

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
**TDHCA Governing Board Approved Draft of
Proposed Amendments to Uniform Multifamily Rules at
10 Texas Administrative Code (“TAC”) Chapter 10, Subchapter B**

Disclaimer

Attached is a draft of the Proposed Amendments to 10 TAC Chapter 10 Subchapter B that were approved by the TDHCA Governing Board on September 7, 2017. This draft incorporates changes made by the Board at that meeting. This document, including its preamble, is scheduled to be published in the September 22, 2017, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment. The version herein is informational only and should not be relied upon as the basis for public comment. Public comment is limited to the sections of 10 TAC Chapter 10 that have been amended.

Public Comment

Public Comment Period: Starts: 8:00 a.m. Austin local time on September 22, 2017 Ends: 5:00 p.m. Austin local time on October 12, 2017.

Comments received after 5:00 p.m. Austin local time on October 12, 2017, will not be accepted.

Written comments may be submitted, in hard copy/fax or electronic formats to:

Texas Department of Housing and Community Affairs
Attn: Patrick Russell
P.O. Box 13941
Austin, Texas 78711-3941
Fax: (512) 475-1895
Email: htc.public-comment@tdhca.state.tx.us

Written comments may be submitted in hard copy, fax, or email formats within the designated public comment period. Those making public comment are asked to reference the specific draft rule, policy, or plan related to their comment and to be as specific as possible when discussing particular aspects of a rule.

Please be aware that all comments submitted to the TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657
Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 10 Subchapter B, concerning Site and Development Requirements and Restrictions. The proposed amendments clarify that mitigation may still be required even if an exemption is being requested for undesirable site features. The list of undesirable site features has been modified and minimum separate distances has been clarified. Several of the amenities have been modified as well.

FISCAL NOTE. Timothy K. Irvine, Executive Director, has determined that, for each year of the first five years the amendments are in effect, enforcing or administering the amendment does not have any foreseeable changes related to costs or revenues of the state or local governments.

PUBLIC BENEFIT/COST NOTE. Mr. Irvine also has determined that, for each year of the first five years the amendments are in effect, the public benefit anticipated, as a result of the amendment, will be improved efficiency in reviewing an application for multifamily funding. There will not be any additional economic cost to any persons required to comply with the amendments.

ADVERSE IMPACT ON SMALL OR MICRO-BUSINESSES. The Department has determined that there will be no new economic effect on small or micro-businesses.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held September 22, 2017 through October 12, 2017, to receive input on the amendments. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Teresa Morales, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941 or by fax to (512) 475-1895.

ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. October 12, 2017.

STATUTORY AUTHORITY. The amendments are proposed pursuant to Texas Government Code, §2306.053, which authorizes the Department to adopt rules.

The proposed amendments affect no other code, article, or statute.

Subchapter B – Site and Development Requirements and Restrictions

§10.101.Site and Development Requirements and Restrictions.

(a) Site Requirements and Restrictions. The purpose of this section is to identify specific requirements and restrictions related to a Development Site seeking multifamily funding or assistance from the Department.

(1) Floodplain. New Construction or Reconstruction Developments located within a one-hundred (100) year floodplain as identified by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps must develop the site in full compliance with the National Flood Protection Act and all applicable federal and state statutory and regulatory requirements. The Applicant will have to use floodplain maps and comply with regulation as they exist at the time of commencement of construction. Even if not required by such provisions, the Site must be developed so that all finished ground floor elevations are at least one foot above the floodplain and parking and drive areas are no lower than six inches below the floodplain. If there are more stringent local requirements they must also be met. If no FEMA Flood Insurance Rate Maps are available for the proposed Development Site, flood zone documentation must be provided from the local government with jurisdiction identifying the one-hundred (100) year floodplain. Rehabilitation (excluding Reconstruction) Developments with existing and ongoing federal funding assistance from the U.S. Department of Housing and Urban Development (HUD) or U.S. Department of Agriculture (USDA) are exempt from this requirement. However, where existing and ongoing federal assistance is not applicable such Rehabilitation (excluding Reconstruction) Developments will be allowed in the one-hundred (100) year floodplain provided the local government has undertaken and can substantiate sufficient mitigation efforts and such documentation is submitted in the Application or the existing structures meet the requirements that are applicable for New Construction or Reconstruction Developments, as certified to by a Third Party engineer.

(2) Undesirable Site Features. Development Sites within the applicable distance of any of the undesirable features identified in subparagraphs (A) - (K) of this paragraph ~~may will~~ be considered ineligible ~~unless it is as~~ determined by the Board, ~~unless the Applicant provides that~~ information regarding mitigation of the applicable undesirable site feature(s) is sufficient and supports Site eligibility. Rehabilitation (excluding Reconstruction) Developments with ongoing and existing federal assistance from HUD, USDA, or Veterans Affairs (“VA”) may be granted an exemption by the Board; however, depending on the undesirable site feature(s) staff may recommend mitigation still be provided as appropriate. Such an exemption must be requested at the time of or prior to the filing of an Application. Historic Developments that would otherwise qualify under §11.9(e)(6) of this title (relating to the Qualified Allocation Plan) may be granted an exemption by the Board, and such exemption must be requested at the time of or prior to the filing of an Application. The distances are to be measured from the nearest boundary of the Development Site to the nearest boundary of the property or easement containing the undesirable feature, unless otherwise noted below. Where there is a local ordinance that regulates the proximity of such undesirable feature to a multifamily development that has smaller distances than the minimum distances noted below, then

such smaller distances may be used and documentation such as a copy of the local ordinance identifying such distances relative to the Development Site must be included in the Application. [If a state or federal cognizant agency would require a new facility under its jurisdiction to have a minimum separation from housing, the Department will defer to that agency and require the same separation for a new housing facility near an existing regulated or registered facility.](#) In addition to these limitations, a Development Owner must ensure that the proposed Development Site and all construction thereon comply with all applicable state and federal requirements regarding separation for safety purposes. If Department staff identifies what it believes would constitute an undesirable site feature not listed in this paragraph or covered under subparagraph (K) of this paragraph, staff may request a determination from the Board as to whether such feature is acceptable or not. If the Board determines such feature is not acceptable and that, accordingly, the Site is ineligible, the Application shall be terminated and such determination of Site ineligibility and termination of the Application cannot be appealed.

