

ORDINANCE NO.

AN ORDINANCE AMENDING CITY CODE CHAPTERS 25-1, 25-2, AND 25-5 TO ESTABLISH REQUIREMENTS FOR TENANT NOTIFICATION AND TENANT RELOCATION ASSISTANCE FOR CERTAIN PROJECTS IMPACTING MULTI-FAMILY AND MOBILE HOME OCCUPANCIES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The city council makes the following legislative findings:

- (A) The rapid pace of development and redevelopment in the City of Austin has substantially reduced, and continues to reduce, the available supply of rental housing affordable to low-and moderate-income tenants. Replacement of low-income units has not occurred at a rate sufficient to mitigate the loss of affordable units due to demolition, redevelopment, and change in the use of existing multi-family buildings.
- (B) To the extent that low-income tenants displaced by development are eventually able to find affordable units in the City of Austin, the time and cost associated with relocation have increased substantially. These impacts are destabilizing to some of Austin's most vulnerable populations, including low-income families and individuals; single parents and families of school-aged children; and residents over the age of 65, on fixed incomes, or with disabilities.
- (C) The financial, social, and public health impacts of rental displacement caused by demolition or redevelopment are well-documented, both nationally and in the Austin market.
- (D) Several public hearings and stakeholder meetings have been held in connection with rental displacement, beginning with Council's adoption of Resolution No. 20121108-05 and continuing with the adoption of Resolution No. 20151112-027 and Resolution No. 20160421-035.
- (E) Based on evidence gathered by NHCD and other stakeholders, the City Council finds that costs incurred by displaced tenants to relocate within Austin—including physical moving costs, advance payments, utility fees, security

deposits, and additional rental costs—result in a substantial burden to displaced tenants, which in turn has broader communitywide impacts.

(F) Conditions in the current rental market, with historically low occupancy rates, have created a relocation crisis because tenants, particularly at lower incomes, do not have sufficient time to save money for relocation costs or to find comparable housing when they are displaced as a result of demolition or redevelopment.

(G) Many cities across the nation have begun requiring or incentivizing projects that will displace existing tenant communities to provide relocation assistance and to notify tenants well in advance of planned demolitions or development. While none of these programs are sufficient to fully address the problem of tenant displacement, each of them has helped to mitigate the impacts of forced relocation on low income renters.

PART 2. City Code Chapter 25-1, Article 15 (*S.M.A.R.T. Housing*) is retitled as “*Housing*” and subdivided into two divisions to be captioned as follows:

Division 1. General Provisions.

Division 2. S.M.A.R.T. Housing.

with Section 25-1-701 (*Definitions*) placed under Division 1 (*General Provisions*) and Sections 25-1-702 (*Administration*), 25-1-702 (*Program Requirements*), Section 25-1-704 (*Fee Waivers*), and Section 25-1-705 (*Required Affordability Period*) placed into Division 2 (*S.M.A.R.T. Housing*).

PART 3. City Code Section 25-1-701 (*Definitions*) is amended to add the following new definitions of “Mobile Home Park,” “Multi-Family Redevelopment,” “Tenant,” and “Tenant Displacement” and to renumber the remaining definitions accordingly:

- (4) MOBILE HOME PARK means a site containing five or more structures that:
- (a) are transportable in one or more sections;
 - (b) in travelling mode, are at least 8 feet in width or 40 feet in length or, when erected onsite, are 320 square feet or more in area;
 - (c) are built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation; and

- (d) includes plumbing, heating, air-conditioning, and electrical systems; or
- (e) satisfies all criteria other than the size requirements in Paragraph (4)(b).

(6) **MULTI-FAMILY REDEVELOPMENT** means the demolition or redevelopment of an existing multi-family building or mobile home park that is reasonably likely to result in tenant displacement.

(7) **TENANT** means any person who occupies a residential unit primarily for living or dwelling purposes under a rental agreement or lease, including those persons who are considered to be tenants under Section 92.001 or 94.001 of the Texas Property Code. For purposes of this article, “tenant” does not include owner of a dwelling unit, or mobile home lot, or members of the owner’s immediate family.

(8) **TENANT DISPLACEMENT** means any condition that requires a tenant to vacate a multi-family building or mobile home park due to multi-family redevelopment, where a tenant will not be relocated to another unit within the same building or site.

PART 4. City Code Chapter 25-1 (*General Provisions*) is amended to add a new Division 3 to read:

Division 3. Tenant Notification and Relocation.

§ 25-1-711 EXEMPTIONS.

