

**RULE NO.: R161-21.11**

**NOTICE OF PROPOSED RULE**

**POSTING DATE:** 04/23/2021

The Director of the Department of Development Services proposes to adopt the following rule after May 25, 2021.

Comments on the proposed rule are requested from the public. Comments should be submitted to Christopher Johnson at Christopher.Johnson@austintexas.gov or 512-974-2769. To be considered, comments must be submitted before May 25, 2021, 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 is pending; once approved it 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 May 25, 2021 (the 32nd day after the date of this notice) or not after July 2, 2021 (the 70th day after the date of this notice).

If a proposed rule is not adopted on or before July 2, 2021, it is automatically withdrawn and cannot be adopted without first posting a new notice of a proposed rule.

**BRIEF EXPLANATION OF PROPOSED RULE**

R161-21.11: Proposed revisions to the Building Criteria Manual

- Implementing recommendations from 2018 Demolition Permit Process Report. Updating language to identify Development Services Department.
- Addition of affidavit of compliance as application requirement and reference to section 16.3.
- Moving section 1.2.6. to section 4.3.0.
- Addition of Pre-Demolition Inspection, Acknowledgement Form, and Demolition Notification Process.
- Updating section 5.4.0. as Commercial Building Inspections and referencing section 4.6.2.2.

The text of the proposed rule, indicating changes from the current text, is also attached to this notice. Additionally, 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:

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

## **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. The authority to regulate construction requirements is established in Chapter 25-11 of the City Code.

## **CERTIFICATION BY CITY ATTORNEY**

By signing this Notice of Proposed Rule R161-21.11, 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**



Denise Lucas, C.P.M., Director  
Department

Date: March 25, 2021



Anne L. Morgan  
City Attorney

4/8/2021  
Date: \_\_\_\_\_

Proposed Criteria Manual Edits show additions in red and deletions highlighted & struckthrough.

Relevant sections of Building Criteria Manual

1. 1.2.6 - Building Permit - Demolition and Relocation: Permit Submittal and Review Process
  - a. RESIDENTIAL DEMOLITION
  - b. COMMERCIAL DEMOLITION
2. 4.3.0 - RESIDENTIAL DEMOLITION
3. 4.6.2 – Residential Building Inspection
4. 5.4.0 – BUILDING CODE

## **1.2.6 - Building Permit - Demolition and Relocation: Permit Submittal and Review Process**

### **a) RESIDENTIAL DEMOLITION**

i) An applicant for a residential demolition permit shall provide the following:

(a) A completed application for residential demolition, including notarized signatures from the legal owner(s) as identified by the Travis Central Appraisal District authorizing the demolition of the structure. If the applicant is not the same person indicated as the legal owner, then connecting documents showing the transfer of the property to the applicant OR a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property is required. If the legal owner is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(b) A site plan or survey to scale showing the street address, location of the structure on the site and dimensions of the structure, clearly identifying the structure(s) or portions of each structure to be demolished. The plan shall be on paper not be larger than 8½ x 14 inches in size.

(c) A certified tax certificate for the property on which the structure is located from the Travis County Tax Appraiser's Office. Copies are not accepted. If the applicant is not the same person indicated on the tax certificate as the legal owner of the property, then connecting documents showing the transfer of the property to the applicant OR a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property is required. If the person shown on the tax certificate is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(d) At least one photograph of the structure, showing an oblique (front and one side) view. In cases of partial demolition, the photograph must show the portion or portions of the building to be demolished.

(e) Verification from WPDRD that new construction will be permitted at this location.

(f) Verification that the Historic Preservation Office has released the permit, if required.

### **b) COMMERCIAL DEMOLITION**

i) An applicant for a commercial demolition permit shall provide the following:

(a) A completed application for commercial demolition, including notarized signatures from the legal owner(s) as identified by the Travis Central Appraisal District authorizing the demolition of the structure. If the applicant is not the same person indicated as the legal owner, then connecting documents showing the transfer of the property to the applicant OR a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property is required. If the legal owner is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

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(c) A certified tax certificate for the property on which the structure is located from the Travis County Tax Appraiser's Office. Copies are not accepted. If the applicant is not the same person indicated on the tax certificate as the legal owner of the property, then connecting documents showing the transfer of the property to the applicant OR a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property is required. If the person shown on the tax certificate is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(d) At least one photograph of the structure, showing an oblique (front and one side) view. In cases of partial demolition, the photograph must show the portion or portions of the building to be demolished.

