



**CITY OF MISSOURI CITY
PLANNING AND ZONING COMMISSION AGENDA**

Notice is hereby given of a special meeting of the Planning and Zoning Commission of the City of Missouri City to be held on **October 30, 2019 at 7:00 p.m. at City Hall, Council Chambers, 2nd Floor**, 1522 Texas Parkway, Missouri City, Texas, for the purpose of considering the following agenda items. All agenda items are subject to action. The Planning and Zoning Commission reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. READING OF MINUTES**
Consider approval of the minutes of the October 9, 2019 Planning and Zoning Commission meeting.
- 4. REPORTS**
 - A. COMMISSION REPORTS**
 - (1) Chairman of the Planning and Zoning Commission
 - (2) Planning and Zoning Commissioners
 - B. STAFF REPORTS**
 - (1) Development Services
 - a. Director
 - (2) Engineering
 - a. City Engineer
- 5. PUBLIC COMMENT**
This is an opportunity for the public to address the Planning and Zoning Commission on items/concerns not on the agenda. Public comments shall be limited to three (3) minutes per individual and to ten (10) minutes per subject. Public comments may address items that are not on the agenda.
- 6. PLATS**
 - A. CONSENT AGENDA**
 - (1) Consider approval of a final plat for Shipmans Cove Section 1
- 7. ZONING MAP AMENDMENTS**
None

8. ZONING TEXT AMENDMENTS

A. Discuss possible amendments to the Zoning Ordinance regarding food trucks

9. OTHER MATTERS WITHIN THE JURISDICTION OF THE COMMISSION OR THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE.

A. Discuss the 86th Texas Legislative Session: Building Materials

10. CLOSED EXECUTIVE SESSION

The Planning and Zoning Commission may go into Executive Session regarding any item posted on the Agenda as authorized by Chapter 551 of the Texas Government Code.

11. RECONVENE

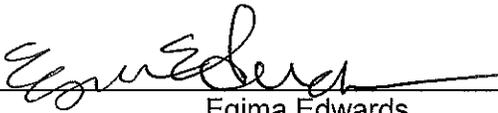
Reconvene into Regular Session and Consider Action, if any, on items discussed in executive session.

12. ADJOURN

In compliance with the Americans with Disabilities Act, the City of Missouri City will provide reasonable accommodations for persons attending Planning and Zoning Commission meetings. To better serve you, requests should be received 24 hours prior to the meetings. Please contact the Development Services Department at 281-403-8541.

CERTIFICATION

I certify that a copy of the October 30, 2019 agenda of items to be considered by the Missouri City Planning and Zoning Commission was posted on the City Hall bulletin board on October 25, 2019.



Egima Edwards
Planning Technician



**PLANNING AND ZONING COMMISSION
STAFF REPORT**

AGENDA DATE: October 30, 2019

AGENDA ITEM SUBJECT: Final Plat of Shipmans Cove Section 1

AGENDA ITEM NUMBER: 6.A.(1)

PROJECT PLANNER: Thomas K. White, Jr., Planner II

APPROVAL:  **Otis T. Spriggs, AICP, Director, Development Services**
 **Shashi K. Kumar, P.E., CFM, City Engineer/Public Works Director**

PERMIT NUMBER: Initial application: PLAT1900173
Written response: PLAT1900188

PROPERTY ID: 0086-86-005-0500-907

LOCATION: North of the Newpoint Estates residential subdivision;
south of Highway 6, south and east of the Creekmont residential subdivision

ZONING DISTRICT DESIGNATION: PD, Planned Development District #101 (O-18-06)

DEVELOPMENT AGREEMENT/STRATEGIC PARTNERSHIP: N/A

RECOMMENDED ACTION:

The Planning and Zoning Commission should **APPROVE**.

A final plat application must be in the form and contain the information and documents as required by the Platting Manual of the City of Missouri City, as adopted in September 2019 and in accordance with Section 82-95 of the Code of Ordinances of the City of Missouri City. The applicable sections of the Platting Manual are referenced in the comments below, except where indicated otherwise.

In accordance with Section 82-36 of the Code of Ordinances of the City of Missouri City, after the commission has approved a final plat and all conditions to such approval have

been met, such final plat shall be recorded into the applicable county plat records. Following recordation, final recorded documents shall be submitted to the city in accordance with the schedule of required copies.

A final plat application must be in the form and contain the information and documents as required by the Administrative Platting Manual of the City of Missouri City, as adopted in June 2014 and in accordance with Section 82-95 of the Code of Ordinances of the City of Missouri City. The applicable sections of the Administrative Platting Manual are referenced in the comments below, except where indicated otherwise.

A. PROCEDURAL AND/OR SUBSTANTIVE DEFICIENCIES:

1. **RESPONSIBLE DEPARTMENT/DIVISION:** Development Services/Planning and Development Division

- a. The applicant has indicated that the number of lots was adjusted from 139 to 141 between the preliminary and final plat "...due to the Land Plan efficiency with respect to water, sanitary sewer and storm sewer designs..." The maximum number of lots as permitted by PD #101 will remain at 274. Additionally, the acreage between preliminary and final plats has not increased.
- b. A Parkland Dedication shall be provided in accordance with Subsection 82-174 of the Code of Ordinances of the City of Missouri City. **A parkland dedication was approved by the City Council on July 1, 2019. Private parkland can account for up to 50 percent of the required dedication.**

The plat designates Reserve H as a private park to contain 1.56 acres. *(The approved parkland dedication was to include a 1.76 acres tract, however only 1.37 acres, unencumbered would provide for the 50 percent).*

The balance of the approved dedication, payment of cash in lieu of parkland in the amount of \$98,700 (141/2 * 1,400) is required to be submitted with the acceptance of a mylar for signature.

2. **RESPONSIBLE DEPARTMENT/DIVISION:** Public Works/Engineering Division

- a. Maintenance of improvements of any dedicated parts within the subdivision shall be in accordance with Section 82-207 of the Missouri City Code of Ordinances. **A mylar submitted for signature must correctly state the future ownership of the lift station site (reserve D).**
- b. The Missouri City Management District No. 1 is the responsible entity to provide water and sewer capacity to serve the subject development. Per a letter received, dated August 14, 2018, water and wastewater impact fees per residential connection are due at the time of platting. **The**

payment of these fees are required to be submitted with the acceptance of a mylar of signature.

3. **RESPONSIBLE DEPARTMENT/DIVISION:** Public Works/GIS Division
None

B. STANDARD PLAT NOTES:

The final plat shall contain all standard notes in accordance with Section 3.C.(10).

1. **RESPONSIBLE DEPARTMENT/DIVISION:** Development Services/Planning and Development Division
None
2. **RESPONSIBLE DEPARTMENT/DIVISION:** Public Works/Engineering Division
None

-----**END OF REPORT**-----



October 24, 2019

Ms. Jennifer Thomas Gomez, AICP
City of Missouri City
1522 Texas Parkway
Missouri City, Texas 77489

Re: City of Missouri City Project/Permit No. PLAT1900179
Final Plat of Shipmans Cove Section 1

Dear Ms. Thomas Gomez,

Please accept this letter as our Written Response Application and request to place the plat of Shipmans Cove Section 1 on an upcoming or specially designated Planning and Zoning Commission Meeting.

The plat for Shipmans Cove Section 1 was approved with conditions by the City Planning and Zoning Commission on October 9, 2019 as the City of Missouri City Engineering Division is reviewing the minimum slab elevation that is shown on the face of the plat.

Should you have any questions or require additional information, please let me know.

Sincerely,

Daniel A. Valdez

DAV/dav

K:\00427\00427-0082-01 Shipman's Cove - Sec 1 Paving & Platting\2 Design Phase\CAD\Platting\Final Plat\Written Response Application 10-24\Written Response Application.docx

City of Missouri City, TX

Received

OCT 25 2019

Planning Division



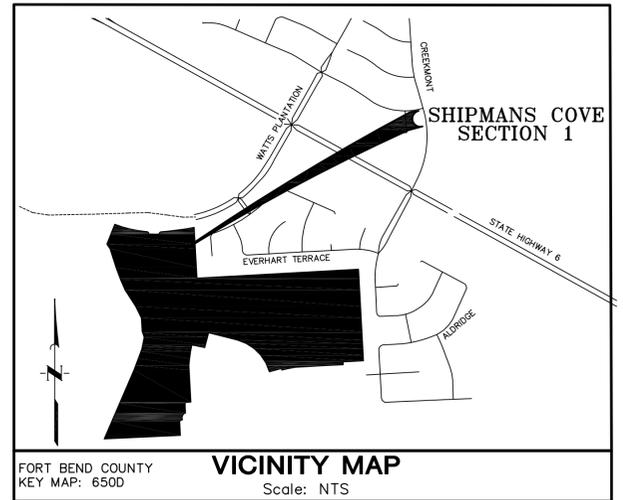
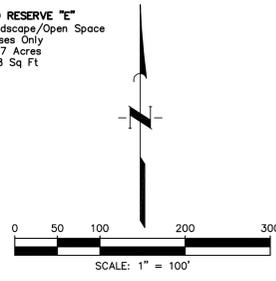
APPLICATION FOR PLAT APPROVAL