Except where otherwise provided, the requirements of this division do not apply to any dwelling unit:

- (1) demolished or vacated because of damage caused by the tenant or by other events beyond the owner’s control, including fire, civil commotion, malicious mischief, vandalism, tenant waste, natural disaster or other destruction;
- (2) owned by a public housing agency;
- (3) located inside the boundaries of an educational institution that is occupied by students, faculty, or staff of the institution;
- (4) for which relocation assistance is required to be paid to the tenants under federal or state law; or

- 1 (5) that is operated as emergency or temporary shelter for homeless persons and
2 owned or administered by a nonprofit organization or public agency.
3

4 **§ 25-1-712 TENANT NOTIFICATION REQUIRED.**

- 5 (A) The requirements of this section apply to an application to:

- 6 (1) demolish or partially demolish a multi-family building consisting of five
7 or more occupied residential units, including a demolition permit or a
8 building permit that authorizes demolition;
9 (2) approve a site plan or change of use permit for an existing mobile home
10 park; or
11 (3) rezone a property within the Mobile Home Residence (MH) District
12 designation that contains an existing mobile home park.

- 13 (B) An applicant must provide tenant notification either prior to, or concurrent with,
14 submittal of a development application in accordance with the timelines
15 established under this subsection.

- 16 (1) To demonstrate that required notification was provided prior to submittal
17 of an application, the applicant must include a certified statement, on a
18 form approved by the director, confirming that all tenants of the structure
19 or site received notification required under this section at least:

- 20 (a) 120 days prior to the date application was submitted; or
21 (b) for a mobile home park, at least 270 days prior to the date the
22 application was submitted.
23 (2) If notification is provided at the time a development application is
24 submitted, the application may be approved no earlier than:
25 (a) 120 days after all tenants of the structure or site received
26 notification required under this section; or
27 (b) for a mobile home park, 270 days after all tenants of the site
28 received notification required under this section.

- 29 (C) The notification required by this section must be on a form approved by the
30 director and must:

- (1) be delivered to all tenants of a multi-family building or mobile home park for which notice is required under Subsection (A), by the applicant or the applicant's representative or by registered or certified mail, with return receipt requested; and
- (2) include the following information:
 - (a) the applicant's name and contact information;
 - (b) a description of the development application for which notification is required under Subsection (A) of this section;
 - (c) a statement that the application may be approved on or after the 120th or 270th day, whichever applies, following receipt of the notice and may result in displacement of tenants;
 - (d) a description of any tenant relocation assistance that may be available under Section 25-1-713 (*Tenant Relocation Program*) or Section 25-1-714 (*City Tenant Relocation Fund*), including income eligibility requirements and forms for requesting assistance;
 - (e) information regarding applicable school district policies relating to district residency requirements;
 - (f) information regarding the availability of fee waivers from Austin Energy for obtaining utility service at a new residence where relocation is required due to displacement; and
 - (g) other information as may be required by the director, including programs and services to assist displaced tenants.

§ 25-1-713 ADDITIONAL NOTICE REQUIREMENTS.

- (A) At the time that notification is provided under Section 25-1-712 (*Tenant Notification Required*), the owner or operator of a multi-family building or mobile home park must post one or more signs in accordance with this section.
- (B) The sign must be on a form approved by the director and must:
 - (1) describe the application for which notification is required under Section 25-1-712 (*Tenant Notification*) and state that any new or existing tenants

1 may be required to relocate from the property as a result of proposed
2 demolition or redevelopment; and

3 (2) to the greatest extent feasible:

4 (a) for a mobile home park, be posted at the main entrance in a
5 location visible to the public from the adjacent public right-of-way
6 or private drive; or

7 (b) for a multi-family building, be posted at the front of the leasing
8 office or other primary building entrance as determined by the
9 director.

10 (C) A sign required to be posted under this section must remain on the property
11 until:

12 (1) for a multi-family building, the date that demolition is approved to begin;
13 and

14 (2) for a mobile home park, the earlier of:

15 (a) the date that the property ceases to be used as a mobile home park;
16 or

17 (b) if applicable, the date that the site plan approval or change of use
18 permit expires.

19
20 **§ 25-1-714 TENANT RELOCATION PROGRAM.**

21 (A) The director shall adopt a tenant relocation program by administrative rule for
22 the purpose of mitigating the impacts of tenant displacement resulting from
23 multi-family redevelopment within the City of Austin.

24 (B) The tenant relocation program must, at a minimum, include each of the
25 elements described in this subsection.

