Austin Development Services

SB 840 Implementation Guidelines

Senate Bill 840 (SB 840) allows multifamily and mixed-use development on most commercial properties. Multifamily and mixed-use developments are now treated as by-right permitted uses on most commercially zoned lots.

Applicability Provisions

These guidelines apply to applications proposing multifamily or mixed-use, as defined below, development in a commercial base zoning district or a special purpose or combining district/overlay, including Planned Unit Developments (PUD) and Planned Development Area (PDA), in which office, commercial, retail, warehouse, or mixed use is a permitted use.

If a project is less than 65% residential, it does not qualify as mixed-use under SB 840 and would need to increase the percentage of residential uses or change from a commercial zoning district to a zoning district that permits a mix of uses.

Changes to Land Development Code (LDC) Requirements

New SB 840 Regulations

These rules apply to site plan or building permit applications that meet the applicability provisions:

1. No Floor-to-Area Ratio (FAR) limit
2. Maximum Density: 54 Units/Acre
3. Maximum Height (measured per the definition of "height" in LDC Section 25-1-21) — the *greater* of:
    - Height permitted for commercial uses on the site either by the base zoning regulations, or, if applicable, a regulating or small-area plan, Neighborhood Conservation Combining District (NCCD), Neighborhood Plan (NP), or Conditional Overlay; or
    - 45 feet.
4. Setbacks — the *lesser* of:
    - Standard yard setback that applies under the base zoning regulations, or, if applicable, Subchapter E, a regulating or small-area plan, NCCD, NP Ordinance, and/or Conditional Overlay; or
    - 25 feet.

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Existing LDC Regulations

All existing LDC regulations that do not conflict with the new regulations continue to apply. Examples include impervious cover limits and building coverage limits.

Some specific code sections still apply but are modified because of SB 840:

- Subchapter E regulations continue to apply if the table in Subchapter E 1.2.1. (*General Applicability*) applies the regulation to:
    - All or non-residential (commercial) *zoning districts;* or
    - Multi-family residential *uses*.
- Subchapter E regulations *do not apply* to SB 840 projects if:
    - A regulation is only required for projects participating in the "-V" density bonus; or
        - If a SB 840 project *does* wish to use the enhanced entitlements of the "-V" density bonus, it must then meet the requirements outlined in Subchapter E.
    - Subchapter E 1.2.1. (*General Applicability*) applies the regulation to commercial *uses*.
        - If a building on a SB 840 site is 100% commercial, the commercial use regulations would still apply to that building.
- The first height step back for Compatibility regulations will be increased from 40 feet to 45 feet. Otherwise, Compatibility will continue to apply as normal.
- City Capital View Corridors (CVC) regulations continue to apply using the greater of 45 feet or the CVC height limit.
- The Waterfront Overlay (WO) setbacks are not considered environmental setbacks. SB840 will supersede the WO setbacks.
- If applicable, the following regulations apply even if they conflict with the new regulations:
    - Regulations protecting historic landmarks or property in the boundaries of a local historic district; and
    - Watershed regulations codified in Chapter 25-8, including protections for Critical Water Quality Zones (CWQZ), Critical Environmental Feature (CEF) buffers, Water Quality Transition Zone, FEMA (Federal Emergency Management Agency) Floodplains, and Erosion Hazard Zones.

Location Based Exclusions

If a development is in one of these areas, it is excluded from SB 840 and subject to all applicable regulations, even if they conflict with the new regulations:

- 1,000 feet of an existing site with a hazardous materials permit identified by Austin Fire. For information on the Austin Fire designated sites, please contact Land Use Assistance.
    - Distance is measured radially from the lot line of the existing site with the hazardous materials permit.
- A zoning classification that allows heavy industrial use. See below for the applicable zoning districts and list of uses that are considered "heavy industrial."
    - Industrial Park (IP), Limed Industrial Service (LI), and Major Industry (MI), *unless* a Conditional Overlay (CO) or PDA remove all heavy industrial uses from the property; and
    - PDA, PUD, Research and Development (R&D), or other standalone ordinances that permit heavy industrial uses.
    - Heavy Industrial Uses:
        - Basic Industry
        - General Warehousing and Distribution
        - Light Manufacturing
        - Recycling Center
        - Resource Extraction
        - Stockyards
- 3,000 feet of an airport or military base; or
    - Distance is measured radially from the property line of the airport or military base.
- A "clear zone" or "accident protection zone".

Conversion of Existing Structures

In addition to the LDC regulation changes, SB 840 also specifies what fees and regulations can be applied to projects that are converting an existing commercial structure to a residential structure. For information about this part of the bill, please contact Land Use Assistance.

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Definitions

These definitions are solely for the purpose of the guidelines in this document.

Mixed-use Residential

“Mixed-use residential” means the development or use of a site with residential and non-residential uses in which residential uses are at least 65 percent *of the total square footage of the development*.

- The square footage of the development is calculated cumulatively for the site, not per building. Total square footage should be calculated using the definition for “Gross Floor Area” per Section 25-1-21.
- If a project is less than 65 percent residential, it does not qualify as mixed use under SB840 and would need to increase the percentage of residential uses or pursue a zone change to a zoning district that permitted a mix of uses.

Multifamily Residential

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

- This definition *does not* include townhouse uses, which are townhouse units on individual lots, but *does* include rowhouses which are townhouse-style units on a single lot.