

Texas Senate Bill 840: By-Right Multifamily Development Now in Effect

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Texas Senate Bill 840 (**SB 840**), which was signed into law and became effective on Sept. 1, 2025, is reshaping the entitlement process for multifamily and mixed-use projects in major cities in Texas. The law limits municipal discretion with respect to discretionary zoning and land-use approvals, and instead establishes an administrative approval pathway for qualifying multifamily and mixed-use residential projects in eligible nonresidential districts. This shift has significant implications for developers, investors and operators active in - or looking to enter - the Texas multifamily and mixed-use market.

Key Provisions of SB 840

- **Where It Applies:** SB 840 applies to municipalities with populations over 150,000 residents that are wholly or partly in counties with more than 300,000 residents. This includes major cities such as Dallas, Fort Worth, Arlington, Plano, Frisco, Houston, Pasadena, Sugar Land, Austin and Round Rock.
- **By-Right Development:** Such municipalities must allow multifamily projects with three or more dwelling units and mixed-use residential projects with at least 65 percent of floor area devoted to residential use in zoning districts that permit mixed-use, office, commercial, retail or warehouse uses without rezoning, variances or other discretionary approvals.
- **Carve-Outs:** The statute excludes projects in heavy-industrial districts, within 1,000 feet of an existing heavy-industrial use or within 3,000 feet of airports, military bases or designated clear/accident potential zones.
- **Administrative Approval:** Projects that meet applicable standards must be approved administratively. Municipal councils and commissions have no discretion and may not require additional discretionary action.
- **Development Standards:**
 - **Density:** May not be capped at less than the greater of (i) the city's highest permitted residential density or (ii) 36 units per acre.
 - **Height:** May not be capped at less than the greater of (i) the highest height permitted for office, commercial, retail or warehouse uses on the site or (ii) 45 feet.
 - **Setbacks and Buffers:** May not exceed the lesser of (i) requirements for office, commercial, retail or warehouse on the site or (ii) 25 feet.
 - **Parking:** May not exceed one space per unit. Municipalities may not mandate structured parking.
 - **Floor Area Ratio (FAR) and Use Mix:** Municipalities may not impose floor area ratio (FAR) limits that are more restrictive than those applicable to nonresidential uses on the same site, and they may not require any nonresidential component as a condition of approval for multifamily projects.
- **Conversions of Existing Buildings:** Office, retail and warehouse buildings at least five years old may be converted to residential use, with at least 65 percent of the building's floor area and 65 percent of each floor's floor area devoted to residential use. Municipalities may not require traffic studies, additional parking, utility oversizing or design standards more

restrictive than those in the International Building Code (IBC). Impact fees cannot be imposed unless such fees were in effect prior to the permit application.

Legal Implications

- **Reduced Entitlement Risk:** Qualifying projects no longer require rezoning hearings, but strict compliance with statutory thresholds remains essential.
- **Transition Period:** Municipalities will need to align zoning ordinances and permitting procedures with SB 840. During this process, developers may see some variation in how applications are handled.
- **Conversions:** While SB 840 provides clear exemptions for conversions, cities may take time to fully adjust their review processes.
- **Other Controls:** Private covenants, overlay districts and planned unit development (PUD) agreements remain enforceable and can still limit site-specific rights.

Suggested Action Items for Texas Multifamily & Mixed-Use Stakeholders

- **Confirm Zoning Eligibility:** Review whether current or planned sites fall within qualifying commercial districts and outside the statutory carve-outs.
- **Adjust Entitlement Strategies:** Evaluate whether SB 840's administrative approval process and development standards can simplify current or upcoming projects.
- **Monitor Municipal Implementation:** Track how individual jurisdictions are applying the new framework and note any variations in approach.
- **Review Title and Covenants:** Examine recorded documents such as deed restrictions, easements, overlays or PUD agreements that may limit reliance on SB 840.

Key Takeaway

SB 840 represents a significant shift in Texas land use law. For developers, investors and operators active in Texas multifamily and mixed-use developments, the statute creates opportunities to advance projects more efficiently while still requiring close legal review of statutory compliance, municipal implementation and private land-use controls.

Disclaimer

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