

SB840 Alters Land Use on Commercial Properties

September 8, 2025



SB840 - Hughes

Author: Hughes

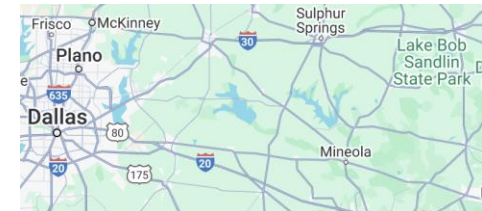
Caption: Relating to certain municipal and county regulation of certain multifamily and mixed-use residential development projects and conversion of certain commercial buildings to mixed-use and multifamily residential occupancy.

Companion - [HB 3404](#) [Hefner](#)

[SB840](#), a new state law that went into effect on September 1, 2025, dramatically [alters land use on commercial property](#) in Austin. It allows residential development—including multifamily and mixed-use—on properties zoned for office, commercial, retail, or warehouse use without a zoning change or a public hearing.



Senator Brian Hughes
District 1
Mineola, Texas
Republican



SB840 - Counties



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

a municipality with a population greater than 150,000 that is located in a county with a population greater than 420,000; and

County	2024 Population
Harris	4,888,913
Dallas	2,610,723
Tarrant	2,210,248
Bexar	2,115,167
Travis	1,342,372
Collin	1,231,723
Denton	1,037,646
Fort Bend	944,637
Hidalgo	908,656
El Paso	872,521
Montgomery	743,154
Williamson	722,109
Cameron	428,509
Brazoria	409,642
Bell	398,932
Galveston	366,101

SB840 – Cities Impacted

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

a municipality with a population greater than 150,000 that is located in a county with a population greater than 420,000; and

Pasadena slightly below 150,000 and Killeen – Bell County is below 420,000

City	2024 Population
<u>Houston</u>	2,390,125
<u>San Antonio</u>	1,526,656
<u>Dallas</u>	1,326,087
<u>Fort Worth</u>	1,008,106
<u>Austin</u>	993,588
<u>El Paso</u>	681,723
<u>Arlington</u>	403,672
<u>Plano</u>	293,286
<u>Irving</u>	258,060
<u>Garland</u>	250,431
<u>Frisco</u>	235,208
<u>McKinney</u>	227,526
<u>Grand Prairie</u>	207,331
<u>Brownsville</u>	191,967
<u>Denton</u>	165,998
<u>Mesquite</u>	150,140
<u>Pasadena</u>	149,617
<u>Killeen</u>	160,616

SB840 – Bill Author

[Bill Author Hughes describing purpose of Bill:](#)



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By Jose Melendez | March 10, 2025

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SB840 – Senate Bill Analysis

Senate Bill Analysis

“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 groundup construction while preserving infrastructure.”

SB840 – COA Staff Comments

Description of Bill by Carrie Rogers, Intergovernmental Relations Officer,
City of Austin

“SB 840 by Senator Hughes passed the Legislature and has been sent to the Governor. The bill allows residential by right in non-residential base zones”

Comments at Austin City Council Meeting:

City of Austin Lawyer Trish Link made this statement:

“ We understand the intent of the bill is to allow multifamily in commercial base zones”

SB840 – COA Clarification

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512.463.0101

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SUITE 208
TYLER, TEXAS 75702
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THE TEXAS SENATE



BRYAN HUGHES

June 4, 2025

COMMITTEES ON:
STATE AFFAIRS, CHAIR
JURISPRUDENCE, CHAIR
FINANCE
HEALTH & HUMAN SERVICES
NATURAL RESOURCES &
ECONOMIC DEVELOPMENT
NOMINATIONS

Mr. T.C. Broadnax
City Manager, City of Austin
301 W. 2nd St
Austin, Texas 78701

Dear Mr. Broadnax:

In response to your inquiry, I write to clarify the legislative intent of Senate Bill 840, as passed during the regular session of the 89th Texas Legislature.

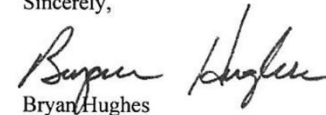
SB 840 was designed with a focused and deliberate purpose: to require cities to allow multifamily and mixed-use residential development in zoning districts that allow for office, commercial, retail, warehouse, or mixed uses. The intent is to open certain commercially zoned areas to residential development opportunities, thereby increasing housing supply and flexibility without disrupting established residential zoning frameworks.

Importantly, SB 840 does not impact traditional multifamily zoning districts. The bill includes provisions that limit how a city may regulate multi-family and, in some instances, mixed-use residential development — but these limitations are only triggered when such development occurs within zoning classifications that allow for office, commercial, retail, warehouse, or mixed uses.

Interpretation suggesting that these regulatory limits apply broadly to all multi-family zoning districts, regardless of whether the zoning districts allow for office, commercial, retail, warehouse, or mixed uses is inconsistent with the legislative intent of the bill. SB 840 was never intended to change how cities regulate purely residential or multifamily zoning districts. Instead, the bill aims to unlock housing potential in areas historically zoned for specific commercial uses.