(e) An approved red-stamped site plan or an approved site development determination/exemption form.

(f) A completed TDH notification form (asbestos survey).

(g) Verification that the Historic Preservation Office has released the permit, if required.

### **4.3.0 - RESIDENTIAL DEMOLITION**

For demolition and relocation of structures, refer to the Austin website at:  
<http://www.austintexas.gov/department/demolition-relocation>

Source: [Rule No. 161-15.19, 12-29-15](#).

#### **a) RESIDENTIAL DEMOLITION**

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(a) A completed application for residential demolition, including notarized signatures from the legal owner(s) as identified by the Travis Central Appraisal District authorizing the demolition of the structure. If the applicant is not the same person indicated as the legal owner, then the applicant may provide a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property OR documentation that demonstrates the applicant has authority to apply for a demolition permit. If the legal owner is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(b) A notarized Development Services approved affidavit of compliance. The affidavit must be completed signed, notarized and confirm compliance with all City, State and Federal regulations for safety and for the removal and proper disposal of asbestos, lead, refrigerants and all other hazardous materials.

(c) A site plan or survey to scale showing the street address, location of the structure on the site and dimensions of the structure, clearly identifying the structure(s) or portions of each structure to be demolished, and all trees required to be identified according to Environmental Criteria Manual section 3.3.0. The plan shall be on paper not be larger than 8½ × 14 inches in size.

(d) A certified tax certificate for the property on which the structure is located from the Travis County Tax Appraiser's Office. Copies are not accepted. If the applicant is not the same person indicated on the tax certificate as the legal owner of the property, then connecting documents showing the transfer of the property to the applicant OR a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property is required. If the person shown on the tax certificate is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(e) At least one photograph of the structure, showing an oblique (front and one side) view. In cases of partial demolition, the photograph must show the portion or portions of the building to be demolished.

(f) Verification from Development Services that new construction will be permitted at this location.

(g) Verification that the Historic Preservation Office has released the permit, if required.

(h) Verification from all utilities that serve the site (i.e., Austin Energy, Austin Water, Texas Gas, or other utility providers) that service will either be terminated, made safe or appropriately addressed throughout the demolition process and for new construction.

ii) Verification that Tenant Notification and Submittal Requirements are met if applicable. Tenant Notification and Submittal Requirements are in Section 16.3

## **b) COMMERCIAL DEMOLITION**

i) An applicant for a commercial demolition permit shall provide the following:

(a) A completed application for commercial demolition, including notarized signatures from the legal owner(s) as identified by the Travis Central Appraisal District authorizing the demolition of the structure. If the applicant is not the same person indicated as the legal owner, then the applicant may provide a notarized letter from the legal owner authorizing the applicant to apply for a demolition permit for the property OR documentation that demonstrates the applicant has authority to apply for a demolition permit. If the legal owner is deceased, a notarized letter from the deceased's Power of Attorney or Trust is required. If the owner is a corporation, proof that the person signing on behalf of the corporation is so authorized is required.

(b) A notarized Development Services approved affidavit of compliance. The affidavit must be completed signed, notarized and confirm compliance with all City, State and Federal regulations for safety and for the removal and proper disposal of asbestos, lead, refrigerants and all other hazardous materials.

(c) A site plan or survey to scale showing the street address, location of the structure on the site and dimensions of the structure, clearly identifying the structure(s) or portions of each structure to be demolished, and all trees required to be identified according to Environmental Criteria Manual section 3.3.0.. The plan shall be on paper not be larger than 8½ x 14 inches in size.

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(g) A completed TDH notification form (asbestos survey).

(h) Verification that the Historic Preservation Office has released the permit, if required.

(i) Verification from all utilities that serve the site (Austin Energy, Austin Water, Texas Gas, or other utility providers) that service will either be terminated, made safe, or appropriately addressed throughout the demolition and for new construction. .



ii) Verification that Tenant Notification and Submittal Requirements are met if applicable. Tenant Notification and Submittal Requirements are in Section 16.3.

