

By: Hefner

H.B. No. 3404

A BILL TO BE ENTITLED

AN ACT

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.

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 249.001.

(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 249.

SECTION 2. 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) "Mixed-use residential," when used to describe

1 land use or development, means the use or development, as  
2 applicable, of a site consisting of residential and nonresidential  
3 uses in which the residential uses are at least 65 percent of the  
4 total square footage of the development.

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

10 Sec. 249.002. APPLICABILITY. This chapter applies only to:

11 (1) a municipality with a population greater than  
12 60,000 that is located in a county with a population greater than  
13 420,000; and

14 (2) a county with a population greater than 420,000.

15 SUBCHAPTER B. ZONING AND DEVELOPMENT REGULATIONS

16 Sec. 249.101. MIXED-USE RESIDENTIAL AND MULTIFAMILY  
17 RESIDENTIAL USES ALLOWED. (a) Notwithstanding any other law, a  
18 municipality or county shall allow mixed-use residential use and  
19 development or multifamily residential use and development in a  
20 zoning classification that allows office, commercial, retail,  
21 warehouse, or mixed-use use or development as an allowed use under  
22 the classification.

23 (b) A municipality or county may not require the change of a  
24 land use classification or regulation or approval of an amendment,  
25 exception, or variance to a land use classification or regulation  
26 prior to allowing a mixed-use residential use or development or  
27 multifamily residential use or development in an area covered by a

1 zoning classification described by Subsection (a). An amendment,  
2 exception, or variance to a land use classification or regulation  
3 includes a special exception, zoning variance, conditional use  
4 approval, special use permit, or comprehensive plan amendment.

5 Sec. 249.102. REGULATION OF MIXED-USE RESIDENTIAL AND  
6 MULTIFAMILY RESIDENTIAL USE OR DEVELOPMENT. (a) A municipality or  
7 county may not adopt or enforce an ordinance, order, zoning  
8 restriction, or other regulation that:

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

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

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

15 (ii) 36 units per acre;

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

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

21 (ii) 45 feet; or

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

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

27 (ii) 25 feet;

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

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

5                   (B) a multi-level parking structure;

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

9           (4) requires a multifamily residential development  
10 not located in an area zoned for mixed-use residential use to  
11 contain nonresidential uses.

12           (b) If a municipal or county authority responsible for  
13 approving a building permit or other authorization required for the  
14 construction of a mixed-use residential or multifamily residential  
15 development determines that a proposed development meets municipal  
16 or county land development regulations in accordance with this  
17 subchapter the municipal or county authority:

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

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

22                   SUBCHAPTER C. FEES AND REGULATIONS

23           Sec. 249.201. DEFINITION. In this subchapter, "permit" has  
24 the meaning assigned by Section 245.001.

25           Sec. 249.202. APPLICABILITY. This subchapter applies only  
26 to a building or the structural components of the building that:

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

1 use;

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

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

8 Sec. 249.203. FEE WAIVER. A municipality or county may not  
9 charge a fee in connection with the submission, review, or approval  
10 of an application for a permit related to the use, development, or  
11 construction of a building proposed to be converted to mixed-use  
12 residential or multifamily residential use, including any fee for:

13 (1) acquiring a building permit;

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

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

19 Sec. 249.204. PARKLAND DEDICATION AND FEE PROHIBITED. (a)  
20 In this section, "parkland," "parkland dedication," and "parkland  
21 dedication fee" have the meanings assigned by Section [212.201](#).

22 (b) Notwithstanding Subchapter [H](#), Chapter [212](#), a  
23 municipality or county may not require the dedication of parkland  
24 or impose a parkland dedication fee in connection with a building  
25 proposed to be converted to mixed-use residential or multifamily  
26 residential use.

