

RULE NO.: R161-17.13

NOTICE OF RULE ADOPTION

ADOPTION DATE: May 22, 2017

By: Rosie Truelove, Interim Director
Neighborhood Housing & Community Development

The Director of the Office of Neighborhood Housing & Community Development has adopted the following rule. Notice of the proposed rule was posted on February 28, 2017. Public comment on the proposed rule was solicited in the February 28, 2017 notice. This notice is issued under Chapter 1-2 of the City Code. The adoption of a rule may be appealed to the City Manager in accordance with Section 1-2-10 of the City Code as explained below.

A copy of the complete text of the adopted 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:

Neighborhood Housing & Community Development, located at 1000 East 11th Street, Suite 200, Austin, Texas 78702; and

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

EFFECTIVE DATE OF ADOPTED RULE

A rule adopted by this notice is effective on May 22, 2017.

TEXT OF ADOPTED RULE

R161-17.13: Tenant Relocation Assistance Program Rules

Changes to the text of the rule have been made in response to public comment for clarification purposes. A brief explanation of changes made are:

16.2 Applicability – Clarification that “currently occupied” units means units occupied at time of application submittal;

16.3 Notification & Submittal Requirements – Changes made to clarify applicants’ requirements in providing notice to tenants

16.4 Tenant Relocation Assistance – Language inserted to clarify that this section applies to both the City-funded Tenant Relocation Assistance Fund, and to funds paid by applicants required to pay a tenant relocation fee; List of eligible expenses eligible updated; Information added on tenant eligibility criteria

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16.5 Collection of Tenant Relocation Assistance Fees – Section amended to allow applicants who paid a tenant relocation fee to request a refund of unspent funds after the last tenant has relocated from the development for which the applicant was required to pay a fee

16.6 Methodology for Determining Fees – Formula clarified to make clear that only bedrooms within units affected by an applicable zoning or land use application would be used to calculate a fee, not all bedrooms on a site; Citation of “bedroom” in City Code inserted

SUMMARY OF COMMENTS

Written comments and comments submitted online to Neighborhood Housing & Community Development’s Tenant Relocation Assistance Rules Review webpage were received regarding Rule R161-17.13. Neighborhood Housing & Community Development has reviewed the comments and determined that additional information was needed to provide clarification on tenant notification requirements, tenant eligibility criteria, and relocation fee calculation and collection, and made the applicable changes. A summary of the responses to comments is attached.

A copy of the comments and responses 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:

Neighborhood Housing & Community Development, located at 1000 East 11th Street, Suite 200, Austin, Texas 78702; and

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

AUTHORITY FOR ADOPTION OF 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.

APPEAL OF ADOPTED RULE TO CITY MANAGER

A person may appeal the adoption of a rule to the City Manager. **AN APPEAL MUST BE FILED WITH THE CITY CLERK NOT LATER THAN THE 30TH DAY AFTER THE DATE THIS NOTICE OF RULE ADOPTION IS POSTED. THE POSTING DATE IS NOTED ON THE FIRST PAGE OF THIS NOTICE.** If the 30th day is a Saturday, Sunday, or official city holiday, an appeal may be filed on the next day which is not a Saturday, Sunday, or official city holiday.

An adopted rule may be appealed by filing a written statement with the City Clerk. A person who appeals a rule must (1) provide the person's name, mailing address, and telephone number; (2) identify the rule being appealed; and (3) include a statement of specific reasons why the rule should be modified or withdrawn.

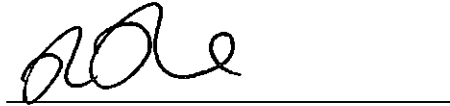
Notice that an appeal was filed and will be posted by the city clerk. A copy of the appeal will be provided to the City Council. An adopted rule will not be enforced pending the City Manager's decision. The City Manager may affirm, modify, or withdraw an adopted rule. If the City Manager does not act on an appeal on or before the 60th day after the date the notice of rule adoption is posted, the rule is withdrawn. Notice of the City Manager's decision on an appeal will be posted by the city clerk and provided to the City Council.

On or before the 16th day after the city clerk posts notice of the City Manager's decision, the City Manager may reconsider the decision on an appeal. Not later than the 31st day after giving written notice of an intent to reconsider, the City manager shall make a decision.

CERTIFICATION BY CITY ATTORNEY

By signing this Notice of Rule Adoption (R161-17.13), the City Attorney certifies that 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: 5/21/17



Anne L. Morgan
City Attorney

Date: 5/19/17

TENANT RELOCATION PROGRAM – FINAL 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, any of the following permits, where the permit will affect five (5) or more residential units occupied on the date that the application was filed with the City of Austin:
 - a) Commercial Demolition Permit Application
 - b) Commercial Building Application
 - 2) For an existing mobile home park, where the permit will affect five (5) or more residential units occupied on the date that the application was filed with the City of Austin, 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.
- 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 these rules 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 the Neighborhood Housing and Community Development Office prior to providing notice.
- C) Applicants must provide Tenant Notification Packets to tenants in English, Spanish, or another language the tenant understands if the tenant understands

neither English nor Spanish well. The applicant must work with the Neighborhood Housing and Community Development Office to obtain Tenant Notification Packets and other tenant notification documentation required by the Tenant Notification and Relocation Assistance Ordinance in the languages needed to ensure tenants can understand the notice, if they are not already available.

