

**ORDINANCE NO. 20160901-050**

**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 and redevelopment are well-documented, both nationally and in the Austin market.
- (D) Several public hearings and stakeholder meetings have been held in connection with tenant displacement in the City of Austin, beginning with Council's adoption of Resolution No. 20121108-05 and continuing with the adoption of Resolution No. 20151112-027, Resolution No. 20160421-035, and the amendments included in this ordinance.
- (E) Based on evidence gathered by the City of Austin's Neighborhood Housing and Community Development Office, and presented by 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 high 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*), 25-1-703 (*Program Requirements*), Section 25-1-704 (*Fee Waivers*), and 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:

- (5) 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, partial demolition, redevelopment, rezoning, or change in use of a multi-family building, or any portion of a multi-family building, or a mobile home park.
- (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 comparably sized unit within the same building or site.

**PART 4.** City Code Chapter 25-1, Article 15 (*Housing*) is amended to add a new Division 3 to read:

**Division 3. Tenant Notification and Relocation.**

**§ 25-1-711 PURPOSE AND APPLICABILITY.**

- (A) The requirements of this division seek to mitigate, through notification requirements and relocation assistance, the impacts of tenant displacement resulting from multi-family redevelopment and the demolition or change in use of multi-family buildings and mobile home parks. This division does not regulate or affect the landlord-tenant relationship.
- (B) 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
- (5) that is operated as emergency or temporary shelter for homeless persons and owned or administered by a nonprofit organization or public agency.

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

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

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

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

(1) To demonstrate that required notification was provided prior to submittal of an application, the applicant must include a certified statement, on a form approved by the director, confirming that all tenants entitled to notice under Subsection (C) received notification required under this section within the following timeframes:

- (a) for a multi-family building, at least 120 days prior to the date application for a building permit or a demolition permit was submitted; or
- (b) for a mobile home park, at least 270 days prior to the date the application for a rezone, site plan, or change of use permit was submitted.

(2) If notification is provided at the time an application is submitted, the application may be approved no earlier than:

- (a) for a demolition or building permit, 120 days after all tenants of the multi-family building who are entitled to notice under Subsection (C) receive notification required under this section; or
  - (b) for a rezone, site plan, or change of use permit, at least 270 days after all tenants of the mobile home park entitled to notice under Subsection (C) received notification required under this section.
- (C) The notification required by this section must be on a form approved by the director and must:
- (1) be delivered:
    - (a) by the applicant or the applicant's representative, or by registered or certified mail, with return receipt requested;
    - (b) to all units:
      - (i) proposed for demolition in a multi-family building under a permit application for which notice is required under Subsection (A)(1) of this section; or
      - (ii) located in a mobile home park included in a rezone, change of use, or site plan application for which notice is required under Subsection (A)(2)-(3) of this section; and
  - (2) include the following information, in English, Spanish, and such other language as may be required by the director:
    - (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 120<sup>th</sup> or 270<sup>th</sup> 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 25-1-714 (*Tenant Relocation Program*), 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 requirements of state law for return of security deposits;
  - (g) 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;
  - (h) other information as may be required by the director, including programs and services to assist displaced tenants; and
- (3) be on a form provided by the director, which shall be uniform for all applicants except that the director may require an additional language as provided under Paragraph (2).

(D) If an applicant requests an extension of a demolition permit for which notification under this section is required, the applicant must provide re-notification to tenants consistent with the requirements for a new application.

#### **§ 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 may be required to relocate from the property as a result of proposed demolition or redevelopment; and
  - (2) to the greatest extent feasible:
    - (a) for a mobile home park, be posted at the main entrance in a location visible to the public from the adjacent public right-of-way or private drive; or
    - (b) for a multi-family building, be posted at the front of the leasing office or other primary building entrance as determined by the director.