(A) Development Sites located within 300 feet of junkyards. For purposes of this paragraph, a junkyard shall be defined as stated in Transportation Code, §396.001;

(B) Development Sites located within 300 feet of a solid waste [facility](#) or sanitary landfill [facility](#)s [or illegal dumping sites \(as such dumping sites are identified by the local municipality\)](#);

(C) Development Sites located within 300 feet of a sexually-oriented business. For purposes of this paragraph, a sexually-oriented business shall be defined in Local Government Code, §243.002, or as zoned, licensed and regulated as such by the local municipality;

(D) Development Sites in which the buildings are located within 100 feet of the nearest line or structural element of any overhead high voltage transmission line, support structures for high voltage transmission lines, or other similar structures. This does not apply to local service electric lines and poles;

(E) Development Sites located within 500 feet of active railroad tracks, measured from the closest rail to the boundary of the Development Site, unless the Applicant provides evidence that the city/community has adopted a Railroad Quiet Zone or the railroad in question is commuter or light rail;

(F) Development Sites located within 500 feet of heavy industrial (i.e. facilities that require extensive ~~capital investment in use of~~ land and machinery, ~~are not easily relocated and~~ produce high levels of external noise, [dust or fumes](#) such as manufacturing plants, fuel storage facilities (excluding gas stations) etc. [or that in the course of normal business there is a high volume of rail or truck traffic to deliver materials or transport goods](#));

(G) Development Sites located within 10 miles of a nuclear plant;

(H) Development Sites in which the buildings are located within the accident zones or clear zones of any airport;

(I) Development Sites that contain one or more pipelines, situated underground or aboveground, which carry highly volatile liquids. Development Sites located adjacent to a pipeline easement (for a pipeline carrying highly volatile liquids), the Application must include a plan for developing near the pipeline(s) and mitigation, if any, in accordance with a report conforming to the Pipelines and Informed Planning Alliance (“PIPA”);

(J) Development Sites located within 2 miles of refineries capable of refining more than 100,000 barrels of oil daily; or

(K) Any other Site deemed unacceptable, which would include, without limitation, those with exposure to an environmental factor that may adversely affect the health and safety of the residents or render the Site inappropriate for housing use and which cannot be adequately mitigated.

(3) Undesirable Neighborhood Characteristics.

(A) If the Development Site has any of the characteristics described in subparagraph (B) of this paragraph, the Applicant must disclose the presence of such characteristics in the Application submitted to the Department. For Competitive HTC Applications, an Applicant must disclose at pre-application as required by 11.8(b) of this title (relating to Pre-Application Requirements). For all other Applications, An Applicant may choose to disclose the presence of such characteristics at the time the pre-application (if applicable) is submitted to the Department. Requests for pre-determinations of Site eligibility prior to pre-application or Application submission will not be binding on full Applications submitted at a later date. For Tax-Exempt Bond Developments where the Department is the Issuer, the Applicant may submit the documentation described under subparagraphs (C) and (D) of this paragraph at pre-application or for Tax-Exempt Bond Developments utilizing a local issuer such documentation may be submitted with the request for a pre-determination and staff may perform an assessment of the Development Site to determine Site eligibility. The Applicant understands that any determination made by staff or the Board at that point in time regarding Site eligibility based on the documentation presented, is preliminary in nature. Should additional information related to any of the undesirable neighborhood characteristics become available while the full Application is under review, or the information by which the original determination was made changes in a way that could affect eligibility, then such information will be re-evaluated and presented to the Board. Should staff determine that the Development Site has any of the characteristics described in subparagraph (B) of this paragraph and such characteristics were not disclosed, the Application may be subject to termination. ~~Termination due to non-disclosure may be appealed pursuant to §10.902 of this chapter (relating to Appeals Process (§2306.0321; §2306.6715)).~~ An Applicant’s own non-disclosure is not appealable as such appeal is in direct conflict with certifications made in the Application and within the control of the Applicant. The presence of any characteristics listed in subparagraph (B) of this paragraph will prompt staff to perform an assessment of the Development Site and neighborhood, which may include a site visit, and include, where applicable, a review as described

in subparagraph (C) of this paragraph. The assessment of the Development Site and neighborhood will be presented to the Board with a recommendation with respect to the eligibility of the Development Site. Factors to be considered by the Board, despite the existence of the undesirable neighborhood characteristics are identified in subparagraph (E) of this paragraph. Preservation of affordable units alone does not present a compelling reason to support a conclusion of eligibility. Should the Board make a determination that a Development Site is ineligible, the termination of the Application resulting from such Board action is not subject to appeal.

(B) The undesirable neighborhood characteristics include those noted in clauses (i) – (iv) of this subparagraph and additional information as applicable to the undesirable neighborhood characteristic(s) disclosed as provided in subparagraphs (C) and (D) of this paragraph must be submitted in the Application. If an Application for a Development Site involves three or more undesirable neighborhood characteristics, in order to be found eligible it will be expected that, in addition to demonstrating satisfactory mitigation for each characteristic disclosed, the Development Site must be located within an area in which there is a concerted plan of revitalization already in place or that private sector economic forces, such as those referred to as gentrification are already underway and indicate a strong likelihood of a reasonably rapid transformation of the area to a more economically vibrant area. In order to be considered as an eligible Site despite the presence of such undesirable neighborhood characteristic, an Applicant must demonstrate actions being taken that would lead a reader to conclude that there is a high probability –and reasonable expectation the undesirable characteristic will be sufficiently mitigated or significantly improved within a reasonable time, typically prior to placement in service, and that the undesirable characteristic demonstrates a positive trend and continued improvement. Conclusions for such reasonable expectation may need to be affirmed by an industry professional, as appropriate, and may be dependent upon the severity of the undesirable neighborhood characteristic disclosed.

(i) The Development Site is located within a census tract that has a poverty rate above 40 percent for individuals (or 55 percent for Developments in regions 11 and 13).

(ii) The Development Site is located in a census tract or within 1,000 feet of any census tract in an Urban Area and the rate of Part I violent crime is greater than 18 per 1,000 persons (annually) as reported on neighborhoodscout.com.

(iii) The Development Site is located within 1,000 feet (measured from nearest boundary of the Site to the nearest boundary of blighted structure) of multiple vacant structures that have fallen into such significant disrepair, overgrowth, and/or vandalism that they would commonly be regarded as blighted or abandoned.