Check One: **AMENDING** **FINAL (including Replat)**
 LARGE ACREAGE TRACT

1. Name of plat:	Shipmans Cove Section 1		
2. Name of preliminary plat that encompasses this plat (if applicable):	Shipmans Cove Section 1 Preliminary Plat		
3. Type of plat (Circle one or more):	Multifamily Residential	Commercial	Industrial
	<u>Single Family Residential</u>		<u>Planned Development</u>
	Specific Use Permit		
	Other (Explain):		
4. Landowner's name (If company or corporation, list chief officer):	Junious Williams		
Mailing Address:	11375 W. Sam Houston Pkwy S. Ste 100 Houston Tx 77031		
Phone No.:(281) 561 - 7773	Fax No.:() -		
Email:	Junious.Williams@ashtonwoods.com		
5. Applicant's name (Engineer, Planner, Architect, Etc.):	Daniel Valdez		
Mailing Address:	2322 West Grand Parkway North Ste 150 Katy, TX 77449		
Phone No.:(832) 913 - 4000	Fax No.:() -		
Email:	dvaldez@jonescarter.com		
6. Is plat located inside the City limits or City's ETJ? (Circle One):	<u>CITY LIMITS</u>	ETJ	
20. Land distribution (in acres)			
Private Streets: _____	Public Streets: <u>10.10</u>	Residential Lots: <u>25.55</u>	
Lakes/Ponds (non-recreational): <u>21.63</u>	Irrigation/Drainage Canals: _____	Recreational Uses: <u>1.56</u>	
Utility Easements: _____	Public Parkland: _____		
Other (explain): <u>Landscape / Utility Reserves</u>	(acres): <u>5.04</u>		
TOTAL ACREAGE: <u>63.88</u>			
7. Number of sections: <u>1</u>	Blocks: <u>7</u>	Reserves: <u>9</u>	
8. Number of residential lots/dwelling units:	141		
9. Average lot area: <u>6,442 Sq Ft</u>	Typical lot area: <u>6250 Sq Ft</u>		
10. Block Length:	Average: <u>636.25</u>	Longest: <u>1,057.72</u>	Shortest: <u>214.78</u>
11. Type of Streets (Circle One):	<u>Public</u>	Private	Combination Public/Private
12. Type of Water System (Circle One):	<u>Public</u>	Individual Water Wells	Other (attach explanation)
13. Type of Sanitary System (Circle One):	<u>Public</u>	Individual Septic Tanks	Other (attach explanation)
14. Municipal Utility District:	Missouri City Management District No.1		

- A RESTRICTED RESERVE "A"**
Restricted to Landscape/Open Space/Drainage Purposes Only
0.3734 Acres
16,265 Sq Ft
- B RESTRICTED RESERVE "B"**
Restricted to Drainage Purposes Only
21.63 Acres
942,328 Sq Ft
- C RESTRICTED RESERVE "C"**
Restricted to Landscape/Open Space/Drainage Purposes Only
1.74 Acres
75,796 Sq Ft
- D RESTRICTED RESERVE "D"**
Restricted to Lift Station Purposes Only
0.2621 Acres
11,419 Sq Ft
- E RESTRICTED RESERVE "E"**
Restricted to Landscape/Open Space Purposes Only
0.0677 Acres
2,948 Sq Ft
- F RESTRICTED RESERVE "F"**
Restricted to Landscape/Open Space Purposes Only
0.8292 Acres
36,120 Sq Ft
- G RESTRICTED RESERVE "G"**
Restricted to Storm Water Purposes Only
0.3592 Acres
15,647 Sq Ft
- H RESTRICTED RESERVE "H"**
Restricted to Recreation Purposes Only
1.56 Acres
67,964 Sq Ft
- I RESTRICTED RESERVE "I"**
Restricted to Utility Access Purposes Only
1.43 Acres
62,361 Sq Ft

IDENTIFYING No.	LAND USE	ACREAGE	FUTURE OWNER
A	LANDSCAPE/OPEN SPACE/DRAINAGE	0.3734	HOA
B	DRAINAGE	21.63	MMD No. 1
C	LANDSCAPE/OPEN SPACE/DRAINAGE	1.74	HOA
D	LIFT STATION PURPOSES	0.2621	Missouri City
E	LANDSCAPE/OPEN SPACE	0.0677	HOA
F	LANDSCAPE/OPEN SPACE	0.8292	HOA
G	STORM WATER PURPOSES	0.3592	MMD No. 1
H	RECREATION PURPOSES	1.56	HOA
I	UTILITY ACCESS PURPOSES	1.43	MMD No. 1



PORTION OF CALLED 358.1824 ACRE TRACT TO LARRY B. BRIGGS (50%) AND ALFRED L. DEATON III (50%) BY SPECIAL WARRANTY DEED CF No. 9409260 FBCOPRRP

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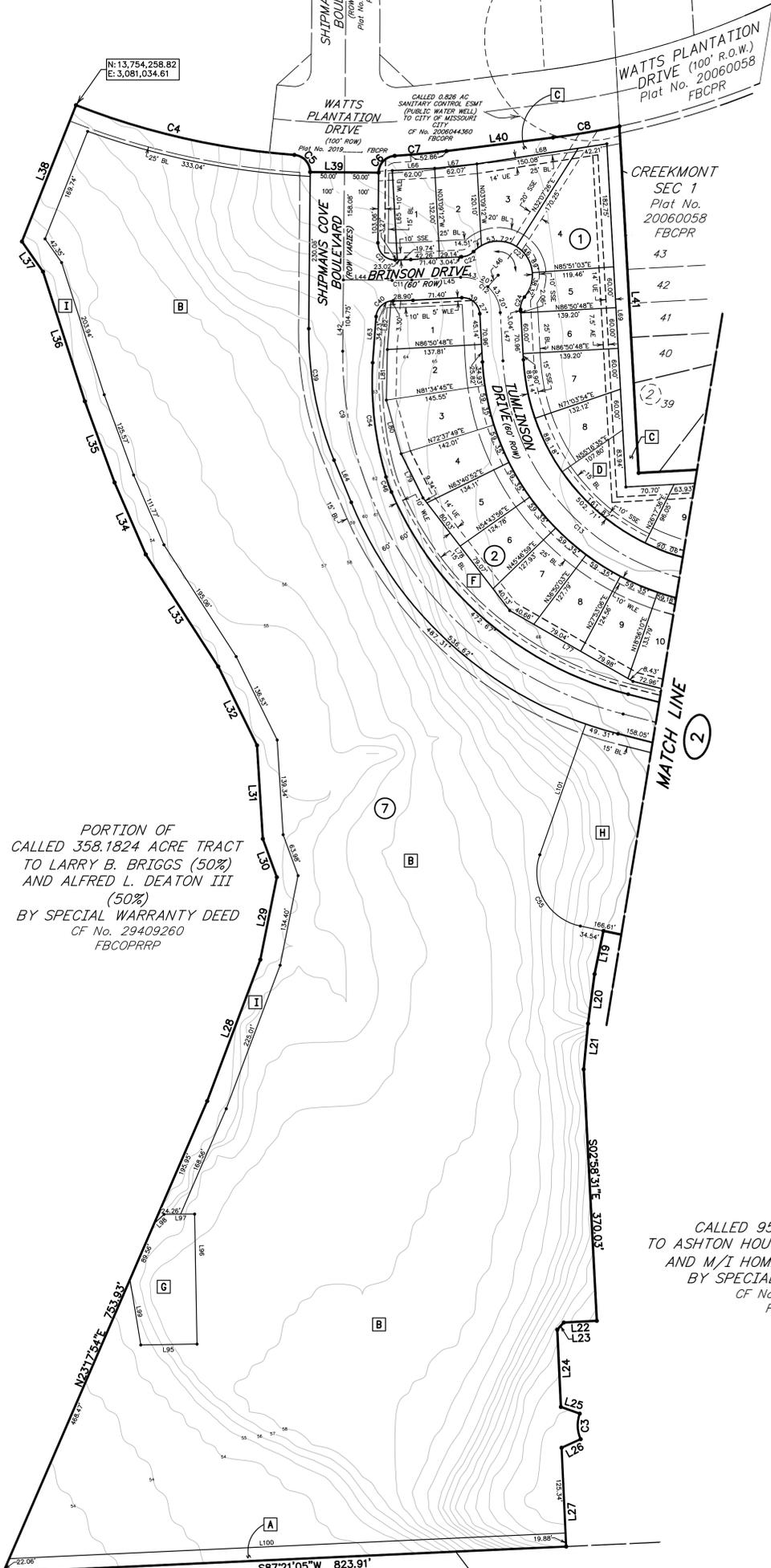
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- GENERAL NOTES**
- AE "Aerial Easement"
 - BL "Building Line"
 - CL "Clerk's File"
 - DE "Drainage Easement"
 - EMT "Easement"
 - FC "Firm Code"
 - FBCDR "Fort Bend County Deed Records"
 - FBCMR "Fort Bend County Map Records"
 - FBCMUD "Fort Bend County Municipal Utility District"
 - FBCOPRR "Fort Bend County Official Public Records"
 - FBCOPRRP "Fort Bend County Official Public Records of Real Property"
 - FBCPR "Fort Bend County Plat Records"
 - FND "Found"
 - MMD No. 1 "Missouri City Management District No. 1"
 - N "Number"
 - PDB "Point of Beginning"
 - RI "Right-of-Way"
 - Sq Ft "Square Feet"
 - SS "Sanitary Sewer Easement"
 - Stm SE "Storm Sewer Easement"
 - Temp "Temporary"
 - UE "Utility Easement"
 - Vol - Pg "Volume and Page"
 - WE "Waterline Easement"
 - W "Block Number"
 - Set 3/4-inch Iron With Cap Stamped "Cotton Surveying" as Per Certification
 - Found 3/4-inch Iron With Cap Stamped "Cotton Surveying"

