

1-1 By: Middleton S.B. No. 854
 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 17, 2025, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 5, Nays 1; March 17, 2025,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

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

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 854 By: Middleton

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

1-19 relating to municipal regulation of multifamily and mixed-use
 1-20 development on religious land.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Chapter 212, Local Government Code, is amended
 1-23 by adding Subchapter I to read as follows:

1-24 SUBCHAPTER I. REGULATION OF DEVELOPMENT ON RELIGIOUS LAND

1-25 Sec. 212.251. DEFINITIONS. In this subchapter:

1-26 (1) "Heavy industrial use" means a storage,
 1-27 processing, or manufacturing use:

1-28 (A) with processes using flammable or explosive
 1-29 materials;

1-30 (B) with hazardous conditions; or

1-31 (C) that is noxious or offensive from odors,
 1-32 smoke, noise, fumes, or vibrations.

1-33 (2) "Housing organization" means a:

1-34 (A) trade or industry group consisting of local
 1-35 members primarily engaged in the construction or management of
 1-36 housing units;

1-37 (B) nonprofit organization that:

1-38 (i) provides or advocates for increased
 1-39 access or reduced barriers to housing; and

1-40 (ii) has filed written or oral comments
 1-41 with the legislature; or

1-42 (C) nonprofit organization that is engaged in
 1-43 public policy research, education, and outreach that includes
 1-44 housing policy-related issues and advocacy.

1-45 (3) "Mixed-use" means the use and development of a
 1-46 site consisting of residential and nonresidential uses in which:

1-47 (A) residential uses occupy at least 50 percent
 1-48 of the total square footage of the development; and

1-49 (B) nonresidential uses are related to
 1-50 furthering the mission or purpose of a religious organization.

1-51 (4) "Multifamily" means the use and development of a
 1-52 site for three or more dwelling units within one or more buildings.

1-53 The term includes the use or development of residential units with a
 1-54 condominium form of ownership.

1-55 (5) "Religious land" means land owned by a religious
 1-56 organization or land that is leased by a religious organization for
 1-57 a term of at least 40 years.

1-58 (6) "Religious organization" means an organization
 1-59 described by Section 110.011(b), Civil Practice and Remedies Code.

1-60 Sec. 212.252. APPLICABILITY OF SUBCHAPTER. This subchapter

2-1 does not apply to religious land located within a quarter mile of a
2-2 heavy industrial use, an airport, a seaport, or a military base.

2-3 Sec. 212.253. ALLOWABLE USES. (a) A municipality must
2-4 permit multifamily and mixed-use as allowable uses on religious
2-5 land.

2-6 (b) Notwithstanding any other law, a municipality may not
2-7 require a proposed multifamily or mixed-use development on
2-8 religious land to obtain a zoning or land use change, special
2-9 exception, variance, conditional use approval, special use permit,
2-10 comprehensive plan amendment, or other land use classification or
2-11 approval to:

- 2-12 (1) permit the proposed use and development; or
- 2-13 (2) allow for the minimum densities, building height,
- 2-14 setbacks, and site development regulations authorized under this
- 2-15 subchapter.

2-16 Sec. 212.254. PROHIBITED MUNICIPAL REQUIREMENTS.
2-17 Notwithstanding any other law, for a multifamily or mixed-use
2-18 development on religious land, a municipality may not:

- 2-19 (1) restrict the height of a proposed development to
- 2-20 less than 40 feet and three full stories;

- 2-21 (2) require front setbacks greater than 15 feet, rear
- 2-22 setbacks greater than 10 feet, or side setbacks greater than 5 feet
- 2-23 unless modified by historic design standards as authorized under
- 2-24 Section 211.003(b);

- 2-25 (3) establish minimum parking requirements except as
- 2-26 necessary to comply with federal law;