(iv) The Development Site is located within the attendance zones of an elementary school, a middle school or a high school that does not have a Met Standard rating by the Texas Education Agency. Any school in the attendance zone that has not achieved Met Standard for three consecutive years and has

failed by at least one point in the most recent year, unless there is a clear trend indicating imminent compliance, shall be unable to mitigate due to the potential for school closure as an administrative remedy pursuant to Chapter 39 of the Texas Education Code. In districts with district-wide enrollment or choice districts an Applicant shall use the rating of the closest elementary, middle and high school, respectively, which may possibly be attended by the tenants in determining whether or not disclosure is required. [Schools with an application process for admittance, limited enrollment or other requirements that may prevent a child from attending will not be considered as the closest school or the school which attendance zone contains the site.](#) The applicable school rating will be the ~~2017~~2016 accountability rating assigned by the Texas Education Agency. School ratings will be determined by the school number, so that in the case where a new school is formed or named or consolidated with another school but is considered to have the same number that rating will be used. A school that has never been rated by the Texas Education Agency will use the district rating. If a school is configured to serve grades that do not align with the Texas Education Agency's conventions for defining elementary schools (typically grades K-5 or K-6), middle schools (typically grades 6-8 or 7-8) and high schools (typically grades 9-12), the school will be considered to have the lower of the ratings of the schools that would be combined to meet those conventions. In determining the ratings for all three levels of schools, ratings for all grades K-12 must be included, meaning that two or more schools' ratings may be combined. For example, in the case of an elementary school which serves grades K-4 and an intermediate school that serves grades 5-6, the elementary school rating will be the lower of those two schools' ratings. Also, in the case of a 9th grade center and a high school that serves grades 10-12, the high school rating will be considered the lower of those two schools' ratings. Sixth grade centers will be considered as part of the middle school rating. Development Sites subject to an Elderly Limitation is considered exempt and does not have to disclose the presence of this characteristic.

(C) Should any of the undesirable neighborhood characteristics described in subparagraph (B) of this paragraph exist, the Applicant must submit the Undesirable Neighborhood Characteristics Report that contains the information described in clauses (i) - (viii) of this subparagraph and [mitigation pursuant to](#) subparagraph (D) of this paragraph as such information might be considered to pertain to the undesirable neighborhood characteristic(s) disclosed so that staff may conduct a further Development Site and neighborhood review.

- (i) A determination regarding neighborhood boundaries, which will be based on the review of a combination of natural and manmade physical features (rivers, highways, etc.), apparent changes in land use, the Primary Market Area as defined in the Market Analysis, census tract or municipal boundaries, and information obtained from any Site visits;
- (ii) An assessment of general land use in the neighborhood, including comment on the prevalence of residential uses;

(iii) An assessment concerning any of the features reflected in paragraph (2) of this subsection if they are present in the neighborhood, regardless of whether they are within the specified distances referenced in paragraph (2) of this subsection;

(iv) An assessment of the number of existing affordable rental units (generally includes rental properties subject to TDHCA, HUD, or USDA restrictions) in the Primary Market Area, including comment on concentration based on the size of the Primary Market Area;

(v) An assessment of the percentage of households residing in the census tract that have household incomes equal to or greater than the median household income for the MSA or county where the Development Site is located;

(vi) An assessment of the number of market rate multifamily units in the neighborhood and their current rents and levels of occupancy;

(vii) An assessment of school performance for each of the schools in the attendance zone containing the Development that did not achieve ~~the a 2017~~ [a 2017](#) Met Standard rating, for the previous two academic years (regardless of whether the school Met Standard in those years), that includes the TEA Accountability Rating Report, a discussion of performance indicators and what progress has been made over the prior year, and progress relating to the goals and objectives identified in the campus improvement plan in effect. [This is not just the submission of the campus improvement plan, but an update to the plan or if such update is not available, information from a school official that speaks to progress made under the plan as further indicated under subparagraph \(D\)\(iv\) of this paragraph;](#) and

(viii) Any additional information necessary to complete an assessment of the Development Site, as requested by staff.

(D) Information regarding mitigation of undesirable neighborhood characteristics should be relevant to the undesirable characteristics that are present in the neighborhood. Mitigation must include documentation of efforts underway at the time of Application and may include, but is not limited to, the measures described in clauses (i) - (iv) of this subparagraph. In addition to those measures described herein, documentation from the local municipality may also be submitted stating the Development is consistent with their obligation to affirmatively further fair housing.

(i) Evidence that the poverty rate within the census tract has decreased over the five-year period preceding the date of Application, or that the census tract is contiguous to a census tract with a poverty rate below 20% and there are no physical barriers between them such as highways or rivers which would be reasonably considered as separating or dividing the neighborhood containing the proposed Development from the low poverty area must be submitted. Other mitigation may include, but is not limited to, evidence of ~~the availability of adult education and job training that will lead to full-time permanent employment for~~

~~tenants~~ sustained job growth and employment opportunities, career training opportunities or job placement services, -evidence of gentrification in the area (including an increase in property values) which may include contiguous census tracts that could conceivably be considered part of the neighborhood containing the proposed Development, and a clear and compelling reason that the Development should be located at the Site.

(ii) Evidence that crime rates are decreasing, based on violent crime data from the city's police department or county sheriff's department, for the police beat or patrol area within which the Development Site is located, based on the population of the police beat or patrol area that would yield a crime rate below the threshold indicated in this section. The instances of violent crimes within the police beat or patrol area that encompass the census tract, calculated based on the population of the census tract, may also be used. A map plotting all instances of violent crimes within a one-half mile radius of the Development Site may also be submitted, provided that it reflects that the crimes identified are not at a level that would warrant an ongoing concern. The data must include incidents reported during the entire ~~2015 and 2016~~ 2016 and 2017 calendar year. Violent crimes reported through the date of Application submission may be requested by staff as part of the assessment performed under subparagraph (C) of this paragraph. A written statement from the local police department or local law enforcement agency, including a description of efforts by such enforcement agency addressing issues of crime and the results of their efforts may be provided, and depending on the data provided by the Applicant, such written statement may be required, as determined by staff. For Rehabilitation or Reconstruction Developments, to the extent that the high level of criminal activity is concentrated at the Development Site, documentation may be submitted to indicate such issue(s) could be remedied by the proposed Development. Evidence of such remediation should go beyond what would be considered a typical scope of work and should include a security plan, partnerships with external agencies, or other efforts to be implemented that would deter criminal activity. Information on whether such security features have been successful at any of the Applicant's existing properties should also be submitted, if applicable.