- 1) All of the property subdivided in the above and foregoing plat is within the incorporated boundaries of the City of Missouri City, Texas.
- 2) Shared access and parking facilities shall be provided as required under the provisions of Subsection 82-159 of the Code of Ordinances of the City of Missouri City, Texas.
- 3) In accordance with Center Point Energy Electrical Service Manual, Article 421.2, electric meters shall be located in a position that is accessible at all times without customer assistance. Access to the meter shall not be blocked by gates, walls or fences.
- 4) Driveway approaches shall be provided in accordance with the Missouri City Driveway Approach Policy as required under the provisions of Subsection 82-160 of the Code of Ordinances of the City of Missouri City, Texas.
- 5) Sidewalks shall be constructed as required by Subsection 82-164 of the Code of Ordinances of the City of Missouri City, Texas.
- 6) All drainage and floodway easements shall be kept clear of fences, buildings, plantings and other obstructions to the operations and maintenance of the drainage facility as required by Subsection 82-168(d) of the Code of Ordinances of the City of Missouri City, Texas.
- 7) The City of Missouri City shall not be responsible for maintenance of driveways, sidewalks, emergency access easements, recreational area and open space; and the Shipmans Cove Homeowners' Association shall be responsible for such maintenance of driveways, emergency access easements, recreational areas and open spaces as required by Section 3.C.14 of the Platting Manual of the City of Missouri City (September 2019).
- 8) All required utility companies have been contacted and all public utility easements as shown on the above and foregoing plat constitute all of the easements required by the utility companies contacted.
- 9) There are no existing or proposed pipeline easements within the limits of the subdivision.
- 10) No building or other permit, except permits for construction of public improvements will be issued by the City of Missouri City, Texas, for construction within this subdivision until such time as all public improvements of the subdivision have been constructed by the developer and accepted by the City or the guarantee of construction of public improvements required by Subsection 82-206 of the Code of Ordinances of the City of Missouri City, Texas, is submitted to and approved by the City.
- 11) All slab elevations shall be one foot above the 100-year flood elevation as established by FEMA as per Section 3.C.13 of the Platting Manual of the City of Missouri City (September 2019).
- 12) Required fire flows shall be provided based on the size and construction of all buildings as required by the International Fire Code as adopted by the City.
- 13) The placement of fire hydrants shall be provided based on the minimum distance requirements as established in the International Fire Code as adopted by the City (500 feet for residential development and 300 feet for commercial development). All fire hydrants shall be installed according to the International Fire Code as adopted by the City.
- 14) All of the property subdivided in the foregoing plat is within the boundaries of Fort Bend County, Texas.
- 15) One foot reserve dedicated to the public in fee as a buffer separation between the side side or ends of streets where such streets abut adjacent property, the condition of such dedication being that when the adjacent property is subdivided or re-subdivided in a recorded plat the one foot reserve shall thereupon become vested in the public for street right-of-way purposes and the fee title thereto shall revert to and re-vest in the dedicant, his heirs, assigns, or successors.
- 16) Coordinates shown hereon are Texas Coordinate System, South Central Zone (Grid) NAD 83. Combined scale factor = 0.999869704
- 17) Bearings shown hereon are based on Texas Coordinate System, South Central Zone NAD 83.
- 18) Restricted Reserve "A" is restricted to landscape/open space/drainage purposes only. Restricted Reserve "A" is 0.3734 acres, 16,265 square feet.
Restricted Reserve "B" is restricted to drainage purposes only. Restricted Reserve "B" is 21.63 acres, 942,328 square feet.
Restricted Reserve "C" is restricted to landscape/open space/drainage purposes only. Restricted Reserve "C" is 1.74 acres, 75,796 square feet.
Restricted Reserve "D" is restricted to lift station purposes only. Restricted Reserve "D" is 0.2621 acres, 11,419 square feet.
Restricted Reserve "E" is restricted to landscape/open space purposes only. Restricted Reserve "E" is 0.0677 acres, 2,948 square feet.
Restricted Reserve "F" is restricted to landscape/open space purposes only. Restricted Reserve "F" is 0.8292 acres, 36,120 square feet.
Restricted Reserve "G" is restricted to Storm Water purposes only. Restricted Reserve "G" is 0.3592 acres, 15,647 square feet.
Restricted Reserve "H" is restricted to recreation purposes only. Restricted Reserve "H" is 1.56 acres, 67,964 square feet.
Restricted Reserve "I" is restricted to utility access purposes only. Restricted Reserve "I" is 1.43 acres, 62,361 square feet.
- 19) According to the Flood Insurance Rate Map (FIRM) No. 48157C0295L & 48157C0315L for Fort Bend County, Texas effective 4/2/2014, this section is located in Zone "X". Zone "X" is defined as areas with Minimal Flood Hazard.
- 20) The top of all floor slabs shall be a minimum of 66.20' feet (NAVD 88). Regardless of the minimum slab elevation shown, the top of slab elevation at any point on the perimeter of the slab shall not be less than eighteen (18) inches above natural ground.



PORTION OF CALLED 358.1824 ACRE TRACT TO LARRY B. BRIGGS (50%) AND ALFRED L. DEATON III (50%) BY SPECIAL WARRANTY DEED CF No. 29409260 FBCOPRRP

CALLLED 95.39 ACRE TRACT TO ASHTON HOUSTON RESIDENTIAL LLC AND M/I HOMES OF HOUSTON, LLC BY SPECIAL WARRANTY DEED CF No. 2018120422 FBCOPRRP

RESERVE "B" NEWPOINT ESTATES SECTION 3 SLIDE Nos 1231B, 1232A, 1232B AND 1233A FBCPR

OWNER/DEVELOPER: M/I HOMES OF HOUSTON, LLC 10720 W. Sam Houston Pkwy N., Ste 100 Houston, Texas 77064 832-623-0015

ASHTON WOODS OWNER/DEVELOPER: ASHTON HOUSTON RESIDENTIAL, LLC 11375 W. Sam Houston Pkwy S., Ste 100 Houston, Texas 77031 281-561-7773

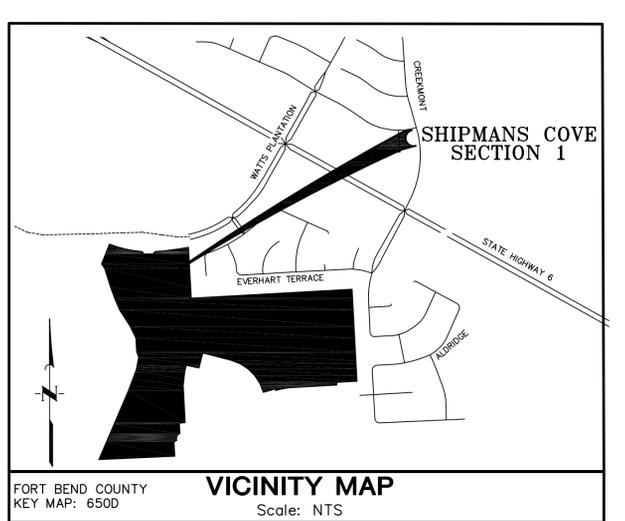
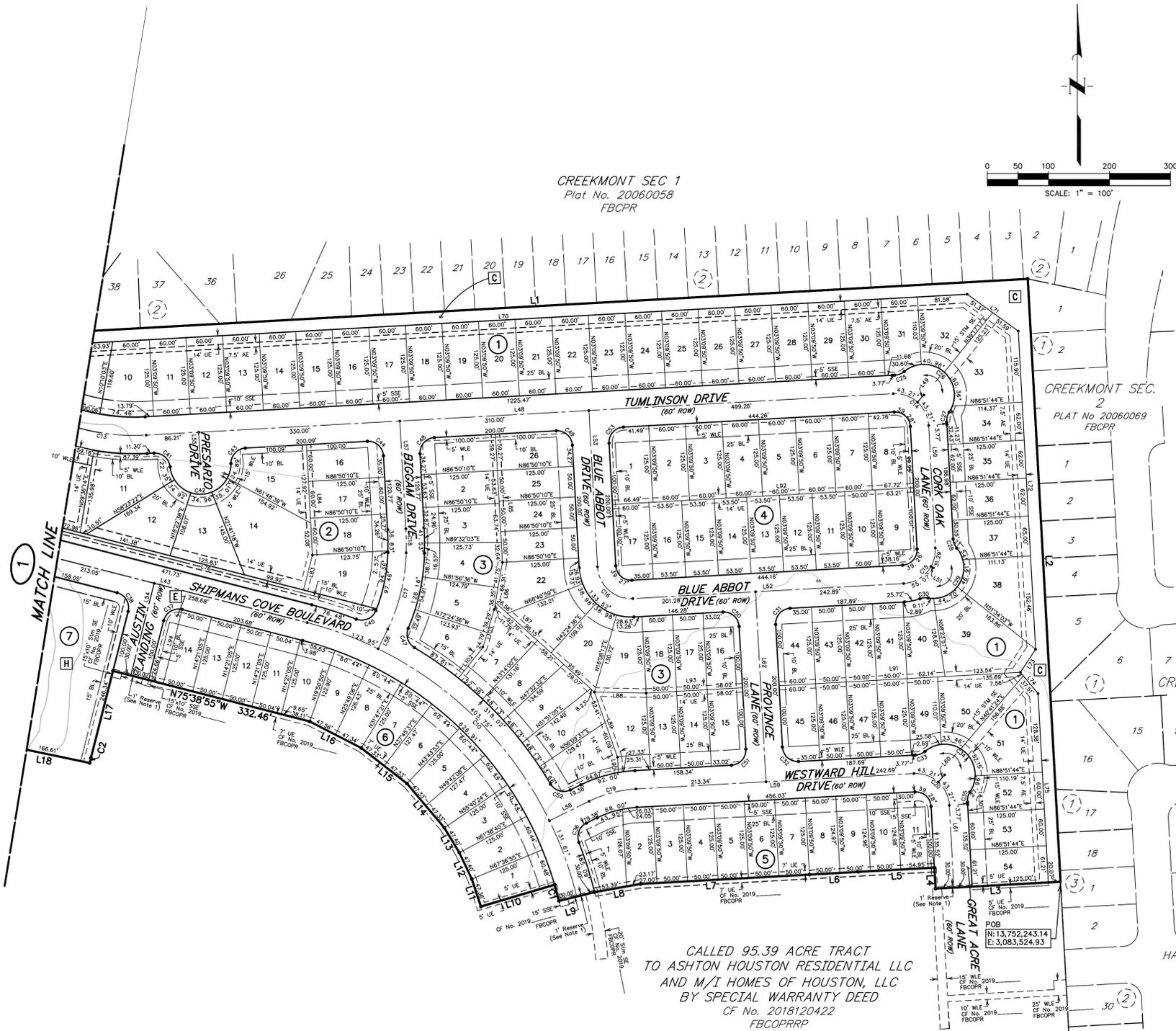
141 LOTS 9 RESERVES 7 BLOCKS
SURVEYOR: JONES | CARTER ENGINEER: JONES | CARTER
John D. Barcellona, P.E.