- 2-27 (4) restrict the ratio of the development's proposed
- 2-28 building gross floor area to site area, building coverage, density,
- 2-29 unit size or number base as compared to site area, size of a unit, or
- 2-30 otherwise restrict development using any other dimensional
- 2-31 constraint except as provided by Subdivisions (1) and (2); or

- 2-32 (5) for a proposed development converting an existing
- 2-33 building from a different use to a multifamily or mixed-use:

- 2-34 (A) require the conversion to exceed standards
- 2-35 imposed by the International Building Code, unless the standards
- 2-36 are in accordance with historic design standards as authorized
- 2-37 under Section 211.003(b);

- 2-38 (B) apply height restrictions more restrictive
- 2-39 than the structure's existing height;

- 2-40 (C) require setbacks for the structure more
- 2-41 restrictive than the structure's existing setbacks; or

- 2-42 (D) require parking that exceeds the existing
- 2-43 parking for the structure.

2-44 Sec. 212.255. PERMITTED MUNICIPAL REGULATION. This
2-45 subchapter does not affect a municipality's authority to apply the
2-46 following that are generally applicable to other developments in
2-47 the municipality:

- 2-48 (1) sewer and water access requirements;

- 2-49 (2) stormwater mitigation requirements;

- 2-50 (3) except as otherwise provided by this subchapter,
- 2-51 building codes;

- 2-52 (4) regulations related to short-term rentals; and

- 2-53 (5) regulations related to historic preservation,
- 2-54 including protecting historic landmarks or property in the
- 2-55 boundaries of a local historic district.

2-56 Sec. 212.256. NO EFFECT ON HOMEOWNERS' ASSOCIATIONS AND
2-57 OTHER PRIVATE AGREEMENTS. This subchapter does not prohibit
2-58 property owners from enforcing rules or deed restrictions imposed
2-59 by a homeowners' association or by other private agreement.

2-60 Sec. 212.257. DUTY TO APPROVE. (a) Notwithstanding any
2-61 other law, a municipality shall approve an application for a
2-62 multifamily or mixed-use development on religious land if the
2-63 development satisfies the municipality's land development
2-64 regulations for multifamily or mixed-use developments, as
2-65 applicable, other than a regulation involving a matter described by
2-66 Section 212.254.

2-67 (b) The municipality's duty to approve a development under
2-68 Subsection (a) is purely ministerial.

2-69 Sec. 212.258. ACTION. (a) A person affected by a

3-1 municipality's violation of this subchapter or a housing
3-2 organization may bring an action against the municipality or an
3-3 officer or employee of the municipality in the officer's or
3-4 employee's official capacity for relief described by Subsection
3-5 (c).

3-6 (b) A claimant must bring an action under this section in a
3-7 county in which the real property that is the subject of the action
3-8 is wholly or partly located.

3-9 (c) In an action brought under this section, a court may:

3-10 (1) enter a declaratory judgment under Chapter 37,
3-11 Civil Practice and Remedies Code;

3-12 (2) issue a writ of mandamus compelling a defendant
3-13 officer or employee to comply with this subchapter;

3-14 (3) issue an injunction preventing the defendant from
3-15 violating this subchapter; and

3-16 (4) award damages to the claimant for economic losses
3-17 caused by the defendant's violation of this subchapter if the
3-18 claimant is a person affected or aggrieved by the violation that is
3-19 the basis for the action.

3-20 (d) A court shall award reasonable attorney's fees and court
3-21 costs incurred in bringing an action under this section to a
3-22 prevailing claimant.

3-23 (e) Governmental immunity of a municipality to suit and from
3-24 liability is waived to the extent of liability created by this
3-25 section. Official immunity of a municipal officer or employee is
3-26 waived to the extent of liability created by this section.

3-27 (f) The Fifteenth Court of Appeals has exclusive
3-28 intermediate appellate jurisdiction over an appeal or original
3-29 proceeding arising from an action brought under this section.

3-30 SECTION 2. This Act takes effect September 1, 2025.

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