(iii) Evidence of mitigation efforts to address blight or abandonment may include new construction in the area already underway that evidences public and/or private investment. Acceptable mitigation to address extensive blight should include a plan whereby it is contemplated that a responsible party will use the property in a manner that complies with local ordinances. In instances where blight exists but may only include a few properties, mitigation efforts could include partnerships with local agencies to engage in community-wide clean-up efforts, or other efforts to address the overall condition of the neighborhood.

(iv) Evidence of mitigation for all of the schools in the attendance zone that have not achieved Met Standard will include documentation from a school official

with oversight of the school in question that indicates current progress towards meeting the goals and performance objectives identified in the Campus Improvement Plan. For schools that have not achieved Met Standard for two consecutive years, a letter from the superintendent, member of the school board or a member of the transformation team that has direct experience, knowledge and oversight of the specific school must also be submitted. The letter should, at a minimum and to the extent applicable, identify the efforts that have been undertaken to increase student performance, decrease mobility rate, benchmarks for re-evaluation, increased parental involvement, plans for school expansion, [plans to implement early childhood education](#), and long-term trends that would point toward their achieving Met Standard by the time the Development is placed in service. The letter from such education professional should also speak to why they believe the staff tasked with carrying out the plan will be successful at making progress towards acceptable student performance considering that prior Campus Improvement Plans were unable to do so. Such assessment could include whether the team involved has employed similar strategies at prior schools and were successful. In addition to the aforementioned letter from the school official, information should also be provided that addresses the types of services and activities offered at the Development or external partnerships that will facilitate and augment classroom performance.

(E) In order for the Development Site to be found eligible by the Board, despite the existence of undesirable neighborhood characteristics, the Board must find that the use of Department funds at the Development Site must be consistent with achieving the goals in clauses (i) - (iii) of this subparagraph.

(i) Preservation of existing occupied affordable housing units to ensure they are safe and suitable or the new construction of high quality affordable housing units that are subject to federal rent or income restrictions; and

(ii) ~~Factual~~ Determination that the undesirable characteristic(s) that has been disclosed are not of such a nature or severity that should render the Development Site ineligible based on the assessment and mitigation provided under subparagraphs (C) and (D) of this paragraph.; or

(iii) The Applicant has requested a waiver of the presence of undesirable neighborhood characteristics on the basis that the Development is necessary to enable the state, a participating jurisdiction, or an entitlement community to comply with its obligation to affirmatively further fair housing, a HUD approved Conciliation Agreement, or a final and non-appealable court order and such documentation is submitted with the disclosure.

(b) Development Requirements and Restrictions. The purpose of this section is to identify specific restrictions on a proposed Development submitted for multifamily funding by the Department.

(1) Ineligible Developments. A Development shall be ineligible if any of the criteria in subparagraphs (A) or (B) of this paragraph are deemed to apply.

(A) General Ineligibility Criteria.

- (i) Developments such as hospitals, nursing homes, trailer parks, dormitories (or other buildings that will be predominantly occupied by students) or other facilities that are usually classified as transient housing (as provided in the §42(i)(3)(B)(iii) and (iv) of the Code);
- (ii) Any Development with any building(s) with four or more stories that does not include an elevator;
- (iii) A Housing Tax Credit Development that provides on-site continual or frequent nursing, medical, or psychiatric services. Refer to IRS Revenue Ruling 98-47 for clarification of assisted living;
- (iv) A Development that violates §1.15 of this title (relating to Integrated Housing Rule);
- (v) A Development seeking Housing Tax Credits that will not meet the general public use requirement under Treasury Regulation, §1.42-9 or a documented exception thereto; or
- (vi) A Development utilizing a Direct Loan that is subject to the Housing and Community Development Act, §104(d) requirements and proposing Rehabilitation or Reconstruction, if the Applicant is not proposing at least the one-for-one replacement of the existing unit mix. Adding additional units would not violate this provision.

(B) Ineligibility of Elderly Developments.

- (i) Any Elderly Development of two stories or more that does not include elevator service for any Units or ~~living space~~common areas above the ~~first~~ground floor;
- (ii) Any Elderly Development with any Units having more than two bedrooms with the exception of up to three employee Units reserved for the use of the manager, maintenance, and/or security officer. These employee Units must be specifically designated as such; or
- (iii) Any Elderly Development (including Elderly in a Rural Area) proposing more than 70 percent two-bedroom Units.

(2) Development Size Limitations. The minimum Development size is 16 Units. New Construction or Adaptive Reuse Developments in Rural Areas are limited to a maximum of 80 total Units. Other Developments do not have a limitation as to the maximum number of Units.

(3) Rehabilitation Costs. Developments involving Rehabilitation must establish a scope of work that will substantially improve the interiors of all units and exterior deferred maintenance and ~~-.The~~meet the minimum Rehabilitation amounts identified in subparagraphs (A) – (C) of this paragraph. Such amounts must be maintained through the issuance of IRS Forms 8609. For Developments with multiple buildings that have varying placed in service dates, the earliest date will be used for purposes of establishing the minimum Rehabilitation amounts.

(A) For Housing Tax Credit Developments under the USDA Set-Aside the minimum Rehabilitation will involve at least \$25,000 per Unit in Building Costs and Site Work;

(B) For Tax-Exempt Bond Developments, less than twenty (20) years old, based on the placed in service date, the minimum Rehabilitation will involve at least \$20,000 per Unit in Building Costs and Site Work. If such Developments are greater than twenty (20) years old, based on the placed in service date, the minimum Rehabilitation will involve at least \$30,000 per Unit in Building Costs and Site Work; or

(C) For all other Developments, the minimum Rehabilitation will involve at least \$30,000 per Unit in Building Costs and Site Work.

