

**City of Austin's Proposed Tenant Relocation Assistance Ordinance
Outline of Issues and Suggested Changes
Second Draft of Ordinance**

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1. Key Recommendations

There are two over-arching policy issues regarding the scope of the Tenant Relocation Assistance Ordinance:

- a. Notice to Tenants: Under the draft ordinance (see § 25-1-712(A)), notice is required only for tenants living in a multifamily property applying for demolition or partial demolition (in addition to separate requirements for mobile home tenants). The draft ordinance should be expanded to extend to other types of permits that will result in dislocation of tenants, including the following: commercial remodeling permits, demolition--non-structural permits, and other building permits that do not involve a demolition or partial demolition. Property owners should be required to indicate in applications for these types of building permits whether there are tenants residing in the property and whether the tenants will be dislocated as a result of the site changes arising out of the permit. If those boxes are checked, the application would then trigger the notice requirements.
- b. Relocation Assistance: Under the draft ordinance, only property owners obtaining PUD zoning are required to pay a relocation assistance fee to tenants displaced by the redevelopment. The city (and thus taxpayers) will be paying to assist tenants displaced by other types of redevelopment. The draft ordinance should be extended to all redevelopment, not just PUD properties. At a minimum, the relocation assistance fee requirements should apply to all developments seeking a rezoning or an increase in entitlements.

2. Page 3, Part 3 (6) and (8): “Multi-Family Redevelopment” and “Tenant Displacement” Definitions.

The definitions of “multi-family development” and “tenant displacement” are confusing and nonsensical. “Multi-family development” is defined to involve a “tenant displacement,” whereas a “tenant displacement” is defined to involve a “multi-family redevelopment. Specifically, in the proposed ordinance, the terms are defined as follows (emphasis added):

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**.

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.

Recommendations:

- a. Redefine “multi-family redevelopment” to include partial demolitions, which is how the term is used in other provisions of the proposed ordinance. Also expand the definition to include changes of use, to better cover mobile home parks, which typically do not involve demolitions. Recommended language: “MULTI-FAMILY REDEVELOPMENT means the demolition, partial demolition, change of use, or redevelopment of an existing multi-family building or mobile home park that is reasonably likely to result in tenant displacement.”
- b. Redefine “tenant displacement ” as follows: “Tenant displacement means a tenant being required or asked to vacate a multi-family building or mobile home park, when the tenant will not be given an opportunity to relocate immediately following the vacation of the tenant’s current unit to another unit of at least the same size and quality within the same building or site.”

3. Page 3, Part 3: (7) “Tenant” Definition.

- a. The definition of “tenant” needs to eliminate the comma between “owner of a dwelling unit,” and “or mobile home lot,” to make clear that the definition of tenant does not extend to owners of mobile home lots but otherwise does extend to mobile home lots. Without the removal of the comma, the definition is ambiguous as to how it applies to mobile home lots.

5. Page 4, § 25-1-712 (A) and (D): Tenant Notification Scope.

- a. The requirements for when tenants must be notified of a tenant displacement are too narrow. As drafted, the requirements for multi-family developments apply only to applications for demolition permits or permits that authorize demolitions and do not cover major remodels that don’t authorize demolition, which are also a cause of tenant displacement in Austin.
- b. As drafted, tenants who move into a property after the 120-day or 270-day notice has already been given are not entitled to personal notice of the developer’s plans to redevelop the property.

Recommendation:

- a. Broaden the tenant notification requirements to include commercial remodeling permits, demolition-non-structural permits, and any other building permit that will lead to displacement of tenants from a building. This can be made self-reporting by including a “check-the-box” on building permits that applicants mark to indicate whether tenants are residing on the property and whether the work done under the permit will lead to tenant displacement. If the box is checked, the applicant would be subject to the notice requirements.

- b. Require that notice be given to any person applying to move into the property, when the prospective tenant's application was submitted after the date that notice was given to tenants under Section 25-1-712. Require that a landlord cannot accept an application fee or enter into a lease with a prospective tenant unless the prospective tenant received personal notice of the multi-family redevelopment. The notice should be provided on a form promulgated or approved by the Neighborhood Housing and Community Development Department. The form needs to be in large and bold font, and should be signed by the prospective tenant to ensure that the tenant was actually put on notice.

6. Pages 4-5, § 25-712 (C): Tenant Notification Timing.

- a. As drafted, the tenant notification must be provided at least 120 days before the submission of the demolition application. There is no ceiling on the tenant notification requirements, which could lead to notification being provided too far in advance of the tenant displacement.

