

**RULE NO.: R161-17.13**

**NOTICE OF PROPOSED RULE**

**POSTING DATE: February 28, 2017**

The Director of the Department of Neighborhood Housing and Community Development proposes to adopt the following rule after April 1, 2017.

Comments on the proposed rule are requested from the public. Comments should be submitted online at <http://www.austintexas.gov/online-form/tenant-relocation-assistance-program-rules-review> or in writing to Lauren Avioli, Neighborhood Housing & Community Development, PO Box 1008, Austin, TX 78767; (512-974-3141). To be considered, comments must be submitted before April 1, 2017 the 32nd day after the date this notice is posted. A summary of the written comments received will be included in the notice of rule adoption that must be posted for the rule to become effective.

An affordability impact statement regarding the proposed rule has been obtained and is available for inspection or copying at the address noted in the preceding paragraph.

**EFFECTIVE DATE OF PROPOSED RULE**

A rule proposed in this notice may not become effective before the effective date established by a separate notice of rule adoption. A notice of rule adoption may not be posted before April 1, 2017 (the 32nd day after the date of this notice) or not after May 29, 2017 (the 90th day after the date of this notice).

If a proposed rule is not adopted on or before May 29, 2017, it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

**TEXT OF PROPOSED RULE**

A copy of the complete text of the proposed rule is available for public inspection and copying at the following locations. Copies may be purchased at the locations at a cost of ten cents per page:

Department of Neighborhood Housing and Community Development, located at 1000 E 11<sup>th</sup> Street, Austin, TX 78702, Suite 200; and

Office of the City Clerk, City Hall, located at 301 West 2nd Street, Austin, Texas.

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## **BRIEF EXPLANATION OF PROPOSED RULE**

R161-17.13: Proposed addition to the Building Criteria Manual, Section 16 TENANT RELOCATION ASSISTANCE PROGRAM RULES

- Proposes rules for the administration of the Tenant Relocation Assistance Program, authorized under the Land Development Code Ordinance 20160901-050, to establish submittal requirements for applications required to provide notification or financial relocation assistance to tenants; specify procedures for collecting and disbursing financial tenant relocation assistance; and provide general policy direction for the benefit of applicants, advocates, tenants, property owners, and City departments regarding the administration and enforcement of Ordinance 20160901-050.

## **AUTHORITY FOR ADOPTION OF PROPOSED RULE**

The authority and procedure for adoption of a rule to assist in the implementation, administration, or enforcement of a provision of the City Code is provided in Chapter 1-2 of the City Code.

## **CERTIFICATION BY CITY ATTORNEY**

By signing this Notice of Proposed Rule R161-17.13, the City Attorney certifies the City Attorney has reviewed the rule and finds that adoption of the rule is a valid exercise of the Director's administrative authority.

## **REVIEWED AND APPROVED**



Rosie Truelove, Interim Director  
Neighborhood Housing & Community Development

Date: 2/21/17



Anne L. Morgan  
City Attorney

Date: 2/27/17

## **TENANT RELOCATION PROGRAM – DRAFT RULES**

### **16.1 – PURPOSE**

- (A) These rules govern the implementation of the Tenant Relocation Program, as required under City Code § 25-1-714 (*Tenant Relocation Assistance Program*). The rules are used by the director in administering the Tenant Notification and Relocation Assistance Ordinance, codified in Chapter 25-1, Article 15, Division 3, or its successor Code.
- (B) The criteria and standards adopted in the rules:
  - (1) Establish submittal requirements for applications requiring tenant relocation notification or assistance, including requirements to provide tenant notification and payment of a tenant relocation assistance fee;
  - (2) Specify procedures for collecting and disbursing financial tenant relocation assistance; and
  - (3) Provide general policy direction, for the benefit of applicants, advocates, tenants, property owners, and City departments regarding the administration and enforcement of the Tenant Relocation Assistance Ordinance.
- (C) Terms in this document are as defined in the City's Land Development Code, Chapter 25-1, Article 15.