(4) Mandatory Development Amenities. (§2306.187) New Construction, Reconstruction or Adaptive Reuse Units must include all of the amenities in subparagraphs (A) - (M) of this paragraph. Rehabilitation (excluding Reconstruction) Developments must provide the amenities in subparagraphs (D) - (M) of this paragraph unless stated otherwise. Supportive Housing Developments are not required to provide the amenities in subparagraph (B), (E), (F), (G), (I), or (M) of this paragraph; however, access must be provided to a comparable amenity in a common area. All amenities listed below must be at no charge to the tenants. Tenants must be provided written notice of the applicable required amenities for the Development.

(A) All bedrooms, the dining room and living room in Units must be wired with current cabling technology for data and phone;~~RG-6/U COAX or better and CAT3 phone cable or better, wired to each bedroom, dining room and living room;~~

(B) Laundry connections;

(C) Exhaust/vent fans (vented to the outside) in the bathrooms;

(D) Screens on all operable windows;

(E) Disposal and Energy-Star rated dishwasher (not required for USDA; Rehabilitation Developments exempt from dishwasher if one was not originally in the Unit);

(F) Energy-Star rated refrigerator;

(G) Oven/Range;

- (H) Blinds or window coverings for all windows;
- (I) At least one Energy-Star rated ceiling fan per Unit;
- (J) Energy-Star rated lighting in all Units which may include compact fluorescent or LED light bulbs;
- (K) Plumbing fixtures must meet performance standards of Texas Health and Safety Code, Chapter 372;
- (L) All areas of the Units must have ~~central~~ heating and air-conditioning ~~(Packaged Terminal Air Conditioners meet this requirement for SRO or Efficiency Units only or historic preservation where central would be cost prohibitive)~~; and
- (M) Adequate parking spaces consistent with local code, unless there is no local code, in which case the requirement would be one and a half (1.5) spaces per Unit for non- Elderly Developments and one (1) space per Unit for Elderly Developments. The minimum number of required spaces must be available to the tenants at no cost.

(5) Common Amenities.

(A) All Developments must include sufficient common amenities as described in subparagraph (C) of this paragraph to qualify for at least the minimum number of points required in accordance with clauses (i) - (vi) of this subparagraph. ~~For Developments with 41 Units or more, at least two (2) of the required threshold points must come from subparagraph (C)(xxxi) of this paragraph.~~

- (i) Developments with 16 to 40 Units must qualify for four (4) points;
- (ii) Developments with 41 to 76 Units must qualify for seven (7) points;
- (iii) Developments with 77 to 99 Units must qualify for ten (10) points;
- (iv) Developments with 100 to 149 Units must qualify for fourteen (14) points;
- (v) Developments with 150 to 199 Units must qualify for eighteen (18) points; or
- (vi) Developments with 200 or more Units must qualify for twenty-two (22) points.

(B) These points are not associated with any selection criteria points. The amenities must be for the benefit of all tenants and made available throughout normal business hours and maintained throughout the Affordability Period. Tenants must be provided written notice of the elections made by the Development Owner. If fees in addition to rent are charged for amenities, then the amenity may not be included among those provided to satisfy the requirement. All amenities must meet all applicable accessibility standards, including those adopted by the Department, and where a specific spaces or size requirement for a listed amenity is not specified then the amenity must be reasonably adequate based on the Development size. ~~for activities must be sized appropriately to serve the proposed Target Population.~~ Applications for non-contiguous scattered site housing, excluding non-contiguous single family sites, will have the test applied based on the number of Units per individual site and the amenities selected, ~~which includes~~

~~those amenities required under subparagraph (C)(xxxiii) of this paragraph. If scattered site with fewer than 41 Units per site, at a minimum at least some of the amenities required under subparagraph (C)(xxxiii) of this paragraph~~ must be distributed proportionately across all sites. In the case of additional phases of a Development any amenities that are anticipated to be shared with the first phase development cannot be claimed for purposes of meeting this requirement for the second phase. The second phase must include enough points to meet this requirement that are provided on the Development Site. For example, if a swimming pool exists on the phase one property and it is anticipated that the second phase tenants will be allowed it use it, the swimming pool cannot be claimed for points for purposes of this requirement for the second phase Development. All amenities ~~must be accessible and~~ must be available to all units via an accessible route.

(C) The common amenities and respective point values are set out in clauses (i) - (xxxii) of this subparagraph. ~~Some amenities may be restricted for Applicants proposing a specific Target Population.~~ An Applicant can only count an amenity once; therefore combined functions (a library which is part of a community room) will only qualify for points under one category:

- (i) Full perimeter fencing that includes parking areas and all amenities (excludes guest or general public parking areas); (2 points);
- (ii) Controlled gate access for entrance and exit areas, intended to provide access that is limited to the Development's tenancy (2 points);
- (iii) Gazebo or covered pavilion w/sitting area (seating must be provided) (1 point);
- (iv) Accessible walking/jogging path separate from a sidewalk and in addition to required accessible routes to Units or other amenities (1 point);
- (v) Community laundry room with at least one washer and dryer for every 40 Units (3 points);
- (vi) Barbecue grill and picnic table with at least one of each for every 50 Units (1 point). Grill must be permanently installed (no portable grills);
- (vii) Swimming pool (3 points);
- (viii) Splash pad/water feature play area (1 point);
- (ix) Furnished fitness center. Equipped with a variety of fitness equipment ~~options that includes with~~ at least one of the following option per for every 40 Units ~~or partial increment of 40 Units~~: stationary bicycle, elliptical trainer, treadmill, rowing machine, universal gym, multi-functional weight bench, ~~sauna~~, stair-climber, or other similar equipment. Equipment shall be commercial use grade or quality. Fitness center must be located indoors or be a designated room with climate control. All Developments must have at least two equipment options but are not required to have more than five equipment options regardless of number of Units (2 points);

