

By: Hughes, et al.
(Hefner, Alders, et al.)

S.B. No. 840

Substitute the following for S.B. No. 840:

By: Gates

C.S.S.B. No. 840

A BILL TO BE ENTITLED

AN ACT

relating to certain municipal regulation of certain mixed-use and multifamily residential development projects and conversion of certain commercial buildings to mixed-use and multifamily residential occupancy.

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

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

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

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

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

CHAPTER 218. REGULATION OF MIXED-USE AND MULTIFAMILY RESIDENTIAL

USE AND DEVELOPMENT IN CERTAIN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 218.001. 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.

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

Sec. 218.002. APPLICABILITY. This chapter applies only to a municipality with a population greater than 150,000 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;

(2) land located within:

(A) 1,000 feet of an existing heavy industrial use or development site; or

(B) 3,000 feet of an airport or military base; or

(3) an area designated by a municipality as a clear zone or accident potential zone.

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

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

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

6 (ii) 25 feet;

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

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

11 (B) a multilevel parking structure;

12 (3) restricts the ratio of the total building floor
13 area of a mixed-use residential or multifamily residential
14 development in relation to the lot area of the development; or

15 (4) requires a multifamily residential development
16 not located in an area zoned for mixed-use residential use to
17 contain nonresidential uses.

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

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

26 (2) may not require further action by the governing
27 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. 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

1 proposed converted building;

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

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

12 Sec. 218.204. IMPACT FEE PROHIBITED. Notwithstanding any
13 other law, a municipality may not impose an impact fee, as defined
14 by Section [395.001](#), on land where a building has been converted to
15 mixed-use residential or multifamily residential use unless the
16 land on which the building is located was already subject to an
17 impact fee before a building permit related to the conversion was
18 filed with the municipality.

19 SUBCHAPTER D. ENFORCEMENT

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

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

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

27 (A) provides or advocates for increased access or

1 reduced barriers to housing; and

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

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

7 (b) A housing organization or other person adversely
8 affected or aggrieved by a violation of this chapter may bring an
9 action for declaratory or injunctive relief against a municipality.

10 (c) The court shall award court costs and reasonable
11 attorney's fees to a claimant who prevails in an action brought
12 under this section.

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

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

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

23 (b) Except as provided by Section 218.204 and Subsection
24 (b-1), political [Political] subdivisions may enact or impose
25 impact fees on land within their corporate boundaries or
26 extraterritorial jurisdictions only by complying with this
27 chapter.

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

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

9 (b) Subchapter C, Chapter 218, Local Government Code, as
10 added by this Act, applies only to a building proposed to be
11 converted to mixed-use residential or multifamily residential use
12 in which a building permit was submitted to a municipality on or
13 after the effective date of this Act.

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