I appreciate the opportunity to clarify the intent of this legislation and welcome any further questions as cities work to implement SB 840 in accordance with its intended scope.

Sincerely,



Bryan Hughes

cc: Patricia Link, City of Austin Land Use City Attorney
Carrie Rogers, City of Austin Intergovernmental Relations Officer

DISTRICT ONE

BOWIE, CAMP, CASS, DELTA, FANNIN, FRANKLIN, GREGG, HARRISON, HOPKINS, LAMAR, MARION, MORRIS, PANOLA, RED RIVER, RUSK, SMITH, TITUS, UPSHUR, AND WOOD COUNTIES

SB840 – COA Interpretation

- Multifamily and mixed-use residential developments in commercial zones will be allowed to:
- 1. Reach a minimum height of 45 feet or the height that applies to commercial uses for the site.
- 2. Reach a density of up to 54 units per acre.
- 3. Include setbacks that are 25 feet or those imposed on commercial uses, whichever is less.
- 4. Develop an unlimited floor-to-area ratio (FAR).

What is SB 840?

- The Texas Legislature passed [Senate Bill \(SB\) 840](#) to increase housing stock.
- SB 840 allows more market-rate housing to be built on most property zoned commercial.
- SB 840 applies to most properties that allow office, commercial, retail, warehouse, or mixed-use uses.
- SB 840 goes into effect September 1, 2025.

The Details:

- SB 840 allows multifamily residential or mixed-use residential development in any commercial zone or any commercial use building.
- Under SB 840, multifamily and mixed-use residential developments in commercial zones will, by right, be able to:
 - Reach a height that is the greater of 45 feet or the height that applies to commercial uses for the site.
 - Reach a density of up to 54 units per acre.
 - Include setbacks that are the lesser of 25 feet or those imposed on commercial uses.
 - Develop unlimited floor-to-area ratio (FAR).

How SB 840 Affects Affordable Housing & Density Bonus Programs

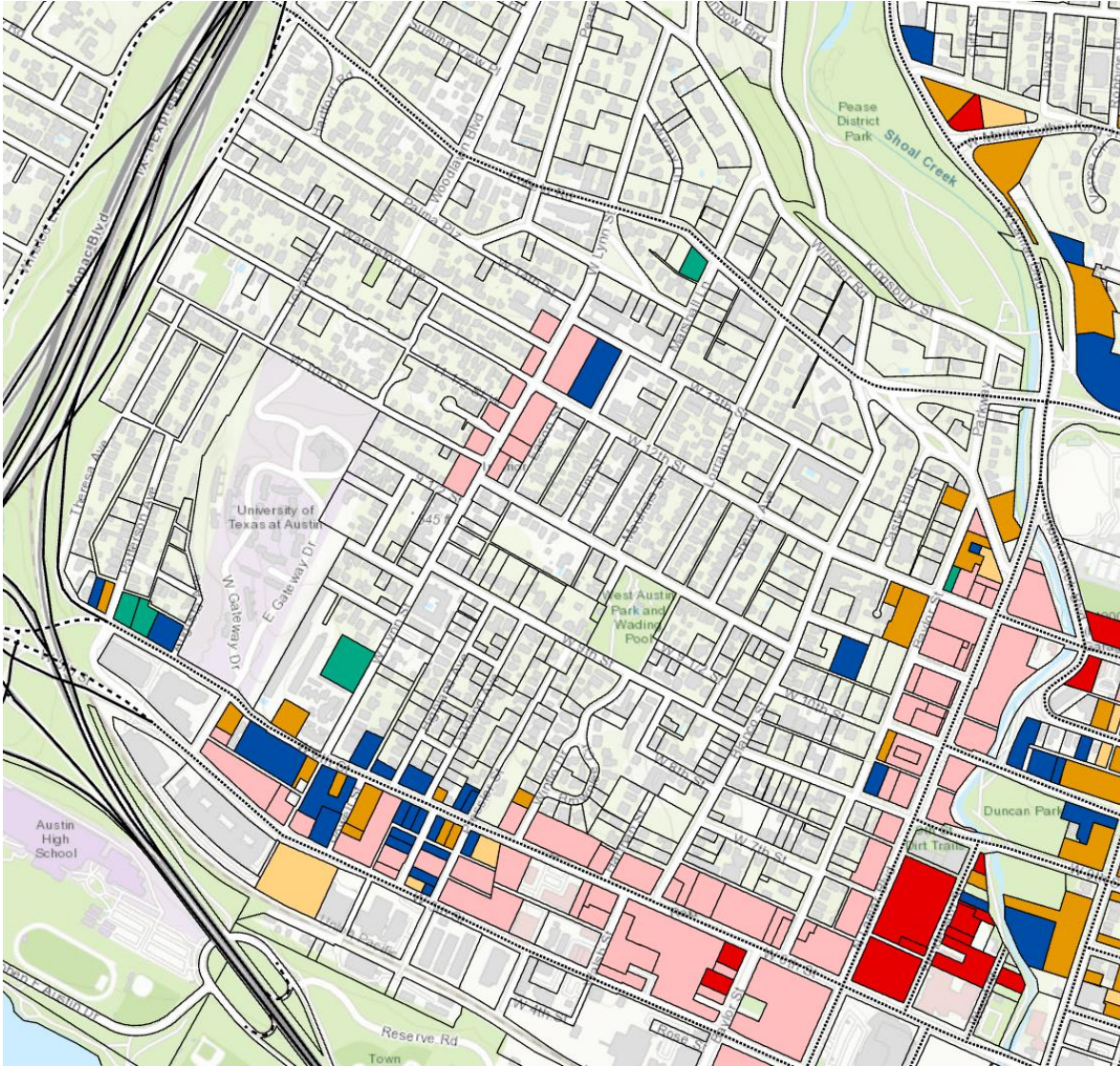
- Voluntary density bonus programs are one way the City encourages builders to include affordable housing in new developments.
- Incentives relating to density bonus programs may be reduced unless an applicant seeks additional modifications of development standards beyond what is allowed by right in SB 840, such as additional height.
- SB 840 may result in fewer affordable housing units included in new developments.
- The City remains committed to growing its affordable housing availability.