26 (1) ***Tenant Relocation Fee.*** The program must include a methodology to be
27 used by the director in recommending to the city council the amount of
28 the fee required under Section 25-1-715 (*Tenant Relocation Assistance—*
29 *Developer Funded*). The methodology shall include a nexus study that
30 accounts for the impacts of displacement to tenant communities directly
31 affected by multifamily redevelopment and to the community as a whole.

1 **(2) *Eligibility for Tenant Relocation Assistance.*** The program shall
2 establish eligibility requirements that a tenant must meet in order to
3 receive tenant relocation assistance under Section 25-1-715 (*Tenant*
4 *Relocation Assistance—Developer Funded*) or Section 25-1-716 (*Tenant*
5 *Relocation Assistance—City Funded*). At a minimum, the eligibility
6 requirements must:

7 (a) require that a tenant:

8 (i) have a household income at or below 70% of median family
9 income or, for residents of a mobile home park, 80% of median
10 family income;

11 (ii) reside at the property under the terms of a lease on the date
12 notice required under Section 25-1-712 (*Tenant Relocation*
13 *Notification*) is issued; and

14 (iii) submit a claim form documenting income eligibility no later
15 than the deadline established by the director; and

16 (b) prohibit participation by tenants of multi-family redevelopment
17 that is exempt from this division under Section 25-1-711
18 (*Exemptions*), except that the director may allow use of funds
19 under Section 25-1-715 (*Tenant Relocation Assistance—City*
20 *Funded*) to provide relocation assistance for tenant displacement
21 resulting from fire, civil commotion, malicious mischief,
22 vandalism, natural disaster, or other destruction beyond the control
23 of the owner or tenant.

24 **(3) *Use of Tenant Relocation Assistance.*** The program must specify the
25 types of expenses for which tenant relocation assistance may be
26 provided. Eligible expenses paid using funds collected under Section 25-
27 1-715 (*Tenant Relocation Assistance—Developer Funded*) must be
28 reasonably attributable to tenant displacement based on the nexus study
29 required under Paragraph (C)(1).

30 **(4) *Refund Procedures.*** The program shall establish procedures by which
31 an applicant who paid a tenant relocation fee under Section 25-1-715
32 (*Tenant Relocation Assistance—Developer Funded*) may request a refund
33 of any fees not spent for an authorized purpose within five years after

1 approval of an application for which notification is required under
2 Section 25-1-712 (*Tenant Notification Required*).

- 3 (C) The director may include additional elements in the tenant relocation program,
4 including but not limited notification forms and other documents required under
5 Section 25-1-712 (*Tenant Notification Required*) and Section 25-1-713
6 (*Additional Notice Requirements*).
7

8 **§ 25-1-715 TENANT RELOCATION ASSISTANCE—DEVELOPER FUNDED.**

- 9 (A) An applicant for a multi-family redevelopment must pay a tenant relocation fee
10 established by separate ordinance if payment of tenant relocation assistance is:
11 (1) required by another provision of this title; or
12 (2) provided as a voluntary condition to a rezone or other discretionary land
13 use approval required for multi-family redevelopment.
14 (B) The director shall deposit a fee imposed under this section into the Developer
15 Fund for Tenant Relocation Assistance, which is established under this section.
16 The director shall use the fund to provide tenant relocation assistance consistent
17 with requirements adopted under Section 25-1-714(B) (*Tenant Relocation*
18 *Program*).
19

20 **§ 25-1-716 TENANT RELOCATION ASSISTANCE—CITY FUNDED.**

- 21 (A) The City of Austin Tenant Relocation Fund is established for use in providing
22 relocation assistance to tenants displaced by multi-family redevelopment.
23 (B) The director shall administer the fund consistently with guidelines established
24 under Section 25-1-714 (*Tenant Relocation Program*) and may use the fund to
25 provide relocation assistance to any tenant displaced due to:
26 (1) development activity for which notification was required under Section
27 25-1-712 (*Tenant Relocation Required*), whether or not the applicant was
28 required to pay a fee under Section 25-1-715 (*Tenant Relocation*
29 *Assistance—Developer Funded*);
30 (2) emergency orders to vacate based on health and safety concerns;
31 (3) fire, civil commotion, malicious mischief, vandalism, natural disaster, or
32 other destruction beyond the control of the owner or tenant; or

(4) major repairs or renovations of multifamily buildings.