### **16.2 – APPLICABILITY OF NOTIFICATION & RELOCATION REQUIREMENTS**

- A) These rules apply to any development permit application or discretionary land use approval for which tenant notification or payment of a tenant relocation fee is required under the Tenant Notification and Relocation Assistance Ordinance.
- B) An applicant must provide tenant notification as required by City Code § 25-1-712 (*Tenant Notification*) to the tenant households described in City Code § 25-1-712 (C) if filing an application for one or more of the following development approvals:

- 1) For a multi-family building consisting of five (5) or more currently occupied residential units, any of the following permits, where the permit will affect 5 or more currently occupied residential units:
    - a) Commercial Demolition Permit Application
    - b) Commercial Building Application
  - 2) For an existing mobile home park, any of the following applications:
    - a) Consolidated Site Plan Application or Land Use Commission Site Plan Application
    - b) Site Plan Exemption Form
    - c) Zoning Application or Zoning Amendments Application
- C) As noted in City Code § 25-1-712 (C), the notice must be provided to tenant households in all units that are proposed for demolition in a multi-family building, or located in a mobile home park for which notice is required under City Code § 25-1-712 (A). The notice is not required to be sent to any of these units that are unoccupied on the date that the notice period begins (i.e. the date that the notice is delivered to the tenant households).
- D) When new tenants rent a unit that is entitled to notice under City Code § 25-1-712 (C), the landowner or landowner's agent must provide the new household with notice, as required by § 25-1-713 (D).

### **16.3 – TENANT NOTIFICATION AND SUBMITTAL REQUIREMENTS**

- A) Applicants for any of the permit types listed in Section 16.2(B) of this document must provide notice to tenants in accordance with the requirements of this rule.
- B) Applicants must use **Tenant Notification Packets** provided by the City of Austin and approved by the director. If the applicant wishes to use an alternative form, the applicant must receive approval from Neighborhood Housing and Community Development Office staff prior to providing notice.
- C) Applicants must provide notice packets to tenants in a language the tenant understands. The applicant must work with the Neighborhood Housing and Community Development Office to obtain notice packets and other tenant

notification documentation required by the Tenant Notification and Relocation Assistance Ordinance in the languages needed, if they are not already available.

D) Notice must be hand delivered to each affected tenant household or sent by both:  
1) regular *and* 2) certified or registered mail, postage prepaid, with return receipt requested. The applicant must submit evidence of compliance with this section in the following manner:

1) Proof of delivery: Applicants must provide proof of notice delivery to the Neighborhood Housing and Community Development Office in the following manner:

a) For hand delivery – the applicant or applicant’s representative must provide the notice to the lease holder or any resident of the household that is at least 16 years old. The applicant must obtain a signature from the resident at time of delivery.

(i) If the tenant cannot be reached after two separate attempts, or if the tenant refuses to sign that the notice has been received, the applicant must mail the notice to the tenant via regular and certified or registered mail. To demonstrate that this has been done, the applicant must provide a copy of the certified or registered mail delivery receipt to the Neighborhood Housing and Community Development Office.

b) For certified or registered mail delivery – the applicant must provide copies of the delivery receipts to the Neighborhood Housing and Community Development Office.

2) The applicant must submit to the Neighborhood Housing and Community Development Office one copy of a completed notice packet delivered to tenants along with proof of delivery documentation.

3) The applicant must submit to the Development Services Department a compliance letter from the Neighborhood Housing & Community Development Office confirming that all tenant households entitled to notice have received notification, pursuant to the terms required under City Code § 25-1-712(B). Where notification is required, this statement must be provided

to the Development Services Department before the application can be approved.

E) Prior to the approval of the application, applicants must submit a modified rent roll to the Neighborhood Housing and Community Development Office of tenant households that are being displaced by the project along with their proof of tenant notification. If the City's **Tenant Relocation Rent Roll Form** is not used, an alternative form can be used; however, it must be approved by Neighborhood Housing & Community Development Office Staff prior to submittal.

1) The rent roll form must include:

a) Predominant languages other than English spoken at the property;

b) Total number of units from which tenants will be displaced; and

c) For each unit, provide the following information:

(i) Name of each member of the tenant household who is a signatory on a written lease or rental agreement for that unit (where there is no written agreement, the owner shall provide the name of each person the owner considers to be a resident under an oral lease/agreement);

(ii) The number of household members included on the lease or rental agreement; and

(iii) The number of bedrooms in each unit (efficiency, 1-bedroom, 2-bedroom, etc.).

2) The rent roll information will be used as part of the verification that notices have been delivered and to help confirm eligibility of tenant households that apply for financial assistance by indicating that they were occupants of the property at the time that notice was delivered.

F) The notice period is considered to begin on the date that applicants deliver notice to all tenant households entitled to receive notification under City Code § 25-1-712(C). Applications affecting multifamily buildings cannot be approved until at least 120 days have elapsed from the date the notice was delivered to all tenant households entitled to receive notification. Applications affecting mobile home

parks cannot be approved until at least 270 days have elapsed from the date the notice was delivered to all tenant households entitled to receive notification.