## 4.6.2 - Residential Building Inspection

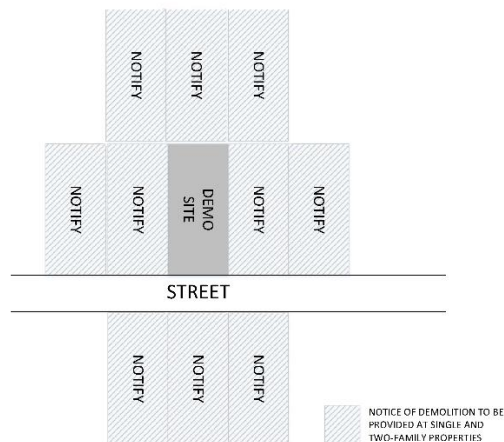
### 4.6.2.2 - Pre-Construction Inspection (Pre-Con):

A pre-construction inspection shall be required for any residential project with a non-complying or non-conforming structure, a special exception or any time City of Austin staff identifies an atypical situation that would merit a pre-construction inspection. If construction begins prior to the pre-con inspection, then the property owner risks losing the non-complying status for the property and a re-submittal may be required. Inspection staff will photo document all non-complying portions of the structure and attach them to the permit.

**4.6.2.2(1) Pre-Demolition Inspection:** All total demolition projects will require a pre-demolition inspection. Permit holders or their authorized agents are required to be present for this inspection. DSD inspection staff will provide door hangers/yard signs, and a demolition notification acknowledgement form. For adjacent multi-family properties, the permit holder or other authorized agent is required to notify the owner of the multi-family property of the demolition activity via certified mail. In addition, the permit holder or other authorized agent is required to notify the leasing office of the multi-family Leasing Office of the demolition activity by letter. The notification to both the owner and leasing office shall include a flyer template that documents notification information for the residents of the multi-family property.

- A. If the acknowledgement form is issued and there are no additional deficiencies observed the inspection will receive “partial” approval.
- B. If no one is present for the inspection it will fail and be subject to re-inspection fees.

### *Notification Diagram*



**4.6.2.2(2) Acknowledgement Form:** This form will provide instructions for notification and serve as acknowledgement of the following:

- A. Receipt of door hangers/yard signs
- B. Receipt of the placement diagram; and

- C. The permit holder or other authorized agreeing to place door hangers/yard signs 5-10 business days before demolition activity begins

**4.6.2.2(3) Pre-Demolition Inspection and Notification Process:**

- A. After inspections required prior to demolition have been passed, the pre-demolition inspection can be scheduled
- B. During the pre-demolition inspection, the inspector will check that the plumbing and mechanical permits are active (other permits as applicable, such as tree and electric); Inspector to confirm utilities (Austin Energy, Austin Water, Texas Gas, or other utility providers) have been capped, made safe or appropriately addressed; if not pre-demolition inspection will fail
- C. If the inspection has failed, the permit holder or other authorized agent will need to reschedule the pre-demolition inspection and notification materials will not be provided.
- D. If the permits are active and the inspector has confirmed utilities have been appropriately addressed then the inspection will be considered “partially approved”.
- E. The Inspector will then provide door hangers, a yard sign, a notification diagram, and a “Demolition Notification Acknowledgement”.
- F. The permit holder or other authorized agent will sign the acknowledgement form and will need to upload a copy of the signed acknowledgement form through the City’s portal. The copy of the acknowledgement will be stored in AMANDA.
- G. If the pre-demolition inspection is “partially approved” and the acknowledgment form is uploaded into AMANDA:
  - Demolition permit will be placed in active status
  - The permit holder or other authorized will need to place the door hangers (or Certified letter mailed) at single family, two-family and multifamily properties surrounding the demolition site in accordance with the notification diagram) 5-10 business days prior to demolition activity.
  - The permit holder or other authorized agent will need to place the yard sign parallel to the street within the extents of the private property with wording facing the street (of which the property is addressed). (Reference sign setback requirements LDC 25-10-191). Demolition activity can commence 5 - 10 business days after approved pre-demolition inspection and all required notification is placed

#### **5.4.0 - BUILDING CODE COMMERCIAL BUILDING INSPECTIONS**

**5.4.3(1) Pre-Demolition Inspection:** REFERENCE Section 4.6.2.2(1)

**5.4.3(2) Acknowledgement Form:** REFERENCE Section 4.6.2.2(2)

**5.4.3(3) Demolition Notification Process:** REFERENCE Section 4.6.2.2(3)