SHIPMANS COVE SECTION 1

A SUBDIVISION OF 63.88 ACRES OF LAND OUT OF THE M. SHIPMAN SURVEY, A-86 CITY OF MISSOURI CITY, FORT BEND COUNTY, TEXAS SEPTEMBER 2019

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N86°50'19"E	1616.81'	L53	N03°09'50"W	255.00'
L2	S03°07'52"E	983.97'	L54	N14°21'05"E	155.00'
L3	S86°51'44"W	205.07'	L55	N03°09'50"W	51.30'
L4	N03°08'16"W	34.31'	L56	N25°59'39"E	35.64'
L5	S86°51'44"W	125.00'	L57	N03°09'50"W	175.77'
L6	S86°49'06"W	79.95'	L58	N63°55'04"E	72.11'
L7	S86°50'10"W	277.00'	L59	N86°50'10"E	456.03'
L8	S79°57'40"W	76.56'	L60	N41°50'57"E	15.73'
L9	S76°16'47"W	60.00'	L61	N03°08'16"W	135.52'
L10	S73°36'17"W	125.89'	L62	N03°09'50"W	310.00'
L11	N18°19'34"W	47.36'	L63	N04°16'17"E	67.92'
L12	N25°22'12"W	47.40'	L64	N22°10'38"W	68.89'
L13	N31°20'28"W	47.40'	L65	N03°09'12"W	131.54'
L14	N40°17'52"W	94.66'	L66	N86°50'48"E	62.00'
L15	N52°14'23"W	94.66'	L67	N84°08'18"E	62.07'
L16	N62°55'12"W	94.90'	L68	N81°09'38"E	192.29'
L17	S14°21'05"W	146.34'	L69	N03°09'12"W	504.97'
L18	N78°14'43"W	132.07'	L70	N86°50'10"E	1536.21'
L19	S11°33'30"W	64.86'	L71	N54°17'20"W	102.96'
L20	S07°26'53"E	73.13'	L72	N03°08'16"W	519.36'
L21	S05°28'35"W	67.65'	L73	N33°48'35"E	45.09'
L22	S87°01'29"W	48.33'	L74	N40°06'16"W	45.07'
L23	S42°11'10"W	14.18'	L75	N03°08'16"W	309.59'
L24	S02°39'09"E	113.59'	L76	N75°38'55"W	574.13'
L25	S70°22'47"E	29.28'	L77	N59°58'34"W	208.11'
L26	S65°32'46"W	30.65'	L78	N37°28'00"W	208.57'
L27	S02°38'55"W	145.22'	L79	N26°08'37"W	72.04'
L28	N20°30'21"E	221.85'	L80	N15°22'08"W	81.80'
L29	N11°15'15"E	123.59'	L81	N01°06'26"E	74.27'
L30	N19°58'23"W	59.92'	L82	N04°15'21"E	71.59'
L31	N03°34'07"W	137.68'	L83	N14°21'05"E	59.01'
L32	N26°07'05"W	128.82'	L84	N03°09'50"W	180.00'
L33	N32°43'46"W	195.78'	L85	N03°09'50"W	209.27'
L34	N23°21'22"W	115.11'	L86	N10°00'52"E	78.10'
L35	N20°00'27"W	127.03'	L87	N47°59'14"W	218.20'
L36	N17°47'33"W	200.03'	L88	N88°50'09"W	84.80'
L37	N34°48'49"W	53.93'	L89	N19°40'42"W	112.50'
L38	N21°32'17"E	215.37'	L90	N03°09'50"W	25.16'
L39	S89°28'49"E	100.00'	L91	N86°50'10"E	395.69'
L40	N82°44'36"E	157.09'	L92	N86°50'10"E	494.21'
L41	S03°09'13"E	509.95'	L93	N86°50'10"E	158.02'
L42	N00°31'11"E	262.83'	L94	N14°21'05"E	125.00'
L43	N75°38'55"W	471.74'	L95	N89°09'23"E	82.27'
L44	N89°28'51"W	71.33'	L96	N01°04'14"W	84.87'
L45	N86°50'48"E	71.40'	L97	S89°35'52"W	44.68'
L46	N41°50'48"E	22.78'	L98	N46°16'35"E	19.94'
L47	N03°09'12"W	70.98'	L99	N09°21'27"W	97.27'
L48	N86°50'10"E	1225.47'	L100	N82°20'52"E	814.26'
L49	N41°50'57"E	15.73'	L101	N19°15'53"E	203.45'
L50	N03°08'16"W	200.00'	L102	N38°32'45"E	64.35'
L51	N60°32'14"W	4.35'	L103	N16°40'29"E	64.08'
L52	N86°50'10"E	444.16'			

CURVE	RADIUS	DELTA ANGLE	ARC LENGTH	CHORD BEARING	CHORD LENGTH	TANGENT
C1	580.00'	2°12'22"	27.22'	N15°03'54"W	27.22'	13.61'
C2	830.00'	0°35'06"	8.48'	S14°03'32"E	8.48'	4.24'
C3	49.97'	44°06'05"	38.46'	S02°03'27"E	37.52'	20.24'
C4	1100.00'	17°07'09"	328.67'	S77°05'54"E	327.44'	165.57'
C5	25.00'	86°10'38"	37.60'	S42°34'09"E	34.16'	23.39'
C6	25.00'	86°10'40"	37.60'	N43°36'29"E	34.16'	23.39'
C7	1100.00'	3°57'13"	75.91'	N84°43'13"E	75.89'	37.97'
C8	1196.00'	4°43'26"	98.61'	N80°22'53"E	98.58'	49.33'
C9	545.00'	76°10'04"	724.51'	N37°33'53"W	672.33'	427.09'
C10	610.00'	61°55'42"	659.32'	N44°41'04"W	627.69'	366.01'
C11	450.00'	3°40'24"	28.85'	S88°41'00"W	28.85'	14.43'
C12	55.00'	90°00'00"	86.39'	N48°09'12"W	77.78'	55.00'
C13	350.00'	90°00'38"	549.84'	N48°09'31"W	495.02'	350.06'
C14	55.00'	90°01'34"	86.42'	N48°09'03"W	77.80'	55.03'
C15	55.00'	89°58'26"	86.37'	N41°50'57"E	77.76'	54.97'
C16	55.00'	90°00'00"	86.39'	N48°09'50"W	77.78'	55.00'
C17	300.00'	2°40'06"	129.16'	N13°39'38"E	128.17'	65.60'
C18	500.00'	4°29'23"	39.18'	N00°55'09"W	39.17'	19.60'
C19	200.00'	22°55'06"	80.00'	N75°22'37"E	79.47'	40.54'
C20	55.00'	90°01'34"	86.42'	N48°09'03"W	77.80'	55.03'
C21	25.00'	90°31'57"	39.50'	N44°44'49"W	35.52'	25.23'
C22	25.00'	44°57'43"	19.62'	N66°24'54"E	19.12'	10.35'
C23	50.00'	175°40'30"	153.44'	S48°09'12"E	99.93'	137.71'
C24	25.00'	44°57'43"	19.62'	S17°16'41"W	19.12'	10.35'
C25	25.00'	39°32'58"	17.26'	N69°36'12"E	16.92'	8.99'
C26	50.00'	164°02'28"	143.15'	S48°09'03"E	99.03'	356.70'
C27	25.00'	39°32'58"	17.26'	S14°05'41"W	16.92'	8.99'
C28	25.00'	36°52'12"	16.09'	S21°34'22"E	15.81'	8.00'
C29	50.00'	140°06'09"	122.26'	S30°02'36"W	94.00'	137.76'
C30	25.00'	30°35'55"	13.35'	S84°47'43"W	13.19'	6.84'
C31	25.00'	90°00'00"	39.27'	S41°50'10"W	35.36'	25.00'
C32	25.00'	90°00'00"	39.27'	S48°09'50"E	35.36'	25.00'
C33	25.00'	39°32'58"	17.26'	N69°36'12"E	16.92'	8.99'
C34	50.00'	164°02'28"	143.15'	S48°09'03"E	99.03'	356.70'
C35	25.00'	39°32'58"	17.26'	S14°05'41"W	16.92'	8.99'
C36	25.00'	85°15'21"	37.20'	S21°17'23"W	33.86'	23.01'
C37	25.00'	90°00'00"	39.27'	S59°21'05"W	35.36'	25.00'
C38	25.00'	90°00'00"	39.27'	N30°38'55"W	35.36'	25.00'
C39	500.00'	22°41'47"	198.06'	N10°49'44"W	196.77'	100.35'
C40	25.00'	86°01'29"	37.54'	N47°17'01"E	34.11'	23.32'
C41	25.00'	87°10'14"	38.04'	S49°34'44"E	34.47'	23.79'
C42	50.00'	174°20'27"	152.14'	N86°50'10"E	99.88'	1011.63'
C43	25.00'	87°10'14"	38.04'	N43°15'03"E	34.47'	23.79'
C44	25.00'	90°00'00"	39.27'	S48°09'50"E	35.36'	25.00'
C45	25.00'	89°11'28"	38.92'	S66°36'11"W	35.10'	24.65'
C46	200.00'	6°42'40"	23.43'	N19°42'25"W	23.41'	11.73'
C47	25.00'	82°31'40"	36.01'	N18°02'00"W	32.98'	21.94'
C48	25.00'	90°00'00"	39.27'	N41°50'10"E	35.36'	25.00'
C49	25.00'	90°00'00"	39.27'	S48°09'50"E	35.36'	25.00'
C50	25.00'	90°00'00"	39.27'	S48°09'50"E	35.36'	25.00'
C51	25.00'	90°00'00"	39.27'	S41°50'10"W	35.36'	25.00'
C52	25.00'	85°15'21"	37.20'	N73°27'16"W	33.86'	23.01'
C53	25.00'	90°00'00"	39.27'	N41°50'10"E	35.36'	25.00'
C54	500.00'	19°27'28"	169.80'	N06°37'21"W	168.99'	85.73'
C55	80.00'	9°30'35"	136.15'	N29°29'25"W	120.30'	91.24'



CALLED 95.39 ACRE TRACT
 TO ASHTON HOUSTON RESIDENTIAL LLC
 AND M/I HOMES OF HOUSTON, LLC
 BY SPECIAL WARRANTY DEED
 CF No. 2018120422
 FBCOPRRP

SHIPMANS COVE SECTION 1
 A SUBDIVISION OF 63.88 ACRES OF LAND
 OUT OF THE
 M. SHIPMAN SURVEY, A-86
 CITY OF MISSOURI CITY,
 FORT BEND COUNTY, TEXAS
 SEPTEMBER 2019

ASHTON WOODS
 OWNER/DEVELOPER:
 M/I HOMES OF HOUSTON, LLC
 10720 W. Sam Houston Pkwy N., Ste 100
 Houston, Texas 77064
 832-623-0015

ASHTON HOUSTON RESIDENTIAL, LLC
 OWNER/DEVELOPER:
 11375 W. Sam Houston Pkwy S., Ste 100
 Houston, Texas 77031
 281-561-7773

141 LOTS **9 RESERVES** **7 BLOCKS**
 SURVEYOR: ENGINEER:

J|C JONES | CARTER **J|C JONES | CARTER**
 Steven A. Jores, R.P.L.S. No. 5317 JOHN D. BARCELLONA, P.E.