#### **16.4 – TENANT RELOCATION ASSISTANCE**

- A) The rules in this section specify the types of assistance that may be available under the Tenant Relocation Assistance Program. Depending on the nature of the redevelopment project, funds may be available from the City of Austin Tenant Relocation Fund and, for a project that required a rezoning or other discretionary approval, the Developer Fund for Tenant Relocation Assistance (as required by City Code § 25-1-715).
- B) Depending on available funding, the following types of assistance may be available to eligible tenants who are being displaced:
- 1) Housing location services to assist tenants in finding replacement housing that meets their needs;
  - 2) Financial assistance for reasonable relocation and moving expenses within 50 miles of the multifamily or mobile home park site, including the following:
    - a) Application fees for replacement housing
    - b) Application deposits for replacement housing
    - c) Security deposit at replacement housing
    - d) First month's rent at replacement housing
    - e) Rental of moving truck and movers
    - f) Reimbursement for moving materials such as boxes, moving pads
    - g) Financial assistance to relocate a mobile home within a radius of 50 miles of the mobile home site, for the following types of tenant income-eligible tenant households:
      - (i) Mobile home owners with a tenancy of a lot in a mobile home park,
      - (ii) Households in lease-purchase, rent-to-own, seller financed, or a similar type of agreement for the mobile home, that have been making



payments in accordance with this agreement for a year prior to the notice of park closure, and that are able to work with the owner of the mobile home in which they live to relocate the mobile home

- 3) Financial assistance may be provided through a third party payer contracted with the City of Austin for the purpose of providing relocation assistance.

C) Assistance need only be provided after the receipt of the required tenant notification.

#### **16.5 – COLLECTION OF TENANT RELOCATION ASSISTANCE FEES**

A) If applicants are required to pay a fee for tenant relocation assistance under City Code § 25-1-715 (*Tenant Relocation Assistance – Developer Funded*), the following rules shall apply:

- 1) The applicant must pay the fee to the Neighborhood Housing and Community Development Office at least three business days prior to:
  - a) the City Council's third reading of the zoning ordinance; or
  - b) for a land use approval not requiring an ordinance, before the meeting at which the approval is granted.
- 2) If the approval is not granted, the funds will be returned to the applicant within 30 days.
- 3) Tenant relocation fee payments made by applicants will be deposited in a Developer Fund for Tenant Relocation Assistance, as established under City Code § 25-1-715(B).
- 4) Applicants may request a refund of unused funds no earlier than 10 years after the fees were paid to the City for the purpose of relocating income-eligible tenants.

#### **16.6 – METHODOLOGY FOR DETERMINING FEES**

- A) Where tenant relocation assistance is required under City Code § 25-1-715 (*Tenant Relocation Assistance – Developer Funded*), NHCD shall calculate the fee by applying the following formula to all existing multi-family buildings or mobile home parks included in the zoning or land use application:

$$\text{TOTAL NUMBER OF BEDROOMS ON SITE} \times \text{FEE} = \text{TOTAL FEE}$$

where: (1) “Bedrooms” is the number of rooms within a multi-family building or mobile home park that meet the City’s definition of a “bedroom” under applicable regulations, and an efficiency unit will count as 1 bedroom; and (2) “Fee” is an amount established by the City Council in the annual Fee Schedule. The fee amount must be based on a nexus study that accounts for the costs of tenant displacement, to the City of Austin and to affected tenant communities, which are reasonably attributable to the loss of residential units resulting from the demolition or conversion of multi-family buildings and mobile home parks.

- B) NHCD shall present a proposed fee to the City Council for approval. The City Council may update the fee annually, after receiving a recommendation from the director, to reflect changes in costs of services provided by the City of Austin or other factors identified by the nexus study.

#### **16.7 – USE AND EXPENDITURE OF TENANT RELOCATION FEES PROVIDED BY APPLICANTS**

- A) The rules in this section specify how NHCD uses fees for tenant relocation assistance (provided by applicants) consistent with the requirements of City Code § 25-1-715 (*Tenant Relocation Assistance – Developer Funded*).
- B) If the land use approval that requires payment of a tenant relocation fee under City Code § 25-1-715 (*Tenant Relocation Assistance – Developer Funded*) is granted, the funds will be disbursed on behalf of eligible low-income tenants consistent with the **Tenant Relocation Assistance Program Guidelines** and City Code § 25-1-715(B). The funds will be disbursed only to eligible low-income tenants being displaced from the development or site for which the payment was made, consistent with requirements of City Code § 25-1-714 (*Tenant Relocation Program*).

- C) The maximum amount that an applicant may be required to pay to cover eligible expenses for income-eligible households will be determined based on the results of a nexus study and will be included in the fee presented to City Council for adoption.

