

1-1 By: Hughes S.B. No. 840
1-2 (In the Senate - Filed January 17, 2025; February 13, 2025,
1-3 read first time and referred to Committee on Local Government;
1-4 March 18, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 2; March 18, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE				
1-8		Yea	Nay	Absent	PNV
1-9	Bettencourt	X			
1-10	Middleton	X			
1-11	Cook	X			
1-12	Gutierrez	X			
1-13	Nichols		X		
1-14	Paxton	X			
1-15	West		X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 840 By: Middleton

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to certain municipal regulation of certain mixed-use and
1-20 multifamily residential development projects and conversion of
1-21 certain commercial buildings to mixed-use and multifamily
1-22 residential occupancy.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subchapter A, Chapter 211, Local Government
1-25 Code, is amended by adding Section 211.0011 to read as follows:

1-26 Sec. 211.0011. ZONING REGULATION OF MIXED-USE RESIDENTIAL
1-27 AND MULTIFAMILY RESIDENTIAL USE AND DEVELOPMENT. (a) In this
1-28 section, "mixed-use residential" and "multifamily residential"
1-29 have the meanings assigned by Section 218.001.

1-30 (b) The authority under this chapter related to zoning
1-31 regulations and the determination of zoning district boundaries in
1-32 connection with mixed-use residential use and development and
1-33 multifamily residential use and development is subject to Chapter
1-34 218.

1-35 SECTION 2. Subtitle A, Title 7, Local Government Code, is
1-36 amended by adding Chapter 218 to read as follows:

1-37 CHAPTER 218. REGULATION OF MIXED-USE AND MULTIFAMILY RESIDENTIAL
1-38 USE AND DEVELOPMENT IN CERTAIN MUNICIPALITIES
1-39 SUBCHAPTER A. GENERAL PROVISIONS

1-40 Sec. 218.001. DEFINITIONS. In this chapter:

1-41 (1) "Heavy industrial use" means a storage,
1-42 processing, or manufacturing use:

1-43 (A) with processes using flammable or explosive
1-44 materials;

1-45 (B) with hazardous conditions; or

1-46 (C) that is noxious or offensive from odors,
1-47 smoke, noise, fumes, or vibrations.

1-48 (2) "Mixed-use residential," when used to describe
1-49 land use or development, means the use or development, as
1-50 applicable, of a site consisting of residential and nonresidential
1-51 uses in which the residential uses are at least 65 percent of the
1-52 total square footage of the development. The term includes the use
1-53 or development of a condominium.

1-54 (3) "Multifamily residential," when used to describe
1-55 land use or development, means the use or development, as
1-56 applicable, of a site for three or more dwelling units within one or
1-57 more buildings. The term includes the use or development of a
1-58 residential condominium.

1-59 Sec. 218.002. APPLICABILITY. This chapter applies only to
1-60 a municipality with a population greater than 90,000 that is wholly

or partly located in a county with a population greater than 300,000.

Sec. 218.003. NO EFFECT ON OTHER RESTRICTIONS AND RULES. This chapter does not affect the authority of a municipality to:

(1) apply the municipality's regulations on short-term rental units to a mixed-use residential or multifamily residential development;

(2) adopt or enforce water quality protection regulations to implement or comply with water quality requirements under state or federal law, including Chapter 366, Health and Safety Code; or

(3) adopt or enforce a density bonus program or other voluntary program that allows for site development standards that are less restrictive than the standards described by this chapter.

SUBCHAPTER B. ZONING AND DEVELOPMENT REGULATIONS

Sec. 218.101. MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USES ALLOWED. (a) Notwithstanding any other law and subject to Subsection (c), a municipality shall allow mixed-use residential use and development or multifamily residential use and development in a zoning classification that allows office, commercial, retail, warehouse, or mixed-use use or development as an allowed use under the classification.

(b) Notwithstanding any other law and subject to Subsection (c), a municipality may not require the change of a zoning district or land use classification or regulation or an approval of an amendment, exception, or variance to a zoning district or land use classification or regulation prior to allowing a mixed-use residential use or development or multifamily residential use or development in an area covered by a zoning classification described by Subsection (a). An amendment, exception, or variance to a zoning district or land use classification or regulation includes a special exception, zoning variance, site development variance, subdivision variance, conditional use approval, special use permit, comprehensive plan amendment, or other discretionary approval to allow a mixed-use residential use or development or multifamily residential use or development.

(c) This section does not apply to:

(1) a zoning classification that allows heavy industrial use; or

(2) land located within 1,000 feet of an existing heavy industrial use or development site, airport, or military base.

Sec. 218.102. REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE OR DEVELOPMENT. (a) Notwithstanding any other law, a municipality may not adopt or enforce an ordinance, zoning restriction, or other regulation that:

(1) imposes on a mixed-use residential or multifamily residential development:

(A) a limit on density that is more restrictive than the greater of:

(i) the highest residential density allowed in the municipality; or

(ii) 36 units per acre;

(B) a limit on building height that is more restrictive than the greater of:

(i) the highest height that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 45 feet; or

(C) a setback or buffer requirement that is more restrictive than the lesser of:

(i) a setback or buffer requirement that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 25 feet;

(2) requires a mixed-use residential or multifamily residential development to provide:

(A) more than one parking space per dwelling unit; or

(B) a multi-level parking structure;
 (3) restricts the ratio of the total building floor area of a mixed-use residential or multifamily residential development in relation to the lot area of the development; or
 (4) requires a multifamily residential development not located in an area zoned for mixed-use residential use to contain nonresidential uses.

