

Information Sheet

Texas Senate Bill 840

Purpose

Texas Senate Bill 840 (SB 840) is intended to address the state's housing shortage by: (1) allowing mixed-use residential and multifamily residential development in more zoning districts; (2) limiting development regulations for these projects in general; and (3) streamlining the permitting process for the conversion of commercial buildings to mixed-use residential and multifamily residential occupancy.

Applicability and Definitions

SB 840 is applicable to permit applications for mixed-use residential and multifamily residential projects submitted on or after September 1, 2025.

The bill defines ***mixed-use residential*** as “the use or development of a site consisting of residential and non-residential uses in which the residential uses are at least 65 percent of the total square footage of the development” and ***multifamily residential***, as “the use or development of a site for three or more dwelling units within one or more buildings.

Mixed-use residential and multifamily residential allowed by right

SB 840 requires the City to allow mixed-use residential and multifamily residential projects by right in all zoning districts that allow office, commercial, retail, or warehouse uses, including planned development districts, conservation districts, historic districts, and districts with public deed restrictions.

This means that the City may not require a zoning change, a special use permit to authorize a multifamily or mixed-use residential project or detailed site development plan, or any other discretionary approval to allow a mixed-use residential or multifamily residential development in one of these districts.

Due to this legislation, the following zoning districts in Title 20 (Zoning) will be applicable to the provisions for mixed-use residential or multifamily residential projects:

Chapter 20.06 Zoning District	Applicable because district allows the following uses:
A-1, A-2, A-3, A-4, A-3/O, A-O A-M (Apartment)	Multifamily, office
C-OP, C-1 (Neighborhood Commercial)	Multifamily, office, retail, and commercial
C-2, C-3 (Community Commercial)	Multifamily, office, retail, and commercial
C-4, C-5 (Regional Commercial)	Multifamily, office, retail, and commercial
PMD, S-D, U-P, P-RI, P-RII, P-C, P-I, SRR (Special Purpose)	Multifamily, office, retail, and/or commercial
G-MU, I-MU, R-MU (Mixed Use)	Multifamily, office, retail, and/or commercial

Separately, the legislation also applies to Title 21 (Smart Code):

<u>Chapter 21.80.150 - Table 12</u>	Applicable because district allows the following uses:
T-4 General Urban	Multifamily, office, retail, and commercial
T-4O General Urban-Open	Multifamily, office, retail, and commercial
T-5 Urban Center	Multifamily, office, retail, and commercial
T-5O Urban Center-Open	Multifamily, office, retail, and commercial
T-6 Urban Core	Multifamily, office, retail, and commercial
SD1, SD2, SD3, SD4, SD5, SD6, and SD7 (Special District)	Multifamily, office, retail, and/or commercial

The legislation to allow mixed-use residential and multifamily residential does not apply to: (1) a zoning classification that allows heavy industrial use (the M-1, M-2, M-3, and Q Zoning Districts); (2) land located within 1,000 feet of a heavy industrial use; (3) land located within 3,000 feet of an airport or military base; or (4) an area designated by municipality as a “clear zone” or “accident potential zone.”

As such, SB 840 shall not apply to properties with zoning designations that permit heavy industrial uses as defined in legislation. In Chapter 20.08 (Appendix A), the heavy industrial uses that are allowed only in the M-1, M-2, M-3 and Q Zoning Districts are listed below:

- Explosives (storage)
- Liquefied petroleum gas (storage & dispensing)
- Manufacturing, processing, and assembling uses, including:
 - Chemical manufacturing, processing facilities (waste), and salvage yards
- Mining and quarrying operations

The limitations for properties located within prescribed distances to these districts, an airport, or military base shall not apply to apartment, commercial, or special purpose districts that currently permit multifamily or mixed-use residential uses. Instead, they will only apply to zoning districts that are newly-eligible under this legislation because they currently permit office, retail, and/or other commercial uses.

For planning purposes only, the applicability of SB 840 is shown on the attached map. The district, airport or military base, and clear zone or accident potential zone exclusions will be included in a GIS layer that will be available to the public.

Development standards for mixed-use residential and multifamily residential projects

In accordance with SB 840, the City may not adopt or enforce an ordinance, zoning restriction, or other regulation that imposes certain development standards on any mixed-use residential or multifamily residential project, regardless of the district in which the project is located, including special purposes districts, conservation districts, and historic districts.