**PLANNING AND ZONING COMMISSION
DISCUSSION ITEM**

AGENDA DATE: October 30, 2019
AGENDA ITEM SUBJECT: Mobile Food Unit/Truck Ordinance Update- Worksession
AGENDA ITEM NUMBER: 8.A.
PROJECT PLANNER:  Otis T. Spriggs, AICP, Director, Development Services

SUMMARY:

STAFF PROPOSES TO PRESENT TO THE P&Z COMMISSION THE PRELIMIINARY DISCUSSION OF BASIC GUIDELINES FOR MOBILE FOOD ESTABLISHMENTS AS REQUESTED BY CITY COUNCIL.

RECOMMENDED ACTION: This is a worksession to consider preliminary guidelines providing for draft text amendments to serve as future regulations for Mobile Food Unit uses within the City of Missouri City Zoning jurisdiction as requested by the City Council.

HISTORY: *Planning & Zoning Commission held discussion of this issue in 2016 and provided minimal text amendment recommendations to Council, which were adopted on 10/16/17.*

In August, 2019, Administration was asked by the Council, to study this item further and provide some process improvements and flexibility recommendations for consideration.

Prior Commissioner's Position/Comments:

During the last changes to the Mobile Food Unit ordinance, the Planning & Zoning Commission, a number of concerns were voiced by the public and the Commissioners including following observations:

- **Timing Flexibility:** There is a breakfast crowd in the Industrial District, and there is evening and weekend demand. Consideration of multiple shifts was recommended by the Commissioners. Limitations recently placed on locations/districts are becoming too restrictive. We need to allow for some freshness and new ideas. What are we trying to prevent or protect?
 - **Demand:** The consensus of the Commission is that there is a demand for food trucks. Other cities are competitively allowing them. Seasonal offering for the community.
 - **Trial Basis (Pilot Study Approach):** Would like to see the allowance for the food trucks on a trial basis to test the market.
 - **Economic and Entertainment Investment Opportunity:** Where we are trying to bring some life back to some of the corridors, this is an opportunity to attract people to those areas with minimal investment. The use is market driven.
-

Zoning Code Recommended Text Summary

Definition:

Mobile food unit (MFU) means a vehicle mounted, self or otherwise propelled, self-contained food service operation, designed to be readily moveable, and used to store, prepare, display, serve or sell food. The term does not include a stand or a booth.

In August, 2019, administrative staff was asked by the City Council to evaluate the current Mobile Food Unit ordinance and provide some minimal process improvements and flexibility recommendations for later consideration. As a first step, the Missouri City Planning & Zoning Commission is asked to hold its first worksession of this issue on this agenda. We will discuss current policies, current trends, and possible strategies that may affect text amendment recommendations to Council.

In summary, the current mobile food units are allowed within the Zoning Code under the following parameters:

- Where industrial district uses are allowed;
- In all zoning districts, provided that a mobile food unit is located within one hundred (100) feet of a property with an active building permit for the construction of a building on the property or the construction of at least three (3) new dwelling units on the property;
- In all zoning districts, provided that an MFU is located at an event that is subject to a special events permit issued by the city in accordance with section 9.10 (Frequency is limited to two-week intervals);
- Within a park provided that a park use permit has been issued in accordance with article II of chapter 18; and,
- At an event that is sponsored or co-sponsored by the city with the city's written permission.

Administrative staff will update City Council during the Special Meeting to be held on November, 4, 2019 at 5:00 PM. The anticipated schedule moving forward for Mobile Food Units (Food Trucks) is as follows:

October 30, 2019:	Worksession at P&Z Commission
November 4, 2019:	City Council (Special Meeting Discussion)
December 11, 2019:	P&Z Commission (Regular Session)
January 6, 2020:	City Council (Regular Session, 1st Reading).

Other Considerations: Farmer's Markets:

S.B. 932 (Hughes/Wilson) – Farmers' Markets: provides that **certain food permits** (including temporary food establishment permits issued by a local health department) **issued to a farmer for the sale of food directly to consumers at a farmers' market**, a farm stand, or the farmer's farm, and an individual who prepares food for sale at a farmers' market: (1) **must be valid for a term of not less than one year;** (2) **may impose an annual fee not to exceed \$100;** and (3) **must cover sales at all locations within the jurisdiction of the permitting authority.** (Effective September 1, 2019.)

Next Steps: Continue discussions of Mobile Food Units and allow for Council, Commission, and public input in an upcoming regular session, and prepare for recommendations before the City Council by January, 2020.

October 30, 2019:	Worksession at P&Z Commission
November 4, 2019:	City Council (Special Meeting Discussion)
December 11, 2019:	P&Z Commission (Regular Session)
January 6, 2020:	City Council (Regular Session, 1 st Reading).

Staff recommends: The Planning and Zoning Commission should hold initial discussions of regulations for Mobile Food Unit establishments/uses within the City of Missouri City Zoning jurisdiction.

-----END OF REPORT-----

ORDINANCE NO. O-17-41

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING SECTION 9, SUPPLEMENTARY DISTRICT REGULATIONS, AND SECTION 13, SIGN REGULATIONS, OF APPENDIX A OF THE MISSOURI CITY CODE ENTITLED "THE CITY OF MISSOURI CITY ZONING ORDINANCE;" PROVIDING RULES AND REGULATIONS RELATED TO MOBILE FOOD UNITS; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Goal 2.1 of the 2017 Comprehensive Plan provides that the City of Missouri City will focus on the recruitment of lifestyle amenities desired by residents; and

WHEREAS, the City has received requests for mobile food unit vendors to offer food products to residents of the City; and

WHEREAS, in order to protect the public health, safety, and welfare of its residents and the general public, the City Council of the City of Missouri City (the "City Council") deems it appropriate to provide for the regulation of mobile food units operating within the City; and

WHEREAS, the Planning and Zoning Commission of the City of Missouri City (the "Planning and Zoning Commission") and the City Council have each conducted, in the time and manner and after the notice required by law and the City of Missouri City Zoning Ordinance, a public hearing on the proposed amendments to the City of Missouri City Zoning Ordinance; and

WHEREAS, all persons appearing at such public hearings who desired to speak on such proposed amendments were afforded that opportunity and their comments were duly noted and considered; and

WHEREAS, the Planning and Zoning Commission has issued its final report to the City Council; and

WHEREAS, the City Council now deems it appropriate to approve the proposed amendments and authorize the operation of mobile food units within the City; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. As required by law, the City Council conducted a public hearing on the amendments to the City of Missouri City Zoning Ordinance as set forth herein and closed the public hearing prior to the final adoption of this Ordinance.

Section 3. The Missouri City Code is hereby amended by adding a new subsection 9.19 of Section 9 of Appendix A to provide as follows:

**“APPENDIX A
ZONING**

.....

SECTION 9. – SUPPLEMENTARY DISTRICT REGULATIONS

.....

Sec. 9.19. – Mobile food unit regulations.

A. *Use district regulations.* A mobile food unit is allowed in the following use districts, provided that such mobile food unit shall be operated in accordance with the terms and provisions of this section, and further provided that a mobile food unit permit has been issued pursuant to article II of chapter 18 of the Code:

1. Where I industrial district uses are allowed;
2. In BP, I, CF, LC, LC-O, LC-1, LC-2, LC-3, LC-4, and PD districts, provided that the mobile food unit is located within one hundred (100) feet of a property for which an active building permit has been issued;
3. In SD, R, R-1, R-2, R-3, R-4, R-5, R-6, MF-1, MF-2, MH, or PD districts, provided that the mobile food unit is located within one hundred (100) feet of a property for which an active building permit for the construction of at least three (3) dwelling units has been issued;
4. At a special event that has been issued a special events permit by the city in accordance with section 9.10;
5. Within a park, athletic field, or any part thereof, provided that the operation of a mobile food unit within such park or athletic field is authorized by a park use permit issued by the city in accordance with chapter 74 of the Code; and
6. At an event that is sponsored or co-sponsored by the city with the written authorization of the city manager or his designee.

B. *Hours of operation.* The holder of a mobile food unit permit shall operate a mobile food unit at a stationary location in the following use districts during the following hours:

1. In areas where I industrial district uses are allowed, between the hours of 6 a.m. and 9:00 a.m., 11:00 a.m. and 2:00 p.m., and 6:00 p.m. and 10:00 p.m.;
 2. In the areas described in subsections 9.19.A.2 and 9.19.A.3, between the hours of 6 a.m. and 10:00 p.m.; and
 3. In all other authorized areas, in accordance with the time specified in the applicable special event permit, park use permit or city manager authorization.
- C. *Signage.* Signage on a mobile food unit is limited to signs permanently attached to the exterior of the mobile food unit. Such signage shall:
1. Clearly display the name of the business as set forth in the MFU's sales tax permit on at least two sides of the mobile food unit, in bold letters that are at least six (6) inches in height and one and one-half (1 ½) inches in width; and
 2. Be constructed of durable materials, have a neat appearance, and be maintained in good repair and structural condition, including, but not limited to, by replacing defective parts, painting, repainting, and cleaning the signs.
- D. *Noise.* Use of audio amplification is prohibited. Mobile food units are subject to chapter 30 of the Code.
- E. *Trash disposal.* The holder of a mobile food unit permit shall:
1. Provide trash receptacles for use by customers during the MFU's hours of operation;
 2. Keep all areas within five (5) feet of the mobile food unit clear of litter and debris at all times; and
 3. Dispose of all trash or waste associated with the operation of the mobile food unit in an authorized receptacle, except that city trash receptacles may not be used to dispose of such trash or waste.
- F. *Operational capacity.* The holder of a mobile food unit permit shall not:
1. Attach, set up or use any other device or equipment intended to increase the selling, serving, storage, or display capacity of the mobile food unit,
 2. Allow items such as brooms, mops, hoses, equipment, containers and boxes or cartons to be located adjacent to or beneath the mobile food unit;

3. Provide or allow signs or banners not attached to and solely supported by the mobile food unit;
4. Provide or allow canopies, awnings or other coverings that are not attached to and solely supported by the mobile food unit to remain over any part of the mobile food unit or over any area within 100 feet of the mobile food unit, except that any awning or covering provided by others and primarily used for other purposes and only incidentally or coincidentally used by the mobile food unit shall not be considered a violation of this subsection;
5. Provide or cause any portable toilet facility to be provided; or
6. Provide or cause any dining area to be provided, including, but, not limited to, tables, chairs, booths, bar stools, benches and standup counters, within 100 feet of the mobile food unit, except that dining or seating areas adjacent to a mobile food unit operating inside an enclosed space such as a lobby of a business establishment where the seating is provided by someone other than the holder of a mobile food unit and only incidentally or coincidentally used by the patrons of the mobile food unit are acceptable.