(b) Notwithstanding any other law, if a municipal authority responsible for approving a building permit or other authorization required for the construction of a mixed-use residential or multifamily residential development determines that a proposed development meets municipal land development regulations in accordance with this subchapter, the municipal authority:

(1) shall administratively approve the permit or other authorization; and

(2) may not require further action by the governing body of the municipality for the approval to take effect.

SUBCHAPTER C. FEES AND REGULATIONS APPLICABLE TO CONVERSION OF CERTAIN USES

Sec. 218.201. DEFINITION. In this subchapter, "permit" has the meaning assigned by Section 245.001.

Sec. 218.202. APPLICABILITY. This subchapter applies only to a building or the structural components of the building that:

(1) is being used for office, retail, or warehouse use;

(2) is proposed to be converted from nonresidential occupancy to mixed-use residential or multifamily residential occupancy for at least 65 percent of the building and at least 65 percent of each floor of the building that is fit for occupancy; and

(3) was constructed at least five years before the proposed date to start the conversion.

Sec. 218.203. FEE WAIVER. Notwithstanding any other law, a municipality may not charge a fee in connection with the submission, review, or approval of an application for a permit related to the use, development, or construction of a building proposed to be converted to mixed-use residential or multifamily residential use, including any fee for:

(1) acquiring a building permit;
 (2) the closure of a street or sidewalk adjacent to the proposed converted building; or

(3) an expedited permit review for the proposed converted building if the municipality has adopted an accelerated residential building permit review process.

Sec. 218.204. PARKLAND DEDICATION AND FEE PROHIBITED. (a) In this section, "parkland," "parkland dedication," and "parkland dedication fee" have the meanings assigned by Section 212.201.

(b) Notwithstanding Subchapter H, Chapter 212, a municipality may not require the dedication of parkland or impose a parkland dedication fee in connection with a building proposed to be converted to mixed-use residential or multifamily residential use.

Sec. 218.205. CERTAIN REGULATIONS PROHIBITED. Notwithstanding any other law, a municipality may not, in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use, require:

(1) the preparation of a traffic impact analysis or other study relating to the effect the proposed converted building would have on traffic or traffic operations;

(2) the construction of improvements or payment of a fee in connection with mitigating traffic effects related to the proposed converted building;

(3) the provision of additional parking spaces, other than the parking spaces that already exist on the site of the proposed converted building;

(4) the extension, upgrade, replacement, or oversizing of a utility facility except as necessary to provide the minimum capacity needed to serve the proposed converted building;

or

(5) a design requirement, including a requirement related to the exterior, windows, internal environment of a building, or interior space dimensions of an apartment, that is more restrictive than the applicable minimum standard under the International Building Code as adopted as a municipal commercial building code under Section 214.216.

Sec. 218.206. IMPACT FEE PROHIBITED. Notwithstanding any other law, a municipality may not impose an impact fee, as defined by Section 395.001, on land where a building has been converted to mixed-use residential or multifamily residential use unless the land on which the building is located was already subject to an impact fee before a building permit related to the conversion was filed with the municipality.

SUBCHAPTER D. ENFORCEMENT

Sec. 218.301. CIVIL ACTION. (a) In this section, "housing organization" means a:

(1) trade or industry group organized under the laws of this state consisting of local members primarily engaged in the construction or management of housing units;

(2) nonprofit organization organized under the laws of this state that:

(A) provides or advocates for increased access or reduced barriers to housing; and

(B) has filed written or oral comments with the legislature; or

(3) nonprofit organization that is engaged in public policy research, education, and outreach that includes housing policy-related issues and advocacy.

(b) Except as provided by Subsection (c), a person adversely affected or aggrieved by a violation of this chapter may bring an action for economic damages or declaratory or injunctive relief against a municipality or an officer of a municipality in the officer's official capacity.

(c) A housing organization may bring an action for declaratory or injunctive relief for a violation of this chapter against a municipality or an officer of a municipality in the officer's official capacity.

(d) A claimant who prevails in an action brought under Subsection (b) or (c) is entitled to recover court costs and reasonable attorney's fees.

(e) Notwithstanding any other law, including Chapter 15, Civil Practice and Remedies Code, an action brought under this section must be brought in a county in which all or part of the real property that is the subject of the action is located.

(f) Notwithstanding any other law, the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over an action brought under this section.

(g) Governmental immunity of a municipality to suit and from liability is waived to the extent of liability created by this section. Official immunity of a municipal officer or employee is waived to the extent of liability created by this section.

SECTION 3. Section 395.011, Local Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Except as provided by Section 218.206 and Subsection (b-1), political [Political] subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter.

(b-1) A political subdivision may not enact or impose an impact fee on land within its [except that impact fees may not be enacted or imposed in the] extraterritorial jurisdiction for roadway facilities.

SECTION 4. (a) Subchapter B, Chapter 218, Local Government Code, as added by this Act, applies only to a mixed-use residential or multifamily residential development project initiated on or after the effective date of this Act.

(b) Subchapter C, Chapter 218, Local Government Code, as

5-1 added by this Act, applies only to a building proposed to be
5-2 converted to mixed-use residential or multifamily residential use
5-3 in which a building permit was submitted to a municipality on or
5-4 after the effective date of this Act.

5-5 SECTION 5. This Act takes effect September 1, 2025.

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