Insurance Code;

(3) an ordinance or other regulation that regulates outdoor lighting that is adopted for the purpose of reducing light pollution and that:

(A) is adopted by a governmental entity that is certified as a Dark Sky Community by the International Dark-Sky Association as part of the International Dark Sky Places Program;
or

(B) applies to outdoor lighting within five miles of the boundary of a military base in which an active training program is conducted;

(4) an ordinance or order that:

(A) regulates outdoor lighting; and

(B) is adopted under Subchapter B, Chapter 229, Local Government Code, or Subchapter B, Chapter 240, Local Government Code;

(5) a building located in a place or area designated for its historical, cultural, or architectural importance and significance that a municipality may regulate under Section 211.003(b), Local Government Code, if the municipality:

(A) is a certified local government under the National Historic Preservation Act (54 U.S.C. Section 300101 et seq.); or

(B) has an applicable landmark ordinance that meets the requirements under the certified local government program as determined by the Texas Historical Commission;

(6) a building located in a place or area designated for its historical, cultural, or architectural importance and significance by a governmental entity, if designated before April 1, 2019;

(7) a building located in an area designated as a historic district on the National Register of Historic Places;

(8) a building designated as a Recorded Texas Historic Landmark;

(9) a building designated as a State Archeological Landmark or State Antiquities Landmark;

(10) a building listed on the National Register of Historic Places or designated as a landmark by a governmental entity;

(11) a building located in a World Heritage Buffer Zone; and

(12) a building located in an area designated for development, restoration, or preservation in a main street city under the main street program established under Section 442.014.

(d) A municipality that is not a municipality described by Subsection (c)(5)(A) or (B) may adopt or enforce a regulation described by Subsection (a) that applies to a building located in a place or area designated on or after April 1, 2019, by the municipality for its historical, cultural, or architectural importance and significance, if the municipality has the voluntary consent from the building owner.

(e) A rule, charter provision, ordinance, order, building code, or other regulation adopted by a governmental entity that conflicts with this section is void.

Sec. 3000.003. INJUNCTION. (a) The attorney general or an aggrieved party may file an action in district court to enjoin a violation or threatened violation of Section 3000.002.

(b) The court may grant appropriate relief.

(c) The attorney general may recover reasonable attorney's fees and costs incurred in bringing an action under this section.

(d) Sovereign and governmental immunity to suit is waived and abolished only to the extent necessary to enforce this chapter.

Sec. 3000.004. OTHER PROVISIONS NOT AFFECTED. This chapter does not affect provisions regarding the installation of a fire sprinkler protection system under Section 1301.551(i), Occupations Code, or Section 775.045(a)(1), Health and Safety Code.

Sec. 3000.005. SEVERABILITY. If any provision of a rule, charter provision, ordinance, order, building code, or other

regulation described by Section 3000.002(a) is held invalid under this chapter, the invalidity does not affect other provisions or applications of the rule, charter provision, ordinance, order, building code, or other regulation that can be given effect without the invalid provision or application, and to this end the provisions of the rule, charter provision, ordinance, order, building code, or other regulation are severable.

SECTION 2. This Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I certify that H.B. No. 2439 was passed by the House on April 30, 2019, by the following vote: Yeas 124, Nays 21, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2439 on May 23, 2019, by the following vote: Yeas 133, Nays 9, 1 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2439 was passed by the Senate, with amendments, on May 19, 2019, by the following vote: Yeas 26, Nays 5.

Secretary of the Senate

APPROVED: _____

Date

Governor