- (C) A sign required to be posted under this section must remain on the property until:
- (1) for a multi-family building, the date that demolition activity begins; and
  - (2) for a mobile home park, the earlier of:
    - (a) the date that the property ceases to be used as a mobile home park; or
    - (b) if applicable, the date that the site plan approval or change of use permit expires.
- (D) If a landowner or a landowner's agent rents a unit to a new tenant following application for a permit requiring notice under Section 25-1-712 (*Tenant Notification Required*), the landowner or landowner's agent must provide the tenant with notification that includes the information required under Section 25-1-712(C) (*Tenant Notification Required*).

#### **§ 25-1-714 TENANT RELOCATION PROGRAM.**

- (A) The director shall adopt a tenant relocation program by administrative rule for the purpose of mitigating the impacts of tenant displacement resulting from multi-family redevelopment within the City of Austin.
- (B) The tenant relocation program must, at a minimum, include each of the elements described in this subsection.
- (1) ***Tenant Relocation Fee.*** The program must include a methodology to be used by the director in recommending to the city council the amount of the fee required under Section 25-1-715 (*Tenant Relocation Assistance—Developer Funded*). The methodology shall include a nexus study that accounts for the impacts of displacement to tenant communities directly affected by multifamily redevelopment and to the community as a whole. The fee shall be consistently calculated and uniformly applied, but may vary based on number of units, bedrooms, and other objective criteria identified by the nexus study.
  - (2) ***Eligibility for Tenant Relocation Assistance.*** The program shall establish eligibility requirements that a tenant must meet in order to receive tenant relocation assistance under Section 25-1-715 (*Tenant Relocation Assistance—Developer Funded*) or Section 25-1-716 (*Tenant*

*Relocation Assistance—City Funded*). At a minimum, the eligibility requirements must:

- (a) require that a tenant:
  - (i) have a household income at or below 70% of median family income or, for residents of a mobile home park, 80% of median family income;
  - (ii) reside at the property on the date that the initial notification required under Section 25-1-712(B) (*Tenant Notification Required*) is delivered; and
  - (iii) submit a claim form documenting income eligibility no later than the deadline established by the director; and
- (b) prohibit participation by tenants of multi-family redevelopment that is exempt from this division under Section 25-1-711 (*Exemptions*), except that the director may allow use of funds under Section 25-1-716 (*Tenant Relocation Assistance—City Funded*) to provide relocation assistance for tenant displacement resulting from fire, civil commotion, malicious mischief, vandalism, natural disaster, or other destruction beyond the control of the owner or tenant.

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

(4) ***Refund Procedures.*** The program shall establish procedures by which an applicant who paid a tenant relocation fee under Section 25-1-715 (*Tenant Relocation Assistance—Developer Funded*) may request a refund of any fees not spent for an authorized purpose within ten years after approval of an application for which notification is required under Section 25-1-712 (*Tenant Notification Required*).

(C) The director may include additional elements in the tenant relocation program, including but not limited to notification forms and other documents required



under Section 25-1-712 (*Tenant Notification Required*) and Section 25-1-713 (*Additional Notice Requirements*).

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

- (A) An applicant for multi-family redevelopment must pay a tenant relocation fee established by separate ordinance as a condition to approval of:
  - (1) a planned unit development (PUD) zoning district, as required under Section 2.3.2 (*Additional Requirements*) of City Code Chapter 25-2, Subchapter B, Article 2, Division 5 (*Planned Unit Developments*); or
  - (2) a rezone or other discretionary land use approval that requires approval by the city council and is reasonably likely to result in tenant displacement, unless waived by the city council.
- (B) The director shall deposit a fee imposed under this section into the Developer Fund for Tenant Relocation Assistance, which is established under this section. The director shall use the fund to provide tenant relocation assistance to eligible tenants at the development or site for which the payment was made, consistent with requirements adopted under Section 25-1-714 (*Tenant Relocation Program*).

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

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

- (4) major repairs or renovations of multifamily buildings.