This means that the City may not require a zoning change, an amendment to an approved mixed-use district, special use permit or development plan, or any other discretionary approval to apply the following development standards to a mixed-use residential or multifamily residential development:

Density: The City may not adopt or enforce a density requirement that is more restrictive than the greater of either: the highest residential density allowed in the City or 36 units per acre.

- In El Paso, the A-4 zoning district requires 300 sf per dwelling unit, at an equivalent of 140 units per acre.” Therefore, 140 units per acre is the density restriction that will apply to all mixed-use or multifamily residential project regardless of zoning classification.
- No direct or indirect restrictions on density may be imposed by zoning regulations. Therefore, existing minimum lot area requirements based on number of units or maximum floor area cannot be enforced.

Height: The City may not adopt or enforce a height that is more restrictive than the greater of the highest height that would apply to office, commercial, retail, or warehouse development constructed on the site or 45 feet.

- As a result, minimum heights in all apartment districts (A-1, A-2, A-3, A-4, A-3/O, A-M) will increase from a maximum height of 35 feet to 45 feet.
- In C-1, C-2, and C-3, the minimum height will increase from 35 feet to 45 feet.
- In special purpose districts P-C, P-I, PMD, P-R I, P-R II, SRR, and U-P, the minimum height allowance will be 45 feet.
- In no instance may zoning regulations limit the height of a mixed-use residential or multifamily project to less than 45 feet.

Setback or buffer: The City may not adopt or enforce a setback or buffer requirement that is more restrictive than the lesser of a setback or buffer requirement that would apply to an office, commercial, retail, or warehouse development constructed on the site or 25 feet.

- In general, the affected zoning districts do not propose a setback greater than 25 feet. However, several districts have separate and distinct setback requirements for residential and nonresidential uses. Accordingly, setbacks for multifamily and mixed-use residential projects will require review on a case-by-case basis.
- Regulations requiring additional setbacks for upper floors (e.g. urban form setback, tower spacing, etc.) are not enforceable if it results in a setback greater than what is allowed under this provision.

Floor Area Ratio (FAR): The City may not adopt or enforce a ratio of the total building floor area in relation to the lot area of the development.

- This means the City may not impose a maximum floor area ratio on a mixed-use residential or multifamily residential project. While no affected zoning districts utilize a floor area ratio, any future changes to the zoning code will need to take this into account.

Parking: The City may not adopt or enforce a parking requirement that exceeds one space per dwelling unit or requires a multilevel parking structure for a mixed-use residential or multifamily residential project.

- Off-street parking requirements will be reduced for the following uses:
 - Triplexes, quadplexes, apartments (5 or more units), live-work units will require one space per unit.

Mixed use: The City may not adopt or enforce a requirement that a multifamily residential development not located in an area zoned for mixed-use residential contain a nonresidential use.

- This means that a multifamily residential project is not required to include nonresidential uses unless in a district (e.g. mixed-use districts like GMU, IMU, and RMU) that requires nonresidential as part of a mixed-use residential project.

Conversions of existing buildings

SB 840 also streamlines the process for the conversion of buildings used for office, retail, or warehouse uses to mixed-use residential or multifamily residential occupancy when constructed at least five-years before the proposed date of the conversion.

Under SB 840, the City cannot require any of the following for qualifying conversions to a mixed-use residential or multifamily residential occupancy:

- A traffic impact analysis or other study relating to the effect the proposed converted building would have on traffic or traffic operations.
- The construction of improvements or payment of a fee in connection with mitigating traffic effects related to the proposed converted building.
- Additional parking spaces, other than the parking spaces that already exist on the site of the proposed converted building.
- 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.
- A design requirement, including a requirement related to the exterior, windows, internal environment of a building, or interior space dimensions of an apartment, that is more restrictive than the applicable minimum standard under the International Building Code as adopted by the City.

Regulations not affected by SB 840

SB 840 does not affect the City's authority to regulate the following:

Short Term Rentals (STRs): The City may continue to apply regulations on short term rental units in multifamily residential or mixed-use residential developments.

