

**Model Multifamily and Mixed-Use Residential in Zoning Classifications that Allow Office, Commercial, Retail, Warehouse, or Mixed Use Act**

AN ACT

relating to certain municipal regulation of certain mixed-use and multifamily residential development projects and conversion of certain commercial buildings to mixed-use and multifamily residential occupancy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF [FILL IN]:

SECTION[FILL IN]

, is amended by adding [fill in] to read as follows:

Sec. [FILL IN]. ZONING REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE AND DEVELOPMENT. (a) In this section, "mixed-use residential" and "multifamily residential" have the meanings assigned by Section [fill in].

(b) The authority under this chapter related to zoning regulations and the determination of zoning district boundaries in connection with mixed-use residential use and development and multifamily residential use and development is subject to Chapter [fill in].

SECTION [fill in], is

amended by adding Chapter [fill in] to read as follows:

CHAPTER [fill in]. REGULATION OF MIXED-USE AND MULTIFAMILY RESIDENTIAL

USE AND DEVELOPMENT IN CERTAIN MUNICIPALITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. [fill in]. DEFINITIONS. In this chapter:

(1) "Heavy industrial use" means a storage, processing, or manufacturing use:

(A) with processes using flammable or explosive materials;

(B) with hazardous conditions; or

(C) that is noxious or offensive from odors, smoke, noise, fumes, or vibrations.

(2) "Mixed-use residential," when used to describe land use or development, means the use or development, as applicable, of a site consisting of residential and nonresidential uses in which the residential uses are at least 65 percent of the total square footage of the development. The term includes the use or development of a condominium.

(3) "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.

Sec. [fill in]. APPLICABILITY. This chapter applies only to

a.

a county with a population greater than  
[fill in].

Sec. [fill in]. NO EFFECT ON OTHER RESTRICTIONS AND RULES.

This chapter does not affect the authority of a municipality to:

(1) apply the municipality's regulations on short-term  
rental units to a mixed-use residential or multifamily residential  
development;

(2) adopt or enforce water quality protection  
regulations to implement or comply with water quality requirements  
under state or federal law;

(3) adopt or enforce a density bonus program or other  
voluntary program that allows for site development standards that  
are less restrictive than the standards described by this chapter;

Or

(4) apply the following regulations that are generally  
applicable to other developments in the municipality:

(A) except as otherwise provided by this chapter:

(i) sewer and water access requirements; or

(ii) building codes;

(B) stormwater mitigation requirements; or

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

#### SUBCHAPTER [fill in]. ZONING AND DEVELOPMENT REGULATIONS

Sec. [fill in]. MIXED-USE RESIDENTIAL AND MULTIFAMILY  
RESIDENTIAL USES ALLOWED. (a) Notwithstanding any other law and  
subject to Subsection [fill in], a municipality shall allow mixed-use  
residential use and development or multifamily residential use and  
development in a zoning classification that allows office,  
commercial, retail, warehouse, or mixed-use use or development as  
an allowed use under the classification.

(b) Notwithstanding any other law and subject to Subsection  
[fill in], a municipality may not require the change of a zoning district  
or land use classification or regulation or an approval of an  
amendment, exception, or variance to a zoning district or land use  
classification or regulation prior to allowing a mixed-use  
residential use or development or multifamily residential use or  
development in an area covered by a zoning classification described  
by Subsection (a). An amendment, exception, or variance to a zoning  
district or land use classification or regulation includes a  
special exception, zoning variance, site development variance,  
subdivision variance, conditional use approval, special use  
permit, comprehensive plan amendment, or other discretionary  
approval to allow a mixed-use residential use or development or  
multifamily residential use or development.

(c) This section does not apply to:

(1) a zoning classification that allows heavy industrial use;

(2) land located within:

(A) 1,000 feet of an existing heavy industrial use or development site; or

(B) 3,000 feet of an airport or military base; or

(3) an area designated by a municipality as a clear zone or accident potential zone.