**§ 25-1-717 OFFENSES.**

- (A) A person commits an offense if the person fails to deliver the notification required under Section 25-1-712 (*Tenant Notification Required*) and Section 25-1-713 (*Additional Notification Requirements*) to one or more units within a multi-family building or mobile home park. A person commits a separate offense for each day the person fails to deliver required notification to an individual unit within a multi-family building or mobile home park for which notification is required.
- (B) Each offense is punishable by a fine not to exceed \$500 and requires proof of a culpable mental state.

**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 (F) of City Code Section 25-2-283 (*City Council Zoning Hearing and Action*) is amended to read:

- (F) Unless authorized by a resolution of the council, the director of the [Neighborhood] Planning and Zoning Department may not schedule a zoning or rezoning ordinance for third reading by the council until:

- (1) the city attorney determines that requirements of the City Code have been met and that required documents protect the interests of the City and have been executed. The city attorney shall make a determination regarding the documents not later than the 14th day after the documents are submitted[-]; and
- (2) for an application to rezone a property within the mobile home residence (MH) district designation that contains an existing mobile home park, no earlier than the 270<sup>th</sup> day after all tenants entitled to notice under Section 25-1-712 (*Tenant Notification Required*) have received the required notification.

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

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

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

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

- (1) approval of the application requires:
  - (a) discretionary review, as authorized under this title, by the Land Use Commission, Board of Adjustment, or city council, other than a zoning change or code amendment; and
  - (b) [~~2~~] the application meets all other requirements for approval, except for payment of fees, posting fiscal surety, and other code requirements as determined by the director under Section 25-1-82 (*Application Requirements and Expiration*); or
- (2) the applicant has provided a 120 or 270-day notification to tenants of a multi-family building or mobile home park, as required by Section 25-1-712 (*Tenant Notification Required*).

**PART 10.** In preparing the nexus study and developing a recommended relocation fee, as required by this ordinance, the city manager is directed to continue stakeholder review and discussion regarding each of the issues listed below. The city manager may, as deemed appropriate, propose additional code amendments related to any or all of these issues and present the amendments to the City Council for consideration, without further initiation, concurrent with an ordinance establishing the proposed relocation assistance fee.

- ***Penalties and enforcement.*** The city manager should seek input on whether the penalty amount required by Section 25-1-717 (*Offenses*) should be calculated based on the number of individual units for which notice is required or whether it should be limited to the total number of multi-family buildings or mobile home parks included in the permit application that triggers the notice requirement. The manager should also seek input on whether or not proof of a culpable mental state should be required to prosecute a violation.
- ***Relocation assistance fee.*** After completing the nexus study, the city manager should seek input regarding calculation of the relocation assistance fee prior to recommending a fee amount to the City Council. The input may include, but

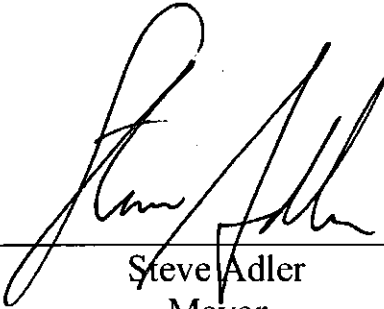
need not be limited to, whether relocation assistance should be required for some or all "by-right" redevelopment projects that do not require a rezone or other discretionary approval.

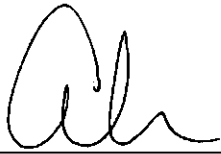
**PART 11.** This ordinance take effect on September 12, 2016.

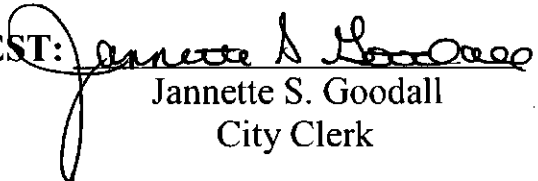
**PASSED AND APPROVED**

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September 1, 2016

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Steve Adler  
Mayor

**APPROVED:**   
\_\_\_\_\_  
Anne L. Morgan  
City Attorney

**ATTEST:**   
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Jannette S. Goodall  
City Clerk