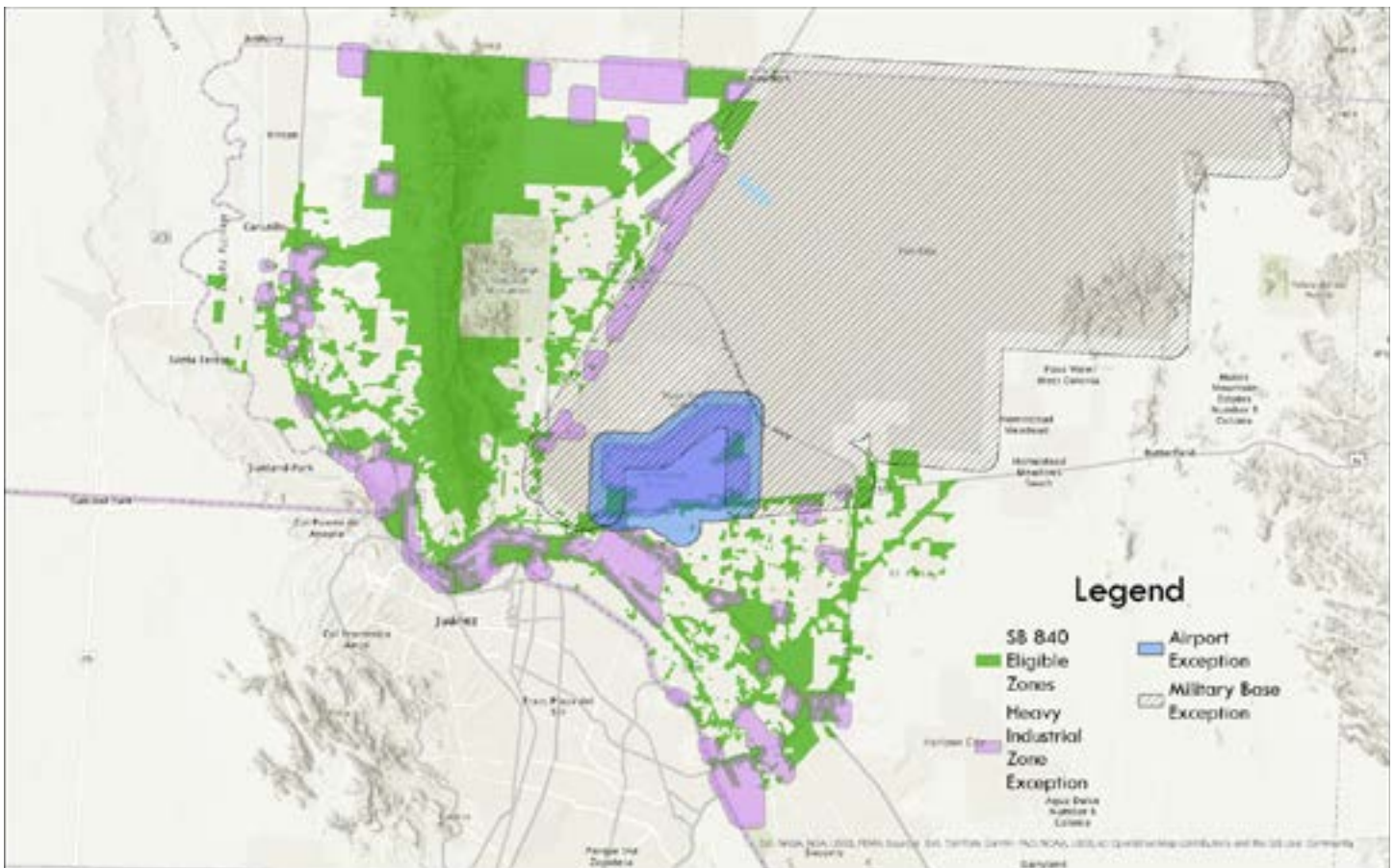
Density Bonus Program: The City may adopt or enforce density bonus programs (or other voluntary programs) that allow for site development standards that are less restrictive than the standards in SB 840.

Currently, the City has no density bonus programs that this would apply to. However, any future programs must comply with these provisions.

Other regulations applicable to development: The City may apply regulations to mixed-use residential and multifamily residential developments that are generally applicable to other developments in the municipality.

- Sewer and water access requirements
- Building codes
- Stormwater mitigation requirements

Historic Preservation: The City may apply regulations related to historic preservation, including protecting historic landmarks or property in the boundaries of a local historic district.



The map above illustrates eligible and exempted SB 840 zones. You may click on the map above to interact with SB 840 webmap on your preferred browser.