

By: Patterson

H.B. No. 5187

A BILL TO BE ENTITLED

AN ACT

relating to certain municipal and county regulation of conversion of certain office buildings to mixed-use and multifamily residential occupancy.

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

SECTION 1. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 249 to read as follows:

CHAPTER 249. REGULATION OF MIXED-USE AND MULTIFAMILY RESIDENTIAL
USE AND DEVELOPMENT IN CERTAIN MUNICIPALITIES AND COUNTIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 249.001. DEFINITIONS. In this chapter:

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

(A) with processes using flammable or explosive materials;

(B) with hazardous conditions; or

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

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

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

6 (4) "Permit" has the meaning assigned by Section
7 245.001.

8 Sec. 249.002. APPLICABILITY OF CHAPTER. This chapter
9 applies only to:

10 (1) a municipality with a population greater than
11 90,000 that is wholly or partly located in a county with a
12 population greater than 300,000; and

13 (2) a county with a population greater than 300,000.

14 Sec. 249.003. NO EFFECT ON OTHER RESTRICTIONS AND RULES.
15 This chapter does not limit:

16 (1) a municipality or county from adopting or
17 enforcing an ordinance, regulation, or other measure:

18 (A) to protect historic landmarks or include
19 properties within the boundaries of local historic districts; or

20 (B) related to the use and occupancy of a
21 residential property that is rented for a period not longer than 30
22 consecutive days; or

23 (2) a property owner from enforcing rules or deed
24 restrictions imposed by a property owners' association or by other
25 private agreement.

1 SUBCHAPTER B. FEES AND REGULATIONS APPLICABLE TO CONVERSION OF
2 CERTAIN USES

3 Sec. 249.101. APPLICABILITY. (a) This subchapter applies
4 only to a building or the structural components of a building that:

5 (1) is being used primarily for office use;
6 (2) is proposed to be converted from primarily office
7 use to mixed-use residential or multifamily residential occupancy
8 for at least 65 percent of the building and at least 65 percent of
9 each floor of the building that is fit for occupancy; and

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

12 (b) This subchapter does not apply to a building proposed to
13 be converted to mixed-use residential or multifamily residential
14 use that is located:

15 (1) in an area subject to a zoning classification that
16 allows heavy industrial use; or

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

19 Sec. 249.102. FEE WAIVER. Notwithstanding any other law, a
20 municipality or county may not charge a fee in connection with the
21 submission, review, or approval of an application for a permit
22 related to the use, development, or construction of a building
23 proposed to be converted to mixed-use residential or multifamily
24 residential use, including any fee for:

25 (1) acquiring a building permit;

26 (2) the closure of a street or sidewalk adjacent to the
27 proposed converted building; or

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

4 Sec. 249.103. PARKLAND DEDICATION AND FEE PROHIBITED.

5 (a) In this section, "parkland," "parkland dedication," and
6 "parkland dedication fee" have the meanings assigned by Section
7 212.201.

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

13 Sec. 249.104. CERTAIN REGULATIONS PROHIBITED. (a)
14 Notwithstanding any other law, a municipality or county may not, in
15 connection with the use, development, construction, or occupancy of
16 a building proposed to be converted to mixed-use residential or
17 multifamily residential use, require:

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

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

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

27 (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;

(5) a limit on density applicable to the site of the proposed converted building that is more restrictive than the greater of:

(A) the highest residential density allowed in the municipality or county; or

(B) 36 units per acre;

(6) a building proposed to be converted to multifamily residential occupancy not located in an area zoned for mixed-use residential use to include nonresidential uses;

(7) 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](#); or

(8) 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 conversion of a building to mixed-use residential use or multifamily residential use.

(b) For the purposes of Subsection (a)(8), 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,

1 conditional use approval, special use permit, comprehensive plan
2 amendment, or other discretionary approval to allow conversion of a
3 building to mixed-use residential use or multifamily residential
4 use.

5 Sec. 249.105. IMPACT FEE PROHIBITED. A municipality or
6 county may not impose an impact fee, as defined by Section 395.001,
7 on land where a building has been converted to mixed-use
8 residential or multifamily residential use unless the land on which
9 the building is located was already subject to an impact fee before
10 a building permit related to the conversion was filed with the
11 municipality or county.

12 Sec. 249.106. ADMINISTRATIVE APPROVAL REQUIRED.
13 Notwithstanding any other law, if a municipal or county authority
14 responsible for approving a building permit or other authorization
15 required for the conversion of a building to mixed-use residential
16 use or multifamily residential use determines that a proposed
17 conversion meets municipal or county regulations in accordance with
18 this subchapter, the municipal or county authority:

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

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

23 SUBCHAPTER C. ENFORCEMENT

24 Sec. 249.201. CIVIL ACTION. (a) In this section, "housing
25 organization" means a:

26 (1) trade or industry group organized under the laws
27 of this state consisting of local members primarily engaged in the

1 construction or management of housing units;

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

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

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

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

11 (b) Except as provided by Subsection (c), a person adversely
12 affected or aggrieved by a violation of Section 249.102, 249.103,
13 249.104, 249.105, or 249.106 may bring an action for economic
14 damages or declaratory or injunctive relief against a municipality
15 or county or an officer of a municipality or county in the officer's
16 official capacity.

17 (c) A housing organization may bring an action for
18 declaratory or injunctive relief for a violation of Section
19 249.102, 249.103, 249.104, 249.105, or 249.106 against a
20 municipality or county or an officer of a municipality or county in
21 the officer's official capacity.

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

25 (e) Notwithstanding any other law, including Chapter 15,
26 Civil Practice and Remedies Code, an action brought under this
27 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 or county to suit and from liability is waived to the extent of liability created by this section. Official immunity of a municipal or county officer or employee is waived to the extent of liability created by this section.

Sec. 249.202. ATTORNEY GENERAL ENFORCEMENT. (a) In this section:

(1) "No-new-revenue tax rate" means the no-new-revenue tax rate calculated under Chapter 26, Tax Code.

(2) "Tax year" has the meaning assigned by Section 1.04, Tax Code.

(b) A person may submit a complaint to the attorney general of a suspected violation of Section 249.102, 249.103, 249.104, 249.105, or 249.106.

(c) Notwithstanding any other law, if the attorney general determines that a municipality or county has violated Section 249.102, 249.103, 249.104, 249.105, or 249.106, the municipality or county may not adopt an ad valorem tax rate that exceeds the municipality's or county's no-new-revenue tax rate for the three tax years that begin on or after the date of the determination.

SECTION 2. Section 395.011, Local Government Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

1 (b) Except as provided by Section 249.105 and Subsection
2 (b-1), political [Political] subdivisions may enact or impose
3 impact fees on land within their corporate boundaries or
4 extraterritorial jurisdictions only by complying with this
5 chapter.

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

10 SECTION 3. Chapter 249, Local Government Code, as added by
11 this Act, applies only to a building proposed to be converted to
12 mixed-use residential or multifamily residential use in which a
13 building permit was submitted to a municipality or county on or
14 after the effective date of this Act.

15 SECTION 4. This Act takes effect September 1, 2025.