Recommendation:

- a. Require additional notification to be provided to tenants in the event of the renewal of a demolition application or building permit, and also require additional notification if at least 150 days (and 300 days for mobile home tenants) have lapsed since the initial notice and tenants are still residing in the complex. Allow for the follow-up notification to be provided by regular mail, in order to reduce the financial impact to developer.

7. Pages 5-6, § 25-1-7123 Additional Notice Requirements.

- a. The proposed ordinance requires a posting of a sign at the premises regarding the demolition or redevelopment application, presumably to protect prospective and new tenants at the complex who move in after the required individual tenant notices go out. However, new tenants moving into the complex could easily overlook the sign or not understand its significance.

Recommendation:

- a. To better protect prospective and new tenants who move into the property after the required 120-day or 270-day notices have gone out, the landlord of the property should be required to give individual notice to those persons when they apply to live at the complex, in addition to the posting of a sign at the complex. The tenants should also be notified in person, as discussed above. The sign should also include a number at the City of Austin that tenants can contact with questions about the demolition or redevelopment application and the relocation assistance process.

8. Pages 6-8, § 25-1-714 and 715: Tenant Relocation Program Scope and Eligibility for Relocation Fee.

- a. The scope of the tenant relocation program for developer-funded assistance is too limited. The only type of multifamily redevelopment that is required to pay assistance to displaced tenants is a development obtaining PUD zoning. In Austin, out of all the

multifamily redevelopments that have occurred in the past seven-plus years, only one has involved PUD zoning.

- b. Section 25-1-714(B)(2)(a)(ii) includes language that conflicts with the definition of “Tenant” in the definitions Section in Part 3.

Recommendation:

- a. All demolitions and substantial rehabilitations resulting in the displacement of a tenant should be required to pay a tenant relocation fee. At a minimum, all developments obtaining an increase in entitlements should be required to pay tenant relocation assistance if a subsequent demolition or substantial rehabilitation results in the displacement of tenants.
- b. Modify Section 25-1-714(B)(2)(a)(ii) to state: “occupy a residential unit at the property on the date notice is required under Section 25-1-712 (Tenant Relocation Notification) is issued.”

9. Page 8, § 25-1-716. City Tenant Relocation Fund. Subsection (B) allows the City to provide tenant relocation assistance to tenants displaced due to emergency orders to vacate, along with tenants temporarily displaced due to repairs and renovations of multifamily buildings. These are costs, especially for emergency orders arising from code violations, that should be provided by the property owner and are in some instances already required by City ordinance. When and how these requirements apply needs to be clarified, and the other city ordinance provisions need to be aligned with the provisions here. It is important to outline more clearly what expenses tenants are entitled to when displaced temporarily or due to emergency orders, in instances where tenants are entitled to occupy their unit under a lease.

Recommendation:

- a. Remove emergency displacement from Section 25-1-716.
- b. Create a new Section 25-1-717 Emergency Displacement, which would apply to tenants: (1) displaced due to emergency orders to vacate based on health and safety concerns; or (2) temporarily displaced due to emergency repairs or rehab of their multi-family unit. Tenants should be entitled to the following from the property owner: interim lodging, meal costs, travel costs, and any other reasonable costs caused by the displacement. The City may opt to provide assistance to tenants displaced under this Section, and the City should have the authority to recoup the costs of the assistance from the property owner.
- c. Provide direction to city staff to engage in follow-up amendments to this ordinance, addressing in a more comprehensive and integrated manner the tenant relocation assistance requirements for temporary and emergency relocations

10. Page 9, Part 5, 2.3.2.C. PUDs. This provision requires a development obtaining PUD zoning that “would allow multi-family redevelopment that may result in tenant displacement” to pay a tenant relocation fee. This definition could be interpreted to exclude commercial or mixed-used redevelopment.

Recommendation. Change the wording in 2.3.2.C. to remove the reference to “multi-family redevelopment.”

11. Additional Recommendations.

- a. **Tenant enforcement.** Tenants should be given a clear right to enforce the ordinance and to obtain attorney’s fees when their rights under the ordinance have been violated. This was a major lesson learned from the Shoreline development, where the developer was required to provide relocation assistance but ignored those requirements, resulting in the need for the tenants to retain legal counsel to attempt to enforce the requirements.
- b. **Penalties for noncompliance with notice requirements.** The ordinance should include specific penalties for noncompliance with the notice requirements, that would address what happens in instances where, for example, a demolition applicant fails to list that tenants will be displaced.