PART 5. City Code Chapter 25-2, Subchapter B, Article 2, Division 5 (*Planned Unit Developments*) is amended to amend Section 2.3.2 (*Additional Requirements*) to read:

2.3.2. Additional Requirements.

In addition to the requirements contained in Section 2.3.1 (*Minimum Requirements*), a PUD containing a retail, commercial, or mixed use development must:

- A. comply with Chapter 25-2, Subchapter E (Design Standards And Mixed Use)[-];
- B. inside the urban roadway boundary depicted in Figure 2, Subchapter E, Chapter 25-2 (Design Standards and Mixed Use), comply with the sidewalk standards in Section 2.2.2., Subchapter E, Chapter 25-2 (Core Transit Corridors: Sidewalks And Building Placement);
- C. pay the tenant relocation fee established under Section 25-1-715 (*Tenant Relocation Assistance—Developer Funded*), if approval of the PUD would allow multi-family redevelopment that may result in tenant displacement; and
- D.~~[E.]~~ contain pedestrian-oriented uses as defined in Section 25-2-691(C) (*Waterfront Overlay District Uses*) on the first floor of a multi-story commercial or mixed use building.

PART 6. City Code Section 25-1-82 (*Application Requirements and Expiration*) is amended to add a new Subsection (D) to read:

- (D) In establishing application deadlines under Subsection (A) of this section, the director shall provide that no application for which notice is required under Section 25-1-712 (*Tenant Notification Required*) may be approved or posted for public hearing until after the required notification period.

PART 7. Subsection (A) of City Code Section 25-2-282 (*Land Use Commission Hearing and Recommendation*) is amended to read:

- (A) The Land Use Commission shall hold a public hearing on a zoning or rezoning application not later than the 60th day after the date the application is filed, except that a hearing for an application for which notification to existing tenants is required under Section 25-1-712 (*Tenant Notification Required*) may not be held until 230 days after the notice is provided. The director of the

1 [Neighborhood] Planning and Zoning Department shall give notice under
2 Section 25-1-132(A) (*Notice of Public Hearing*) of the public hearing. If the
3 application includes property located within the Waterfront Overlay (WO)
4 combining district, the director shall request a recommendation from the Small
5 Area Planning Joint Committee of the Planning Commission and the Zoning
6 and Platting Commission to be considered by the Land Use Commission at the
7 public hearing. If the Board fails to make a recommendation as required under
8 Section 25-2-715 (*Review and Recommendation of the Small Area Planning*
9 *Joint Committee of the Planning Commission and the Zoning and Platting*
10 *Commission*), the Land Use Commission or accountable official may act on the
11 application without a recommendation from the Board.

12
13 **PART 8.** Subsection (A) of City Code Section 25-5-43 (*Approval Date*) is amended to
14 read:

15 (A) The director may release a site plan after:

- 16 (1) the site plan is approved;
- 17 (2) the applicant posts the required fiscal security with the director; ~~and~~
- 18 (3) the time period for filing an appeal of the approval expires, or each
19 interested party signs and submits to the director a written waiver of the
20 right to appeal[-]; and
- 21 (4) if applicable, tenant notification has been provided for the period
22 required under Section 25-1-712 (*Tenant Notification Required*).

23
24 **PART 9.** Subsection (B) of City Code Section 25-1-89 (*Tolling of Application Period*) is
25 amended to read:

26 (B) A deadline established by the director under Section 25-1-82 (*Application*
27 *Requirements and Expiration*) for obtaining approval of an application is tolled
28 if, prior to expiration of the application, the director determines that:

- 29 (1) approval of the application requires:
- 30 (a) discretionary review, as authorized under this title, by the Land
31 Use Commission, Board of Adjustment, or city council, other than
32 a zoning change or code amendment; and

1 (b) [~~(2)~~] the application meets all other requirements for approval,
2 except for payment of fees, posting fiscal surety, and other code
3 requirements as determined by the director under Section 25-1-82
4 (*Application Requirements and Expiration*); or

5 (2) the applicant has provided a 120 or 270-day notification to tenants of a
6 multi-family building or mobile home park, as required by Section 25-1-
7 712 (*Tenant Notification Required*).
8

9 **PART 10.** This ordinance take effect on _____, 2016.
10

11 **PASSED AND APPROVED**

12
13 §
14 §
15 _____, 2016 § _____
16 Steve Adler
17 Mayor
18

19
20 **APPROVED:** _____ **ATTEST:** _____
21 Anne L. Morgan Jannette S. Goodall
22 City Attorney City Clerk
23
24
25