Sec. [fill in]. REGULATION OF MIXED-USE RESIDENTIAL AND MULTIFAMILY RESIDENTIAL USE OR DEVELOPMENT. (a) Notwithstanding any other law, a municipality may not adopt or enforce an ordinance, zoning restriction, or other regulation that:

(1) imposes on a mixed-use residential or multifamily residential development:

(A) a limit on density that is more restrictive than the greater of:

(i) the highest residential density allowed in the municipality; or

(ii) 36 units per acre;

(B) a limit on building height that is more restrictive than the greater of:

(i) the highest height that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 45 feet; or

(C) a setback or buffer requirement that is more restrictive than the lesser of:

(i) a setback or buffer requirement that would apply to an office, commercial, retail, or warehouse development constructed on the site; or

(ii) 25 feet;

(2) requires a mixed-use residential or multifamily residential development to provide:

(A) more than one parking space per dwelling unit; or

(B) a multilevel parking structure;

(3) restricts the ratio of the total building floor area of a mixed-use residential or multifamily residential development in relation to the lot area of the development; or

(4) requires a multifamily residential development not located in an area zoned for mixed-use residential use to contain nonresidential uses.

(b) Notwithstanding any other law, if a municipal authority responsible for approving a building permit or other authorization required for the construction of a mixed-use residential or

multifamily residential development determines that a proposed development meets municipal land development regulations in accordance with this subchapter, the municipal authority:

(1) shall administratively approve the permit or other authorization; and

(2) may not require further action by the governing body of the municipality for the approval to take effect.

SUBCHAPTER [fill in]. FEES AND REGULATIONS APPLICABLE TO CONVERSION  
OF  
CERTAIN USES

Sec. [fill in]. DEFINITION. In this subchapter, "permit" has the meaning assigned by [fill in].

Sec. [fill in]. APPLICABILITY. This subchapter applies only to a building or the structural components of the building that:

(1) is being used for office, retail, or warehouse use;

(2) is proposed to be converted from nonresidential occupancy to mixed-use residential or multifamily residential occupancy for at least 65 percent of the building and at least 65 percent of each floor of the building that is fit for occupancy; and

(3) was constructed at least five years before the proposed date to start the conversion.

Sec. [fill in]. CERTAIN REGULATIONS PROHIBITED. Notwithstanding any other law, a municipality may not, in connection with the use, development, construction, or occupancy of a building proposed to be converted to mixed-use residential or multifamily residential use, require:

(1) the preparation of a traffic impact analysis or other study relating to the effect the proposed converted building would have on traffic or traffic operations;

(2) the construction of improvements or payment of a fee in connection with mitigating traffic effects related to the proposed converted building;

(3) the provision of additional parking spaces, other than the parking spaces that already exist on the site of the proposed converted building;

(4) 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;  
Or

(5) 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 as a municipal commercial building code under Section [fill in].

Sec. [fill in]. IMPACT FEE PROHIBITED. Notwithstanding any other law, a municipality may not impose an impact fee, as defined by Section [fill in], on land where a building has been converted to mixed-use residential or multifamily residential use unless the land on which the building is located was already subject to an impact fee before a building permit related to the conversion was filed with the municipality.

#### SUBCHAPTER D. ENFORCEMENT

Sec. [fill in]. CIVIL ACTION. (a) In this section, "housing organization" means a:

(1) trade or industry group organized under the laws of this state consisting of local members primarily engaged in the construction or management of housing units;

(2) nonprofit organization organized under the laws of this state that:

(A) provides or advocates for increased access or reduced barriers to housing; and

(B) has filed written or oral comments with the legislature; or

(3) nonprofit organization that is engaged in public policy research, education, and outreach that includes housing policy-related issues and advocacy.

(b) A housing organization or other person adversely affected or aggrieved by a violation of this chapter may bring an action for declaratory or injunctive relief against a municipality.

(c) The court shall award court costs and reasonable attorney's fees to a claimant who prevails in an action brought under this section.

(d) Notwithstanding any other law, including [fill in], an action brought under this section must be brought in a county in which all or part of the real property that is the subject of the action is located.

(e) Notwithstanding any other law, the [fill in] has exclusive intermediate appellate jurisdiction over an action brought under this section.

SECTION [fill in]. Section [fill in], is amended by amending Subsection [fill in] and adding Subsection [fill in] to read as follows:

(b) Except as provided by Section [fill in] and Subsection [fill in] political subdivisions may enact or impose impact fees on land within their corporate boundaries or extraterritorial jurisdictions only by complying with this chapter.

(b-1) A political subdivision may not enact or impose an impact fee on land within its extraterritorial jurisdiction for

roadway facilities.

SECTION [fill in]. (a) [fill in]  
Code, as added by this Act, applies only to a mixed-use residential  
or multifamily residential development project initiated on or  
after the effective date of this Act.

(b) Subchapter [fill in], as  
added by this Act, applies only to a building proposed to be  
converted to mixed-use residential or multifamily residential use  
in which a building permit was submitted to a municipality on or  
after the effective date of this Act.

SECTION 5. This Act takes effect [fill in].