- (x) Equipped ~~and functioning~~ business/computer center ~~or equipped computer learning center~~. Must be equipped with 1 computer for every 40 Units (maximum of 5 computers needed) loaded with basic applications/programs to enable email/internet access, word processing, Excel, etc. (~~maximum of 5 computers needed~~), 1 laser printer per computer lab and at least one scanner which may be integrated with printer (2 points);
- (xi) Furnished Community room (2 points);
- (xii) Library with an accessible sitting area (separate from the community room) (1 point);
- (xiii) Enclosed community sun porch or covered community porch/patio (1 point);
- (xiv) Service provider office in addition to leasing offices (1 point);
- (xv) Regularly staffed service provider office in addition to leasing offices (3 points);
- (xvi) Activity Room stocked with supplies (Arts and Crafts, board games, etc.) (2 points);
- ~~(xvii) Health Screening Room (1 point);~~
- (xviii) Secured Entry (applicable only if all Unit entries are within the building's interior) (1 point);
- ~~(xviii)~~ Horseshoe pit; putting green; shuffleboard court; pool table; or video game console(s) with a variety of games and a dedicated location accessible to all tenants to play such games (1 point);
- ~~(xix)~~ Community Dining Room with full or warming kitchen furnished with adequate tables and seating (3 points);
- (xx) One Children's Playscape Equipped for 5 to 12 year olds, or one Tot Lot (2 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide shade and ultraviolet protection. Can only select this item if clause (xxi) of this subparagraph is not selected; or
- (xxi) Two Children's Playscapes Equipped for 5 to 12 year olds, two Tot Lots, or one of each (4 points). Must be covered with a shade canopy or awning, intended to keep equipment cool, provide shade and ultraviolet protection. Can only select this item if clause (xxi) of this subparagraph is not selected;
- (xxii) Sport Court (Tennis, Basketball or Volleyball) (2 points);
- ~~(xxiii)~~ Furnished and staffed Children's Activity Center that must have age appropriate furnishings and equipment. Appropriate levels of staffing must be provided during after-school hours and during school vacations (3 points);
- (xxiv) Community Theater Room equipped with a 52 inch or larger screen or projection with surround sound equipment; DVD player or a streaming service at no cost to tenants; and theater seating (3 points);

(xxvi) Dog Park area that is fully enclosed (the perimeter fencing may be used for part of the enclosure) and intended for tenant owned dogs to run off leash ~~or a dog wash station with plumbing for hot and cold water connections and tub drainage~~ (requires that the Development allow dogs) (1 point);

(xxvii) ~~Common area~~ Wi-Fi (with coverage throughout the clubhouse and/or community building) (1 point);

(xxviii) Twenty-four hour, seven days a week monitored camera/security system in each building. Monitoring may be on-site or off-site. (3 points);

(xxiii*) Bicycle parking that allows for, at a minimum, 1 bicycle for every 5 Units, within reasonable proximity to each residential building that allows for bicycles to be secured with lock (lock not required to be provided to tenant) ~~and allows sufficient parking relative to the development size~~ (1 point);

(xxix) Shaded rooftop or structural viewing deck of at least 500 square feet (2 points);

(xxxi) Porte-cochere (1 point); or

(xxxii) Green Building Features. Points under this item are intended to promote energy and water conservation, operational savings and sustainable building practices. Points may be selected from only one of ~~four~~three categories: ~~Limited Green Amenities~~, Enterprise Green Communities, Leadership in Energy and Environmental Design (LEED), and ICC 700 National Green Building Standard. A Development may qualify for no more than ~~four~~two (2) points total under this clause.

~~(I) Limited Green Amenities (2 points). The items listed in subclauses (I) —(IV) of this clause constitute the minimum requirements for demonstrating green building of multifamily Developments. Six (6) of the twenty-two (22) items listed under items (a) —(v) of this subclause must be met in order to qualify for the maximum number of two (2) points under this subclause;~~

~~(a) a rain water harvesting/collection system and/or locally approved greywater collection system;~~

~~(b) newly installed native trees and plants that minimize irrigation requirements and are appropriate to the Development Site's soil and microclimate to allow for shading in the summer and heat gain in the winter. For Rehabilitation Developments this would be applicable to new landscaping planned as part of the scope of work;~~

~~(c) water conserving fixtures that meet the EPA's WaterSense Label. Such fixtures must include low-flow or high efficiency toilets, bathroom lavatory faucets, and showerheads. Rehabilitation Developments may install WaterSense faucet aerators (minimum of 30% more efficient) instead of replacing the entire faucets;~~

~~(d) Energy Star qualified water heaters or install those that are part of an overall Energy Star efficient system;~~

- ~~(c) install individual or sub-metered utility meters for electric and water. Rehabilitation Developments may claim sub-meter only if not already sub-metered at the time of Application;~~
- ~~(f) healthy finish materials including the use of paints, stains, and sealants consistent with the Green Seal 11 standard or other applicable Green Seal standard;~~
- ~~(g) install daylight sensor, motion sensors or timers on all exterior lighting and install fixtures that include automatic switching on timers or photocell controls for all lighting not intended for 24-hour operation or required for security;~~
- ~~(h) recycling service (includes providing a storage location and service for pick-up) provided throughout the Compliance Period;~~
- ~~(i) construction waste management system provided by contractor that meets LEEDs minimum standards;~~
- ~~(j) for Rehabilitation Developments clothes dryers vented to the outside;~~
- ~~(k) for Developments with 41 units or less, at least 25% by cost FSC certified salvaged wood products;~~
- ~~(l) locate water fixtures within 20 feet of water heater;~~
- ~~(m) drip irrigate at non-turf areas;~~
- ~~(n) radiant barrier decking for New Construction Developments or other "cool" roofing materials (documentation must be submitted that substantiates the "cool" roofing materials used are durable and that there are energy savings associated with them);~~
- ~~(o) permanent shading devices for windows with solar orientation (does not include solar screens, but may include permanent awnings, fixed overhangs, etc.);~~
- ~~(p) Energy Star certified insulation products (For Rehabilitation Developments, this would require installation in all places where insulation could be installed, regardless of whether the area is part of the scope of work);~~
- ~~(q) full cavity spray foam insulation in walls;~~
- ~~(r) Energy Star rated windows;~~
- ~~(s) FloorScore certified vinyl flooring, Green Label certified carpet, or resilient flooring;~~
- ~~(t) sprinkler system with rain sensors;~~
- ~~(u) NAUF (No Added Urea Formaldehyde) cabinets;~~
- ~~(v) Solar screens on all windows (north-facing windows may exclude solar screens if north-facing operable windows provide insect screens).~~

(II) Enterprise Green Communities ~~(4 points)~~. The Development must incorporate all mandatory and optional items applicable to the

construction type (i.e. New Construction, Rehabilitation, etc.) as provided in the most recent version of the Enterprise Green Communities Criteria found at <http://www.greencommunitiesonline.org>.