G. *Exemptions.* A mobile food unit authorized to be located at an event that is sponsored or co-sponsored by the city is exempt from the provisions of subsections 9.19.B.1 and 9.19.B.2.”

Section 4. The Missouri City Code is hereby amended by adding a new subsection 13.10.H.4.e of Section 13 of Appendix A to provide as follows:

**“APPENDIX A
ZONING**

.....

SECTION 13. SIGN REGULATIONS.

.....

Sec. 13.10. Regulations for conditionally exempt signs.

.....

H. *Vehicle signs.* A vehicle sign may be located in any zoning district. Such sign shall be located in accordance with the following regulations:

.....

4. Affirmative defenses.

.....

e. It is an affirmative defense to prosecution under subsections 13.10.H.1 and 13.10.H.2 that the vehicle or trailer is a mobile food unit that has a valid mobile food unit permit and is authorized to be located in the zoning district in accordance with section 9.19.”

Section 5. Repeal. Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 6. Penalty. Any person, firm, partnership, association, corporation, company, or organization of any kind who or which violates any provision of this Zoning Ordinance shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed Five Hundred Dollars (\$500.00). Each day during which said violation shall exist or occur shall constitute a separate offense. The owner or owners of any property or premises where any violation of this Zoning Ordinance shall occur, and any agent, contractor, builder, architect, person, or corporation who shall assist in the commission of such offense shall be guilty of a separate offense unless otherwise prohibited by law and, upon conviction thereof, shall be punished as above provided.

Section 7. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 2nd day of October, 2017.

PASSED, APPROVED and ADOPTED on second and final reading this 16th day of October, 2017.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney

ORDINANCE NO. O-17-42

AN ORDINANCE OF THE CITY OF MISSOURI CITY, TEXAS, AMENDING CHAPTER 18, BUSINESSES, OF THE MISSOURI CITY CODE; PROVIDING RULES AND REGULATIONS RELATED TO MOBILE FOOD UNITS; PROVIDING FOR REPEAL; PROVIDING A PENALTY; AND PROVIDING FOR SEVERABILITY.

* * * * *

WHEREAS, Goal 2.1 of the 2017 Comprehensive Plan provides that the City of Missouri City will focus on the recruitment of lifestyle amenities desired by residents; and

WHEREAS, the City has received requests for mobile food unit vendors to offer food products to residents of the City; and

WHEREAS, in order to protect the public health, safety, and general welfare of its residents and the general public, the City Council of the City of Missouri City (the "City Council") deems it appropriate to provide for the regulation of mobile food units operating within the City; and

WHEREAS, the City Council now deems it appropriate to approve the proposed regulations; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MISSOURI CITY, TEXAS:

Section 1. The facts and recitations set forth in the preamble of this Ordinance are hereby found to be true and correct.

Section 2. The Missouri City Code is hereby amended by adding a new subsection (7) of Section 18-102 of Division 4 of Article II of Chapter 18 to provide as follows:

"CHAPTER 18 – BUSINESSES

.....
ARTICLE II. – FOOD SERVICE

.....
DIVISION 4. – REGULATIONS.

.....
Sec. 18-102. – Amendments to state rules on food service sanitation.

The 2015 Edition of the Texas Food Establishment Rules adopted in section 18-101 is hereby amended in the following respects:

.....

- (7) *Subsection 228.2(85)* is hereby amended by deleting *Subsection 228.2(85)*, and substituting therefor, a new *Subsection 228.2(85)* to provide as follows:

§228.2. Definitions. The following definitions apply in the interpretation and application of this Code.

.....

- (85) Mobile food unit or MFU means a vehicle mounted, self or otherwise propelled, self-contained food service operation designed to be readily moveable, and used to store, prepare, display, serve or sell food. The term does not include a stand or a booth.”

Section 3. The Missouri City Code is hereby amended by adding a new division 5 of Article II of Chapter 18 to provide as follows:

“CHAPTER 18 - BUSINESSES

.....

ARTICLE II. – FOOD SERVICE

.....

DIVISION 5. – MOBILE FOOD UNITS.

Sec. 18-131. - Definitions.

The following words, terms, and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Director means the director of the city’s development services department or his designee.

Mobile means the state of being in active, but not necessarily continuous, movement.

Mobile food unit permit, MFU permit or permit means a permit issued by the city to operate a mobile food unit in the city in accordance with the provisions of this division.

Operator means an individual who is designated by an applicant for a permit or a permit holder to supervise the operation of a mobile food unit.

Permit holder means a person who has been issued a mobile food unit permit.

Servicing record means a record that is issued to a permit holder by a central preparation facility, other fixed food services establishment or servicing area that serves as the MFU’s base of operation and that documents all of the MFU’s visits to such central preparation facility, other fixed food services establishment or servicing area.

Stationary location means the position of the mobile food unit when not in motion and addressing the public for the purpose of selling or offering food for sale.

Sec. 18-132. – Prohibited conduct.

A person is prohibited from engaging in the following conduct within the city:

- (1) Operating a mobile food unit without a valid and current mobile food unit permit;
- (2) Operating a mobile food unit that does not comply with all applicable laws, including the requirements of this chapter;
- (3) Selling or offering for sale food not described in the mobile food unit permit from a mobile food unit;
- (4) Selling or offering for sale a non-food item from a mobile food unit;
- (5) Storing, preparing, displaying or serving food outside of the mobile food unit itself;
- (6) Selling food from outside of the mobile food unit itself;
- (7) Operating a mobile food unit that is not readily moveable at all times;
- (8) Altering, removing, attaching, adding or changing anything in, under, or upon the mobile food unit that would prevent or otherwise reduce ready mobility;
- (9) Operating a mobile food unit without a valid servicing record;
- (10) Issuing a servicing record for a mobile food unit without first verifying that such mobile food unit has complied with all servicing requirements;
- (11) Presenting or issuing a false, fraudulent, or untruthful servicing record for the purpose of demonstrating compliance with the requirements of this chapter;
- (12) Transferring, assigning or attempting to transfer or assign a permit;
- (13) Parking a mobile food unit on any highway, street, roadway, sidewalk or any area between a street and a sidewalk or other public right-of-way without the express written permission of the person that controls such highway, street, roadway, sidewalk or other public right-of-way; or

- (14) Locating a mobile food unit on a common or shared driveway or parking area if it prevents the use of such driveway or parking area by a person entitled to use the driveway or parking area, provided that it shall be an affirmative defense to prosecution that the individual who is prevented from using such driveway or parking area located or caused to be located such mobile food unit on the premises.

Sec. 18-133. – General requirements.

- (a) A permit holder or operator shall be present at the mobile food unit during all hours of the MFU's operation in the city.
- (b) A permit holder or operator shall store, prepare, display, serve or sell food on or in the MFU itself.
- (c) Except as provided in subsection (d) of this section, a permit holder shall notify the director in writing, during the term of the permit, of any change to the information submitted in the permit holder's application for a permit, including, but not limited to, a change in the name, address or telephone number of the permit holder or operator within ten (10) calendar days of such change.
- (d) A permit holder shall provide written notice to the director at least two business days before beginning operations at or relocating operations to any location not currently included in its application for a permit.
- (e) A mobile food unit permit is not transferable. A change of ownership of a mobile food unit, including a change of the legal form of the entity, shall require submission of a new application for a mobile food unit permit and inspection of the mobile food unit. A mobile food unit permit shall become void upon the closing of the sale of the mobile food unit for which a permit was issued.
- (f) A permit holder shall maintain a mobile food unit for which a permit has been issued in working order for the duration of the permit.

Sec. 18-134. - Applications for mobile food unit permits.

A person seeking to operate a mobile food unit in the city shall submit an application for a mobile food unit permit to the director in an application form provided by the director accompanied by the payment of a fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees. The application shall include the following information:

- (1) The name, address, telephone number, and email address of the applicant, provided that if the applicant is an entity, the following information shall also be provided:

- (a) The legal name of the entity;
 - (b) If the entity is a corporation, the full name and address of each director, officer, and each shareholder, or if the corporation has more than five shareholders, the full name and address of at least five shareholders with the most shares;
 - (c) If the entity is a partnership, the full name and address of each partner and the type of partnership;
 - (d) If the entity is an unincorporated association, the full name and address of each associate and officer of such association;
 - (e) Proof of the entity's form and current status, including, but not limited to:
 - i. A current and valid certificate of existence or certificate of authority from the state office of the secretary of state;
 - ii. A current and valid certificate of good standing from the state comptroller of accounts;
 - iii. All assumed names used and copies of all filings related to such names from the county clerk's office;
 - iv. A certificate of incorporation; and
 - v. If applicable, a determination letter issued by the Internal Revenue Service;
 - (f) The entity's federal tax identification number; and
 - (g) Documentation that the entity is not delinquent in state, local, and federal taxes;
- (2) A copy of the applicant's valid and current driver's license;
 - (3) If the applicant will designate an operator to supervise the operation of the MFU, the name, address, telephone number, and email address of the operator, and a copy of the operator's valid and current driver's license;
 - (4) The applicant's sales tax number and a copy of the applicant's sales tax permit;
 - (5) A certificate of title showing the current true ownership of the mobile food unit, provided that if the applicant is not the owner of the mobile food unit, a copy of a written and notarized statement from the owner authorizing the applicant to operate the mobile food unit;

