

BILL ANALYSIS

Senate Research Center
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S.B. 840
By: Hughes
Local Government
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

This legislation addresses housing supply shortages by permitting mixed-use and residential development on commercial properties by right. Many Texas cities have substantial vacant or underutilized commercial land that could be transformed into much-needed housing. Allowing residential development in these areas helps address the state's growing housing shortage while promoting economic growth and community revitalization.

The bill also includes measures to facilitate the conversion of existing commercial structures into housing. Repurposing existing buildings enables faster project completion compared to ground-up construction while preserving infrastructure. By reducing regulatory hurdles and streamlining the conversion process, this legislation creates more housing opportunities, helping more Texans achieve homeownership. With Texas facing a shortage of 320,000 homes in 2022, making commercial-zoned land available for residential use will help alleviate rising housing costs.

The committee substitute refines the bill by excluding zones designated for heavy industrial use, updating the bracket from 60k to 90k (municipality) and 420k to 300k (county), improving language to facilitate conversions, clarifying enforcement provisions, ensuring cities can still implement affordable housing incentives and programs, maintaining historic district design standards, and allowing a fee for building safety inspections and permitting in conversion projects.

As proposed, S.B. 840 amends current law relating to certain municipal and county regulation of certain multifamily and mixed-use residential development projects and conversion of certain commercial buildings to mixed-use and multifamily residential occupancy.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 211, Local Government Code, by adding Section 211.0011, as follows:

Sec. 211.0011. ZONING REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE AND DEVELOPMENT. (a) Defines "mixed-use residential" and "multifamily residential."

(b) Provides that the authority under Chapter 211 (Municipal Zoning Authority) 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 249.

SECTION 2. Amends Subtitle C, Title 7, Local Government Code, by adding Chapter 249, 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. Defines "mixed-use residential" and "multifamily residential."

Sec. 249.002. APPLICABILITY. Provides that this chapter applies only to:

- (1) a municipality with a population greater than 60,000 that is located in a county with a population greater than 420,000; and
- (2) a county with a population greater than 420,000.

SUBCHAPTER B. ZONING AND DEVELOPMENT REGULATIONS

Sec. 249.101. MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USES ALLOWED. (a) Requires a municipality or county, notwithstanding any other law, to 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) Prohibits a municipality or county from requiring the change of a land use classification or regulation or approval of an amendment, exception, or variance to a 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). Provides that an amendment, exception, or variance to a land use classification or regulation includes a special exception, zoning variance, conditional use approval, special use permit, or comprehensive plan amendment.

Sec. 249.102. REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE OR DEVELOPMENT. (a) Prohibits a municipality or county from adopting or enforcing an ordinance, order, zoning restriction, or other regulation that:

- (1) imposes certain limits on a mixed-use residential or multifamily residential development regarding density, building height, or setback or buffer requirements;
- (2) requires a mixed-use residential or multifamily residential development to provide more than one parking space per dwelling unit or 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) Provides that if a municipal or county 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 or county land development regulations in accordance with this subchapter the municipal or county authority is:

- (1) required to administratively approve the permit or other authorization; and

(2) prohibited from requiring further action by the governing body of the municipality or county for the approval to take effect.

SUBCHAPTER C. FEES AND REGULATIONS

Sec. 249.201. DEFINITION. Defines "permit."

Sec. 249.202. APPLICABILITY. Provides that 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. 249.203. FEE WAIVER. Prohibits a municipality or county from charging 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 or county has adopted an accelerated residential building permit review process.

Sec. 249.204. PARKLAND DEDICATION AND FEE PROHIBITED. (a) Defines "parkland," "parkland dedication," and "parkland dedication fee."

(b) Prohibits a municipality or county, notwithstanding Subchapter H (Multifamily, Hotel, and Motel Parkland Dedication: Municipalities with Population of More than 800,000), Chapter 212 (Municipal Regulation of Subdivisions and Property Development), from requiring 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. 249.205. CERTAIN REGULATIONS PROHIBITED. Prohibits a municipality or county, in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use, from requiring:

- (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 more than one parking space per dwelling unit; or

(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.

Sec. 249.206. **IMPACT FEE PROHIBITED.** Prohibits a municipality or county from imposing an impact fee, as defined by Section 395.001 (Definitions), 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 or county.

Sec. 249.207. **SHORT-TERM RENTAL REGULATION AUTHORIZED.** Authorizes a municipality or county to apply the municipality's or county's regulations on short-term rental units to a converted building.

SUBCHAPTER D. ENFORCEMENT

Sec. 249.301. **CIVIL ACTION.** (a) Authorizes the following persons to bring an action against a municipality or county for damages or injunctive relief relating to a violation of Section 249.101 or 249.102:

- (1) a person who applies for a permit or other authorization in connection with a mixed-use residential development or multifamily residential development project subject to Section 249.101 or 249.102;
- (2) a person eligible to apply for residency in a mixed-use residential or multifamily residential development project affected by the violation; or
- (3) a nonprofit organization.

(b) Authorizes a person adversely affected or aggrieved by a violation of Section 249.203, 249.204, 249.205, or 249.206 to bring an action for damages or injunctive relief against a municipality or county.

(c) Provides that a claimant who prevails in an action brought under Subsection (a) or (b) is entitled to recover:

- (1) injunctive relief sufficient to enforce this chapter;
- (2) nominal and compensatory damages, including economic loss; and
- (3) court costs and reasonable attorney's fees.

(d) Authorizes an action brought under Subsection (a), notwithstanding any other law, including Chapter 15 (Venue), Civil Practice and Remedies Code, to be brought in certain counties.

(e) Prohibits an action brought under Subsection (a) or (b) from being transferred to a different venue without the written consent of all parties.

(f) Provides that, notwithstanding any other law, the Fifteenth Court of Appeals has exclusive intermediate appellate jurisdiction over an action brought under Subsection (a) or (b).

Sec. 249.302. **ATTORNEY GENERAL ENFORCEMENT.** (a) Defines "no-new-revenue tax rate" and "tax year."

(b) Authorizes a person to submit a complaint to the attorney general of a suspected violation of Section 249.203, 249.204, 249.205, or 249.206.

(c) Prohibits a municipality or county, notwithstanding any other law, if the attorney general determines that a municipality or county has violated Section 249.101, 249.102, 249.203, 249.204, 249.205, or 249.206, from adopting an ad valorem tax rate that exceeds the municipality or county's no-new-revenue tax rate for the three tax years that begin on or after the date of the determination.

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

(b) Creates exceptions under Section 249.206 and Subsection (b-1). Makes nonsubstantive changes.

(b-1) Creates this subsection from existing text. Prohibits a political subdivision from enacting or imposing an impact fee on land within its extraterritorial jurisdiction for roadway facilities. Makes nonsubstantive changes.

SECTION 4. (a) Makes application of Subchapter B, Chapter 249, Local Government Code, as added by this Act, prospective.

(b) Makes application of Subchapter C, Chapter 249, Local Government Code, as added by this Act, prospective.

SECTION 5. Effective date: September 1, 2025.