(III) LEED ~~(4 points)~~. The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a LEED Certification, regardless of the rating level achieved (i.e., Certified, Silver, Gold or Platinum).

(III~~V~~) ICC 700 National Green Building Standard ~~(4 points)~~. The Development must incorporate, at a minimum, all of the applicable criteria necessary to obtain a NAHB Green Certification, regardless of the rating level achieved (i.e. Bronze, Silver, Gold, or Emerald).

(6) Unit Requirements.

(A) Unit Sizes. Developments proposing New Construction or Reconstruction will be required to meet the minimum sizes of Units as provided in clauses (i) - (v) of this subparagraph. These minimum requirements are not associated with any selection criteria. Developments proposing Rehabilitation (excluding Reconstruction) or Supportive Housing Developments will not be subject to the requirements of this subparagraph.

- (i) five hundred (500) square feet for an Efficiency Unit;
- (ii) six hundred (600) square feet for a one Bedroom Unit;
- (iii) eight hundred (800) square feet for a two Bedroom Unit;
- (iv) one thousand (1,000) square feet for a three Bedroom Unit; and
- (v) one thousand, two-hundred (1,200) square feet for a four Bedroom Unit.

(B) Unit and Development Construction Features. Housing Tax Credit Applicants may select amenities for the score of an Application under this section, but must maintain the points associated with those amenities by maintaining the amenity selected or providing substitute amenities with equal or higher point values. Tax-Exempt Bond Developments must include enough amenities to meet a minimum of seven (7) points. Direct Loan Applications not layered with Housing Tax Credits must include enough amenities to meet a minimum of four (4) points. The amenity shall be for every Unit at no extra charge to the tenant. The points selected at Application and corresponding list of amenities will be required to be identified in the LURA, and the points selected at Application must be maintained throughout the Affordability Period. Applications involving scattered site Developments must have a specific amenity located within each Unit to count for points. Rehabilitation Developments will start with a base score of three (3) points and Supportive Housing Developments will start with a base score of five (5) points.

- (i) Covered entries (0.5 point);
- (ii) Nine foot ceilings in living room and all bedrooms (at minimum) (0.5 point);
- (iii) Microwave ovens (0.5 point);

- (iv) Self-cleaning or continuous cleaning ovens (0.5 point);
- (v) Refrigerator with icemaker (0.5 point);
- (vi) Storage room or closet, of approximately 9 square feet or greater, separate from and in addition to bedroom, entryway or linen closets and which does not need to be in the Unit but must be on the property site (0.5 point);
- (vii) Energy-Star qualified laundry equipment (washers and dryers) for each individual Unit; must be front loading washer and dryer in required accessible Units (2 points);
- (viii) Covered patios or covered balconies (0.5 point);
- (ix) Covered parking (~~including~~ may be garages or carports, attached or freestanding) and include ~~of~~ at least one covered space per Unit (1.5 points);
- (x) 14 SEER HVAC (or greater) or for Rehabilitation (excluding Reconstruction) where such systems are not being replaced as part of the scope of work, a radiant barrier in the attic is provided (1.5 points);
- (xi) High Speed Internet service to all Units (can be wired or wireless; required equipment for either must be provided) (1 point);
- ~~(xii) Built-in (recessed into the wall) computer nook (0.5 point);~~
- (xiii) Built-in (recessed into the wall) shelving unit (0.5 point);
- ~~(xiii) Recessed or track LED lighting in kitchen and living areas (1 point);~~
- (xiv) Thirty (30) year ~~shingle or metal~~ roofing (~~excludes Thermoplastic Polyolefin (TPO) roofing material~~) (0.5 point);
- (xv) Greater than 30 percent stucco or masonry (includes stone, cultured stone, and brick but excludes cementitious and metal siding) on all building exteriors; the percentage calculation may exclude exterior glass entirely (2 points);
- (xvi) Breakfast Bar (a space, generally between the kitchen and dining area, that includes an area for seating although actual seating such as bar stools does not have to be provided) (0.5 points); and
- (xvii) Walk-in closet in master bedroom (0.5 points).

(7) Tenant Supportive Services. The supportive services include those listed in subparagraphs (A) - (Z) of this paragraph. Tax Exempt Bond Developments must select a minimum of eight (8) points; Direct Loan Applications not layered with Housing Tax Credits must include enough services to meet a minimum of four (4) points. The points selected and complete list of supportive services will be included in the LURA and the timeframe by which services are offered must be in accordance with §10.619 of this chapter (relating to Monitoring for Social Services) and maintained throughout the Affordability Period. The Owner may change, from time to time, the services offered; however, the overall points as selected at Application must remain the same. The services provided should be those that will directly benefit the Target Population of the Development. Tenants must be provided written notice of the elections made by the Development Owner. No fees may be charged to the tenants for any of the services, there

must be adequate space for the intended services and services offered should be accessible to all (*e.g.* exercises classes must be offered in a manner that would enable a person with a disability to participate). Services must be provided on-site or transportation to those off-site services identified on the list must be provided. The same service may not be used for more than one scoring item. These services are intended to be provided by a qualified and reputable provider in the specified industry such that the experience and background of the provider demonstrates sufficient knowledge to be providing the service. In general, on-site leasing staff or property maintenance staff would not be considered a qualified provider. Where applicable, the services must be documented by a written agreement with the provider.

- (A) partnership with local law enforcement to provide quarterly on-site social and interactive activities intended to foster relationships with residents (such activities could include playing sports, having a cook-out, swimming, card games, etc.) (3 points);
- (B) weekday character building program (shall include at least on a monthly basis a curriculum based character building presentation on relevant topics, for example teen dating violence, drug prevention, bullying, teambuilding, internet/social media dangers, stranger danger, etc.) (2 points);
- (C) daily transportation such as bus passes, cab vouchers, specialized van on-site (4 points);
- (D) Food pantry consisting of an assortment of non-perishable food items and common household items (i.e. laundry detergent, toiletries, etc.) accessible to residents at least on a monthly basis or upon request by a tenant. While it is possible that transportation may be provided to a local food bank to meet the requirement of this tenant service, the tenant must not be required to pay for the items they receive at the food bank (1 point);
- (E) GED preparation classes (shall include an instructor providing on-site coursework and exam) (2 points);
- (F) English as a second language classes (shall include an instructor providing on-site coursework and exam) (1 point);
- (G) quarterly financial planning courses (i.e. homebuyer education, credit counseling, investing advice, retirement plans, etc.). Courses must be offered through an on-site instructor; a CD or online course is not acceptable (1 point);
- (H) annual health fair provided by a health care professional(1 point);
- (I) quarterly health and nutritional courses (1 point);
- (J) organized youth programs or other recreational activities such as games, movies or crafts offered by the Development (1 point);
- (K) scholastic tutoring (shall include daily (Monday – Thursday) homework help or other focus on academics) (3 points);
- (L) Notary Services during regular business hours (§2306.6710(b)(3)) (1 point);
- (M) weekly exercise classes (offered at times when most residents would be likely to attend) (2 points);