- (6) The vehicle identification number, license plate number, and proof of vehicle registration;
- (7) A copy of the applicant's liability insurance policy, insurance endorsement or evidence of self-insurance on the MFU;
- (8) A copy of a current and valid food protection manager certification;
- (9) A written standard operation procedure of how the applicant plans to operate the mobile food unit, that includes, but is not limited to, whether food will be prepackaged, hours of operation, methods of serving food to customers, the MFU's waste water disposal site and process, and other servicing operations details;
- (10) Plans drawn to scale that clearly specify and address the proposed layout of the MFU, the identity, number, and capacity of food equipment, the location and sizes of plumbing fixtures and connections, food preparation, storage and service window areas, construction material of the inside of the MFU, and location of the LP-gas appliances, LP-gas container storage, and fire extinguishers;
- (11) A description or menu of the types of food that the applicant proposes to sell or offer for sale from the mobile food unit;
- (12) The location(s) where the mobile food unit will be in operation;
- (13) Proof of ownership of a central preparation facility, other fixed food establishment or service area, as applicable, or if the applicant is not the owner of the central preparation facility, other fixed food establishment or service area, a signed and notarized statement on the letterhead of the central preparation facility, other fixed food establishment or service area, as applicable, authorizing the applicant to use the central preparation facility, other fixed food establishment or service area as its base of operation;
- (14) If the central preparation facility, other fixed food establishment or service area that the applicant proposes to use as its base of operation is located outside the jurisdiction of the city, a copy of the most current health inspection report obtained from the regulatory authority having jurisdiction over such central preparation facility, other fixed food establishment or service area;
- (15) For a mobile food unit that will be operated on private property, proof of ownership of the property or, if the applicant is not the owner of the property, a signed and notarized written statement from the property owner or

the property owner's authorized agent granting the applicant permission to operate a mobile food unit on the property;

- (16) For a mobile food unit that will operate at one location for more than two hours, a signed and notarized statement from the owner or the authorized agent of the owner of a business establishment with a restroom with a flushable toilet, a hand wash sink with hot and cold running water, and soap and hand-drying provisions, located within 300 feet of the location where the mobile food unit will be in operation, granting employees of the mobile food unit permission to use such restroom during the business establishment's hours of operation; except that restrooms in private residences and portable restrooms shall not be used to meet this requirement;
- (17) A description of the signage that will be affixed on the mobile food unit; and
- (18) Any other information that may be requested by the director to fully evaluate and review the application.

Sec. 18-135. - Review and approval of applications.

Upon receipt of a complete application for a permit, the director will review the application and grant a mobile food unit permit unless one or more of the following conditions is met:

- (1) The application contains false or misleading information, or required information is omitted;
- (2) The application or the mobile food unit does not comply with all applicable laws, including the requirements of this chapter; or
- (3) Operation of the mobile food unit constitutes a substantial hazard to public health or public safety.

Sec. 18-136. - Suspension of permits.

- (a) The director may, without warning, notice or hearing, suspend a mobile food unit permit if one or more of the following conditions are met:
 - (1) The permit holder or the mobile food unit does not comply with all applicable laws, including the requirements of this chapter;
 - (2) Operation of the mobile food unit constitutes a substantial hazard to public health or public safety;

- (3) The permit holder violates the terms and conditions of any written statement submitted to the director under subsections 18-134(5) (authorization to operate MFU), (13) (base of operation authorization); (15) (private property authorization); or (16) (restroom authorization); or
 - (4) A food service establishment permit issued, by the city or the applicable regulatory authority, to a central preparation facility, other fixed food establishment or a servicing area that serves as the base of the MFU's operation is suspended or revoked.
- (b) Upon suspension of a mobile food unit permit, the director shall notify the permit holder or the operator, in writing, of the suspension and the reason(s) for such suspension. A permit holder whose permit is suspended shall immediately cease operating the mobile food unit for which a permit has been suspended.
- (c) The director may terminate the suspension at any time if the reasons for suspension no longer exist.

Sec. 18-137. - Revocation of permits.

The director may revoke a mobile food unit permit if one or more of the following conditions are met:

- (1) One or more of the conditions set forth in section 18-136 is met;
- (2) Repeated violations of any applicable laws, including the requirements of this chapter; or
- (3) Interference with the city in the performance of its duties.

Sec. 18-138. - Notice of denial or revocation of applications or permits.

The director shall provide notice, in writing, of the denial or revocation of an application filed or a permit issued pursuant to this division, and shall include the reason(s) for such denial or revocation.

Sec. 18-139. - Appeal of denial, suspension or revocation of permits.

An applicant or a permit holder, as applicable, may appeal to the city council, the director's decision to deny, suspend or revoke an application filed or a permit issued, as applicable, by providing a written notice of appeal to the city secretary within 10 days of the date of notice of such decision. A decision by the city council shall be final.

Sec. 18-140. - Display of permits.

A mobile food unit permit issued under this division shall be displayed, at all times, on each mobile food unit for which a permit is issued in a conspicuous place where the permit can be read by the general public.

Sec. 18-141. - Duration and renewal of permits.

- (a) A mobile food unit permit shall be valid for 12 months from the date the permit is issued.
- (b) A permit holder that desires to renew a valid permit may submit to the director, at least thirty (30) days before the date the permit expires or within thirty (30) days after the date the permit expires, an application for the renewal of a permit containing the information set forth in section 18-134 and a renewal fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees.

Sec. 18-142. - Zoning regulations.

A person who operates a mobile food unit within the city shall comply with the zoning regulations for mobile food units set forth in section 9.19 of the City of Missouri City Zoning Ordinance.

Sec. 18-143. - Inspection of mobile food units.

- (a) An applicant for a mobile food unit permit or renewal of a permit, as applicable, shall deliver or cause to be delivered the mobile food unit for which a permit is sought to a location designated by the director for an inspection and shall pay an inspection fee in the amount specified in a resolution adopted by the city council establishing a schedule of fees.
- (b) Prior to the approval of an application for a permit or an application for the renewal of a permit, the director will inspect the mobile food unit to determine compliance with the requirements of this chapter and applicable city ordinances.
- (c) At the time of the inspection, the mobile food unit shall be completely operable and in full working order.

Sec. 18-144. - Food safety requirements.

Except as otherwise provided in this chapter, a person operating a mobile food unit within the city shall comply with the regulations applicable to mobile food units contained in Chapter 228 of the Texas Food Establishment Rules, 25 TAC §228, as adopted and amended in section 18-101.

Sec. 18-145. - Fire safety requirements.

- (a) A person operating a mobile food unit within the city shall comply with the requirements of this section.
- (b) The provisions applicable to mobile food units contained in the Fire Code of the City of Missouri City, Texas, as adopted and amended in article II of Chapter 38 of the Code shall apply to a mobile food unit operating within the city.
- (c) For a mobile food unit that utilizes liquefied petroleum (LP) gas, the following requirements shall apply:
 - (1) The mobile food unit shall not be located or operated within fifteen (15) feet of another mobile food unit, a vehicle, or a structure;
 - (2) The mobile food unit shall be limited to a maximum of one (1) individual LP-gas container with a maximum capacity of 100 pounds aggregate water capacity;
 - (3) The mobile food unit's LP-gas supply system, including the LP-gas container, shall be installed either on the outside of the MFU or in a storage compartment inside the MFU, provided that such system shall be accessible from and vented to the outside, with the vents located near the top and bottom of the storage compartment and shall be located three (3) feet horizontally, when measured from any opening into the MFU below the vents;
 - (4) The LP-gas container shall be mounted securely on the MFU or within a storage compartment, in an upright position, in a manner as not to fall over, and in a manner that reduces the exposure of the LP-gas container to vehicle impact;
 - (5) LP-gas containers shall not be located on the roof of the MFU, ahead of the front axle, beyond the rear bumper, below the lowest part of the mobile food unit frame, or inside truck beds or passenger compartments of the MFU; and
 - (6) All LP-gas container valves, appurtenances, and connections shall be protected to prevent damage.
- (d) An approved 2A-10BC fire extinguisher, with current inspection and service tags, shall be properly mounted in a readily accessible location within the mobile food unit.
- (e) If cooking with grease within the mobile food unit, an approved Class K fire extinguisher, with current inspection and service tags, shall be properly mounted in a readily accessible location within a mobile food unit.

- (f) A “No Smoking” sign shall be posted next to the order window or area or near any LP-gas container.
- (g) A Type 1 hood and approved fire suppression system shall be installed on a mobile food unit that produces grease laden particles within the mobile food unit.
- (h) Except as provided herein, use of permanent extension cords is prohibited. Use of a permanent extension cord is allowed for a small and relocatable portable appliance such as a fan, power tool or similar appliance, provided that such extension cord shall not be affixed to structures, extended through walls, ceilings or floors or under doors or floor coverings or in areas where such extension cord would be subject to environmental or physical impact that could create an electrical hazard. Appliances such as refrigerators are not considered to be small and relocatable appliances regardless of the size of the appliance.
- (i) Any cooking appliance in the MFU shall be listed and labeled for its intended use and shall be used only in accordance with such intended use.

Sec. 18-146. - Servicing records.

- (a) The owner or operator of a central preparation facility, other fixed food establishment or servicing area from which a mobile food unit operates shall issue and maintain servicing records for each mobile food unit for which a permit is issued in a manner and form prescribed by the director for a period of one year from the date of servicing or until retrieved by the director, whichever comes first.
- (b) A permit holder shall keep and maintain, in the MFU, servicing records for each MFU for which a permit is issued for a period of one year from the date of servicing.
- (c) The director may promulgate rules and procedures regarding maintenance of servicing records by a central preparation facility, other fixed food establishment, servicing area, and permit holder.
- (d) Servicing records maintained under subsections (a) and (b) of this section shall be made available to any peace officer or the director for inspection and copying during the normal business hours of the central preparation facility, other fixed food establishment, servicing area or mobile food unit.

Sec. 18-147. - Utility connections.

Utility connections, if any, shall be limited to quick-connect electrical and telephone services and shall be in full compliance with the Electrical Code of the City of Missouri City, Texas, as adopted and amended in section 14-232 of the Code. Except as otherwise provided in this division, utility connections for water, sewer, and gas are prohibited.”

Section 4. Repeal. Any ordinance or any part of an ordinance in conflict herewith shall be and is hereby repealed only to the extent of such conflict.

Section 5. Penalty. Any person who violates, or any person who causes or allows another person to violate any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Five Hundred Dollars (\$500.00). Each occurrence of any violation of this Ordinance shall constitute a separate offense. Each day in which any violation of this Ordinance occurs shall constitute a separate offense.