How Will the City Address SB 840?

- Austin Development Services will be ready to accept new applications consistent with the changes in SB 840 beginning September 1, 2025.
- City staff will work on process changes to improve implementation of SB 840 and develop options for City Council consideration that would support Austin's density bonus programs.
- The City remains committed to growing its affordable housing availability.

SB840 — Specific Impact on Austin Zoning

- This will allow automatic height increases in Neighborhood Office (NO - 35 to 45 feet) and Limited Office zoning (LO 40 to 45 feet) and Neighborhood Commercial (LR) with residential redevelopment. These are currently limited to 2 and 3 stories.
- It also allows the conversion of non-residential buildings and prohibits traffic impact analysis, fees for traffic improvements, and impact fees. Additionally, it restricts utility improvements to those necessary for serving the proposed converted building.
- By eliminating zoning hearings and traffic impact studies, SB 840 removes consideration of the compatibility of the project with the surrounding or nearby neighborhood.



SB840 – Specific Impact in Old West Austin

- Green- NO zoning height increased from 35 to 45
- Blue- LO,LR zoning height increased from 40 to 45
- Orange- GO,GR Mixed Use (Residential now allowed)
- Light Orange- GO, GR already mixed use
- Red - CS zoning residential now allowed
- Pink - CS zoning Mixed Use (Residential now allowed)

SB840 – Pushed by H.O.M.E Proponent

“Nicole Nosek, who chairs the housing advocacy group Texans for Reasonable Solutions [that pushed for the law](#), said her organization is preparing a potential lawsuit to try to force the cities to comply with the law. If they don’t, Nosek said, the state’s housing shortage will worsen and housing costs will climb higher, further putting homeownership out of reach for families.” - [Texas Tribune](#)

This bill was written and sponsored by Texans for Reasonable Solutions Nicole Nosek who pushed/authored the H.O.M.E. ordinances in Austin and resides in Westlake with Luke Nosek (Paypal Mafia)

Postscript

The city may give more entitlements to developers for affordable housing because the state law does give for free the [VMU \(Vertical Mixed Use entitlement\)](#) benefits which require affordable housing:

Owner-Occupied Units—5% of residential units shall be affordable for households earning no more than 80% of the current Median Family Income (MFI). 5% of the residential units shall be affordable for households earning no more than 100% of the MFI. The affordability period is 99 years.

Rental Units—10% of the residential units shall be affordable for households earning no more than 80% of the current MFI. The affordability period is 40 years.

It however does not give additional height that [DB90](#) gives (30 feet).

SB840 – Austin July Memo

Density Bonus Programs and SB 840 Density bonus programs provide property owners the option to receive additional entitlements in exchange for meeting program requirements and providing community benefits, including income restricted affordable housing units. As voluntary programs, they must remain **financially attractive choices for development** when compared to the base zoning entitlements that apply to a property. City of Austin density bonus programs typically offer a combination of additional entitlements in exchange for community benefits, such as additional building height, additional floor area, or the ability to develop residential uses in a zone which would otherwise not allow those uses. Other increased entitlements generally available under bonus programs include relaxed site development standards like reduced setbacks and compatibility standards.

SB840 – Austin July Memo

SB 840, once in effect, will increase the base zoning entitlements on many properties across Austin. These increased entitlements are required by the bill to be “by right,” meaning that no Council approved zoning action will be necessary for an applicant to submit a project under the new entitlements granted by SB 840.

Several significant additional entitlements typically offered through voluntary density bonus programs will become available by right to residential and mixed-use projects under SB 840. Therefore, SB 840 will significantly impact the viability of many of the City’s density bonus programs. Staff across multiple departments are still analyzing the full scope of impacts from SB 840, but it is clear that an updated approach to incentivizing income-restricted units that goes beyond density bonuses will likely be necessary