

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			
1-8		Yea	Nay	Absent
1-9	Bettencourt	X		PNV
1-10	Middleton	X		
1-11	Cook	X		
1-12	Gutierrez			X
1-13	Nichols		X	
1-14	Paxton	X		
1-15	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

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

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

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

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

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

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

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

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

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

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

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

(B) apply height restrictions more restrictive than the structure's existing height;

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

(D) require parking that exceeds the existing parking for the structure.

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

(1) sewer and water access requirements;

(2) stormwater mitigation requirements;

(3) except as otherwise provided by this subchapter, building codes;

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

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

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

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

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

Sec. 212.258. ACTION. (a) A person affected by a

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

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

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

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

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

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

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

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

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

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

SECTION 2. This Act takes effect September 1, 2025.

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