Section 6. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Missouri City, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

PASSED and APPROVED on first reading this 2nd day of October, 2017.

PASSED, APPROVED and ADOPTED on second and final reading this 16th day of October, 2017.

Allen Owen, Mayor

ATTEST:

APPROVED AS TO FORM:

Maria Jackson, City Secretary

E. Joyce Iyamu, City Attorney



**PLANNING AND ZONING COMMISSION
DISCUSSION ITEM**

AGENDA DATE: October 30, 2019

AGENDA ITEM SUBJECT: 86th Texas Legislative Session: building materials
(House Bill 2439)

AGENDA ITEM NUMBER: 9.A.

PROJECT PLANNER: **Jennifer Thomas Gomez, AICP**, Planning
Manager

APPROVAL:  **Otis T. Spriggs, AICP**, Director, Development
Services

RECOMMENDED ACTION:

None.

BACKGROUND:

Discussion on House Bill 2439 and the city's code of ordinance requirements including adopted building code and amendments; adopted fire code and amendments; and the zoning ordinance.

A sample of recent news articles summarizing approaches being implemented in other Texas communities are included.

-----**END OF REPORT**-----

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

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E-NEWSLETTER LATEST EDITION

HB 2439 brings change to local building aesthetics laws

By **Ben Thompson** | 1:58 pm Oct. 14, 2019 CDT



WHAT IS HB 2439? The new state law restricts governments from locally regulating building materials used in construction.

NATIONAL STANDARDS APPLY EXCEPT FOR:

- Construction under standards needed for state or federal funding, or housing programs
- Materials necessary for windstorm and hail insurance
- Some ordinances related to outdoor lighting
- Buildings in designated historical or cultural areas

SOURCE: TEXAS LEGISLATURE/COMMUNITY IMPACT NEWSPAPER

EXTERIOR APPEARANCE
The boards of homes previously limited to percentages of masonry content can now consist of any material approved under national codes.

INTERIOR MATERIALS
HB 2439 also covers materials used inside buildings such as electrical wiring.

THE WOODLANDS
An expected change of this line.

SHENANDOAH
Boards of homes are no longer required to maintain a design or masonry content. Board changes and changed areas are now allowed for roofing. Boards can vary in color and feature more design.

THE WOODLANDS
SHENANDOAH
DARK RIDGE NORTH

E-NEWSLETTER



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POPULAR

House Bill 2439, a state law prohibiting local restrictions on building materials, went into effect Sept. 1. The new law loosens Texas cities' aesthetic control while potentially providing savings for new construction across the state.

The law received support from most state lawmakers and building industry associations, who said a more open market for building materials could result in lower construction costs for buyers and builders.

"We just wanted to make sure that Texas and its economy continue to stay vibrant and healthy and that you don't have local municipalities adding additional standards and regulations to make construction more expensive," said state Rep. Steve Toth, R-The Woodlands.

The law will not directly modify The Woodlands Township's development covenants and standards, township officials said, but it could affect new regulations in the future if the township residents decide to incorporate. Meanwhile, the cities of Shenandoah and Oak Ridge North expect some changes to the rules governing building standards within their boundaries.

"You just don't want to have somebody say, 'Well I can put this product on here just because of the national building code; it's allowed,'" Shenandoah City Council Member Ron Raymaker said. "Will that affect our property values long term? I don't have a crystal ball on that."

Possible construction benefits

HB 2439 prevents local governments from regulating the materials used for new construction, maintenance and renovations. Instead of localized rules regarding building products and methods, the new law sets nationally accepted

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codes as the only standards for cities to regulate construction within their boundaries.

Construction industry associations favored the bill and touted its intended effect of simplifying codes—likely resulting in savings for consumers and builders by eliminating restrictions on the construction process.

“When you take some of these tools out of the toolbox for builders, it really starts severely impacting affordability,” said Bradley Pepper, the director of government affairs for the Greater Houston Builders Association. “There’s a region-wide issue with housing affordability. And so something like this that goes to the bottom line of the affordability is what it is targeted to address.”

Based on 2017 U.S. Census Bureau estimates, values of owner-occupied housing units in south Montgomery County were higher than the Texas median of \$151,500. Oak Ridge North’s median housing unit value of \$192,200 was 27% more than the statewide figure, while The Woodlands’ \$351,000 was 132% greater.

Scott Norman, the executive director of the Texas Association of Builders, also said the organization supports HB 2439 and expects the law will result in lower building costs.

“When a city has an entire prohibition or an entire mandate onto the certain type of product that raises the cost, that is going to price out a certain number of people from that community,” Norman said.

Toth, who has a background in contracting, said he believes increased options for builders will pass on savings to consumers.

“At the end of the day, it really doesn’t matter to the builder,” he said. “It’s the customer that ends up paying the bill for these additional requirements and regulations.”

THE LATEST EDITION

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However, Bruce Race, a University of Houston architecture professor with experience in community design, said the new law may not result in true savings on new construction.

“There’s just so many things I would be focused on before I started to look at the \$900 I saved between brick and HardiePlank,” Race said, referring to a brand of siding. “One could make the argument, but I’m also wondering if that’s not just \$900 that goes into a builder’s pocket and then the family has to tear the siding off in 20 years and do it again.”

Community considerations

Despite the legislative support behind HB 2439, many Texas city governments and civic groups criticized the measure for its effects on their oversight and established visual guidelines within their boundaries.

“You could build a house out of corrugated tin under international building codes, but that’s not appropriate in a 1960s brick, ranch-style neighborhood,” said Bennett Sandlin, executive director of the Texas Municipal League. “Our city officials are just beginning to digest how bad this is, and what a dangerous precedent it sets for keeping the community looking the way you want it to.”

Locally, Oak Ridge North City Council approved a resolution in June requesting Gov. Greg Abbott veto the bill. Prior to passing the resolution, members of the council shared concerns over the law’s future effects on longstanding visual standards in the city.

While the city of Shenandoah declined to comment on HB 2439, members of its City Council requested in June that residents contact the governor’s office to appeal for a veto of the bill.

“I strongly opposed this bill, as it takes away the rights of cities to set their own community standards, to protect their residents, in

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favor of construction industry interests,” Raymaker said in a September email. “It’s an overreach by the Legislature in my opinion.”

Both Shenandoah and Oak Ridge North officials said their cities have worked to maintain certain visual characteristics within their boundaries throughout south Montgomery County’s continued build-out. Many of Oak Ridge North’s original homes were built in the 1960s and 1970s under deed restrictions requiring a percentage of exterior brick, according to City Building Official John Beisert. Replacement zoning polices adopted in the 1990s maintained those masonry requirements until this year.

“HB 2439 is so detrimental to the city because we can no longer require a certain percentage of masonry on a building nor can we require a certain style of roofing material,” Beisert said in an email.

Prior to HB 2439, the city’s masonry constraint included most of its residential, business and manufacturing districts. A portion of the city electrical code banning certain types of wire in the city is also unenforceable, which Beisert said may be a safety concern.

Raymaker said Shenandoah kept a masonry standard prior to HB 2439, and the law’s passage could bring visual changes for local buildings under broader national codes. While a drastic immediate effect from the law is unlikely, Raymaker said future properties in Shenandoah could gradually change in appearance as the city’s older homes become redevelopment targets, and they are not encumbered by original visual requirements.

“I think right now the average resident is more concerned about, ‘Yeah, I want a house that blends in with what we have already in the city,’” Raymaker said. “Somewhere in the next 30 years somebody’s going to start teardowns in Shenandoah Valley, and then that’s where it’ll get a little more contentious.”

The Woodlands standards remain

Standards in The Woodlands Township are backed by longstanding covenants designed to maintain founder George Mitchell's original vision for the community.

If the township votes on a civic incorporation and potentially shifts from the covenants to a different model of aesthetic guidelines in the future, its new system would fall within the restrictions of HB 2439, according to John Powers, the assistant general manager of community services in The Woodlands.

Powers said the covenant system was originally enforced by now-defunct property owner associations that transferred their responsibilities to the township's standards committees before dissolving. Therefore, The Woodlands itself is not viewed as the entity that would be regulated under HB 2439.

Following a legal review of the law's effects on local guidelines, The Woodlands Township's Development Standards Committee determined HB 2439 would not affect the committee or the township.

According to DSC Chairman Walt Lisiewski, if the government and residents decide to incorporate and shift to a different system of visual standards in the future, then the law could influence the new regulations.

Lisiewski said the covenant administration and standards teams would work within their current processes to maintain the norms for residential and commercial buildings in The Woodlands.

Hennie van Rensburg, director of The Woodlands Covenant Administration, said he believes the consistency of local standards enforced by the township remains an appeal to residents and newcomers.

“Most people move here I think because they certainly like the way The Woodlands looks aesthetically and the way the properties are maintained,” van Rensburg said. “They certainly very much appreciate that we have the actual deed restrictions in place to ... help maintain the actual integrity of the community.”

Lisiewski and van Rensburg said ongoing new construction has created a challenge of balancing the look of modern homes and trends with the established visuals of older portions of The Woodlands. Lisiewski said the township design agency remains focused on development in The Woodlands and the hundreds of monthly variance applications it receives intended to preserve the character and principles of the area within the township’s traditional constraints.

“We want to allow a resident to utilize his property and expand on his property, to do things, but we also want to make sure that you take your neighbors into consideration,” Lisiewski said.

Anna Lotz contributed to this report.

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2 COMMENTS

COMMENT

Mac McClusky 5:31 pm Oct 14, 2019

Cities act like it is the end of the world when someone wants to built their house out of Hardie instead of brick!

This has nothing to do with health and safety and everything to do with city officials imposing preferences on what is on

the home in order to dictate who is in the home. The code already ensures these products are safe.

These regulations were simply creating monopolies and exacerbating housing inequality. Bravo to our state legislature for shutting down these shameful practices.

[REPLY >](#)

Kristin Lewis 10:08 pm Oct 15, 2019

I think if this is truly intended to make the market healthy and better for business, it should be changed to also help communities with vacant buildings and strip centers. There is nothing that pains me more to see a new strip center being built when there is one down the street that is only 50% full. Can TX provide tax cuts to businesses that reuse or remodel existing building? The outlet mall in Conroe is a great example of an area that should be reused!

[REPLY >](#)