27 Sec. 249.205. CERTAIN REGULATIONS PROHIBITED. A

1 municipality or county may not, in connection with the use,  
2 development, construction, or occupancy of a building proposed to  
3 be converted to mixed-use residential or multifamily residential  
4 use, require:

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

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

11 (3) the provision of more than one parking space per  
12 dwelling unit; or

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

16 Sec. 249.206. IMPACT FEE PROHIBITED. A municipality or  
17 county may not impose an impact fee, as defined by Section 395.001,  
18 on land where a building has been converted to mixed-use  
19 residential or multifamily residential use unless the land on which  
20 the building is located was already subject to an impact fee before  
21 a building permit related to the conversion was filed with the  
22 municipality or county.

23 Sec. 249.207. SHORT-TERM RENTAL REGULATION AUTHORIZED. A  
24 municipality or county may apply the municipality's or county's  
25 regulations on short-term rental units to a converted building.

26 SUBCHAPTER D. ENFORCEMENT

27 Sec. 249.301. CIVIL ACTION. (a) The following persons may

1 bring an action against a municipality or county for damages or  
2 injunctive relief relating to a violation of Section 249.101 or  
3 249.102:

4 (1) a person who applies for a permit or other  
5 authorization in connection with a mixed-use residential  
6 development or multifamily residential development project subject  
7 to Section 249.101 or 249.102;

8 (2) a person eligible to apply for residency in a  
9 mixed-use residential or multifamily residential development  
10 project affected by the violation; or

11 (3) a nonprofit organization.

12 (b) A person adversely affected or aggrieved by a violation  
13 of Section 249.203, 249.204, 249.205, or 249.206 may bring an  
14 action for damages or injunctive relief against a municipality or  
15 county.

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

18 (1) injunctive relief sufficient to enforce this  
19 chapter;

20 (2) nominal and compensatory damages, including  
21 economic loss; and

22 (3) court costs and reasonable attorney's fees.

23 (d) Notwithstanding any other law, including Chapter 15,  
24 Civil Practice and Remedies Code, an action brought under  
25 Subsection (a) may be brought in:

26 (1) the county in which all or a substantial part of  
27 the events or omissions giving rise to the claim occurred;

1           (2) the county of residence for any one of the natural  
2 person defendants at the time the cause of action accrued;

3           (3) the county of the principal office in this state of  
4 any one of the defendants that is not a natural person; or

5           (4) the county of residence for the claimant if the  
6 claimant is a natural person residing in this state.

7           (e) An action brought under Subsection (a) or (b) may not be  
8 transferred to a different venue without the written consent of all  
9 parties.

10           (f) Notwithstanding any other law, the Fifteenth Court of  
11 Appeals has exclusive intermediate appellate jurisdiction over an  
12 action brought under Subsection (a) or (b).

13           Sec. 249.302. ATTORNEY GENERAL ENFORCEMENT. (a) In this  
14 section:

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

17           (2) "Tax year" has the meaning assigned by Section  
18 1.04, Tax Code.

19           (b) A person may submit a complaint to the attorney general  
20 of a suspected violation of Section 249.203, 249.204, 249.205, or  
21 249.206.

22           (c) Notwithstanding any other law, if the attorney general  
23 determines that a municipality or county has violated Section  
24 249.101, 249.102, 249.203, 249.204, 249.205, or 249.206, the  
25 municipality or county may not adopt an ad valorem tax rate that  
26 exceeds the municipality or county's no-new-revenue tax rate for  
27 the three tax years that begin on or after the date of the



1 determination.

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

5 (b) Except as provided by Section 249.206 and Subsection  
6 (b-1), political [Political] subdivisions may enact or impose  
7 impact fees on land within their corporate boundaries or  
8 extraterritorial jurisdictions only by complying with this  
9 chapter.

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

14 SECTION 4. (a) Subchapter B, Chapter 249, Local Government  
15 Code, as added by this Act, applies only to a mixed-use residential  
16 or multifamily residential development project initiated on or  
17 after the effective date of this Act.

18 (b) Subchapter C, Chapter 249, Local Government Code, as  
19 added by this Act, applies only to a building proposed to be  
20 converted to mixed-use residential or multifamily residential use  
21 in which a building permit was submitted to a municipality or county  
22 on or after the effective date of this Act.

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