D) 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 as required by Section 16.3(E) of these rules. If the City's **Tenant Relocation Rent Roll Form** is not used, an alternative form can be used; however, it must be approved by the Neighborhood Housing & Community Development Office 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 the person occupying the unit as a tenant as defined in City Code § 25-1-701 (*Definitions*));

(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 tenants of the property at the time that notice was delivered.

E) Tenant Notification Packets 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. If using the mail option, the notices must be mailed by both regular and certified (or registered) mail methods on the same day. 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 Tenant Notification Packet 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 Tenant Notification Packet has been received, the applicant must mail the Tenant Notification Packet 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, in compliance with Section 16.3(E)(1)(b) of these rules.

b) For regular and certified or registered mail delivery – the applicant must provide copies of the delivery receipts to the Neighborhood Housing and Community Development Office. For units where the return receipt indicates that the Tenant Notification Packet was undeliverable, the applicant must attach the Tenant Notification Packet to the door of the unit and provide an affidavit to the Neighborhood Housing and Community Development Office describing the methods used to deliver the Tenant Notification Packet and the date the notice packet was affixed to the door.

c) The Tenant Notification Packet is considered delivered on the date the last eligible tenant signature is obtained, or the date the regular and certified (or registered) mail is delivered. The notice of intent period is considered

to begin on the date the Tenant Notification Packet is delivered in compliance with the requirements of this section.

- 2) The applicant must submit to the Neighborhood Housing and Community Development Office one copy of a completed Tenant Notification Packet for each language delivered to tenants along with proof of delivery documentation.
 - 3) Once the applicant has submitted the proof of delivery documentation and the Tenant Relocation Rent Roll Form, in compliance with the requirements of Section 16.3 of these rules and City Code § 25-1-712 (*Tenant Notification Required*), to the Neighborhood Housing and Community Development Office, the Neighborhood Housing and Community Development Office will issue the applicant a compliance letter confirming notice has been provided to all tenant households entitled to receive notification pursuant to the terms required under City Code § 25-1-712(B). Where notification is required, this compliance letter must be provided to the Development Services Department by the applicant before the application can be approved, or the rezoning application can be scheduled for third reading by the city council, as required by City Code § 25-2-283(F)(2).
- F) Applications affecting multifamily buildings cannot be approved until at least 120 days have elapsed from the date the notice period begins, as defined in Section 16.3(E)(1)(c) of these rules. Applications affecting mobile home parks cannot be approved until at least 270 days have elapsed from the date the notice period begins, as defined in Section 16.3(E)(1)(c) of these rules. This requirement does not preclude City staff from processing applications before the notice period expires.

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. Funds may be available from the City of Austin Tenant Relocation Fund for tenant displacement as described in City Code § 25-1-716 and, for a project that requires a rezoning or other discretionary land use approval (as described in City Code § 25-1-715), the Developer Fund for Tenant Relocation Assistance.

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 or a replacement lot for a mobile home 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) Outstanding utility debt or rental debt, but only through funds available from the City of Austin Tenant Relocation Assistance Fund
 - h) Utility connection or disconnection fees or deposits, where these cannot be waived; and
 - i) Costs specific to moving mobile homes, including:
 - (i) Relocation of a mobile home within a radius of 50 miles of the mobile home site,
 - (ii) Storage of items while the home is being transported,
 - (iii) Mobile home park fees, and
 - (iv) Site preparation (including preparing a pad, utility connections, skirting).
- 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) Tenant eligibility for financial assistance will be determined in accordance with City Code § 25-1-714. To be eligible for financial assistance, a tenant household must:

- 1) Have a household income at or below:
 - a) 70 percent of the Austin-Round Rock Metropolitan Statistical Area median family income, as determined by the US Department of Housing and Urban Development, if the household resides in a multifamily unit, or
 - b) 80 percent of the Austin-Round Rock Metropolitan Statistical Area median family income, as determined by the US Department of Housing and Urban Development, if the household residents in a mobile home or manufactured home unit; and,
- 2) Maintain primary residence at the property tenant notification under City Code § 25-1-712 on the date that the application was filed with the City of Austin.
- 3) For mobile home tenants, the following eligibility criteria also apply:
 - (i) The tenant household must own the mobile home and have a tenancy of a lot in a mobile home park, or
 - (ii) The tenant household must be in lease-purchase, rent-to-own, seller financed, or a similar type of agreement for the mobile home, have been making payments in accordance with this agreement for a year prior to the notice of park closure, and are able to work with the owner of the mobile home in which they live to relocate the mobile home

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 discretionary land use approval not requiring a rezone, but requiring approval by City Council, 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 after the last tenant household qualified to receive financial assistance has relocated from the property and all eligible expenses have been paid.
 - a) The applicant may request information on the amount of money the applicant paid in tenant relocation fees and the amount remaining at the time the refund is requested.

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:

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

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 Section 6.3.0 of the Building Criteria Manual, 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. The fees may differ for mobile home units and multifamily units.

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** developed by the director of the Neighborhood Housing and Community Development Office 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 tenant 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.