- (N) twice monthly arts, crafts, and other recreational activities (*e.g.* Book Clubs and creative writing classes) (2 points);
- (O) annual income tax preparation (offered by an income tax prep service) or IRS-certified VITA (Volunteer Income Tax Assistance) program (offered by a qualified individual) (1 point);
- (P) monthly transportation to community/social events such as mall trips, community theatre, bowling, organized tours, etc. (1 point);
- (Q) twice monthly on-site social events (i.e. potluck dinners, game night, sing-a-longs, movie nights, birthday parties, etc.) (1 point);
- (R) specific case management services offered by a qualified Owner or Developer, qualified provider or through external, contracted parties for seniors, Persons with Disabilities or Supportive Housing (2 points);
- (S) weekly home chore services (such as valet trash removal, assistance with recycling, furniture movement, etc., and quarterly preventative maintenance including light bulb replacement) for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (T) any of the programs described under Title IV-A of the Social Security Act (42 U.S.C. §§601, et seq.) which enables children to be cared for in their homes or the homes of relatives; ends the dependence of needy families on government benefits by promoting job preparation, work and marriage; prevents and reduces the incidence of unplanned pregnancies; and encourages the formation and maintenance of two-parent families (1 point);
- (U) contracted career training and placement partnerships with local worksorce offices, culinary programs, or vocational counseling services; also resident training programs that train and hire residents for job opportunities inside the development in areas like leasing, tenant services, maintenance, landscaping, or food and beverage operation (2 points);
- (V) external partnerships for provision of weekly substance abuse meetings at the Development Site (2 points);
- (W) contracted onsite occupational or physical therapy services for Elderly Developments or Developments where the service is provided for Persons with Disabilities and documentation to that effect can be provided for monitoring purposes (2 points);
- (X) a full-time resident services coordinator with a dedicated office space at the Development (2 points);
- (Y) a resident-run community garden with annual soil preparation and mulch provided by the Owner and access to water (1 point); and
- (Z) Development Sites located within a one mile radius of one of the following can also qualify for one (1) point provided they also have a referral process in place and provide transportation to and from the facility:

- (i) Facility for treatment of alcohol and/or drug dependency;
- (ii) Facility for treatment of PTSD and other significant psychiatric or psychological conditions;
- (iii) Facility providing therapeutic and/or rehabilitative services relating to mobility, sight, speech, cognitive, or hearing impairments; or
- (iv) Facility providing medical and/or psychological and/or psychiatric assistance for persons of limited financial means.

(8) Development Accessibility Requirements. All Developments must meet all specifications and accessibility requirements as identified in subparagraphs (A) - (C) of this paragraph and any other applicable state or federal rules and requirements. The accessibility requirements are further identified in the Certification of Development Owner as provided in the Application.

(A) The Development shall comply with the accessibility requirements under Federal law and as further defined in Chapter 1, Subchapter B of this title (relating to Accessibility Requirements). (§§2306.6722; 2306.6730)

(B) Regardless of building type, all Units accessed by the ground floor or by elevator (“affected units”) must comply with the visitability requirements in clauses (i) – (iii) of this subparagraph. Design specifications for each item must comply with the standards of the Fair Housing Act Design Manual. Buildings occupied for residential use on or before March 13, 1991 are exempt from this requirement.

(i) All common use facilities must be in compliance with the Fair Housing Design Act Manual;

(ii) There must be an accessible or exempt route, as provided for in the Fair Housing Design Act Manual, from common use facilities to the affected units;

(iii) Each affected unit must include the features in subclauses (a) – (e) of this clause.

(a) at least one zero-step, accessible entrance;

(b) at least one visitable bathroom or half-bath with toilet and sink on the entry level. The layout of this bathroom or half-bath must comply with one of the specifications set forth in the Fair Housing Act Design Manual;

(c) the bathroom or half-bath must have the appropriate blocking relative to the toilet for the later installation of a grab bar, if ever requested by the tenant of that Unit;

(d) there must be an accessible route from the entrance to the bathroom or half-bath, and the entrance and bathroom must provide usable width; and

(e) light switches, electrical outlets, and thermostats on the entry level must be at accessible heights. ~~New Construction (excluding New Construction of~~

~~non-residential buildings) Developments where some Units are normally exempt from Fair Housing accessibility requirements, a minimum of 20% of each Unit Type (i.e., one bedroom one bath, two bedroom one bath, two bedroom two bath, three bedroom two bath) of otherwise exempt units (i.e. single family residence, duplexes, triplexes, and townhomes) must provide an accessible entry level and all common-use facilities in compliance with the Fair Housing Guidelines, and include a minimum of one bedroom and one bathroom or powder room at the entry level.~~

(C) The Development Owner is and will remain in compliance with state and federal laws, including but not limited to, fair housing laws, including Chapter 301, Property Code, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), the Fair Housing Amendments Act of 1988 (42 U.S.C. §§3601 et seq.); the Civil Rights Act of 1964 (42 U.S.C. §§2000a et seq.); the Americans with Disabilities Act of 1990 (42 U.S.C. §§12101 et seq.); the Rehabilitation Act of 1973 (29 U.S.C. §§701 et seq.); Fair Housing Accessibility; the Texas Fair Housing Act; and that the Development is designed consistent with the Fair Housing Act Design Manual produced by HUD, and the Texas Accessibility Standards. (§2306.257; §2306.6705(7))

(D) All Applications proposing Rehabilitation (including Reconstruction) will be treated as substantial alteration~~Substantial Alteration~~, in accordance with Chapter 1, Subchapter B of this title (relating to Section 504 of the Rehabilitation Act of 1973 and the Fair Housing Act).