

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

TDHCA Governing Board Approved Rule Action for

10 TAC §1.15, Integrated Housing Rule

Disclaimer

Attached is a rule action relating to 10 TAC §1.15, Integrated Housing Rule, that was approved by the TDHCA Governing Board on January 16, 2025.

This rule will be released for public comment and returned to the Board for final adoption.

This document, including its preamble, is expected to be published in the January 31 2025, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>.

In compliance with §2001.023, Texas Government Code, a summary of the rule and action follows:

Tex. Gov't Code §2306.111(g) directs that the Department's funding priorities should provide that funds be awarded, when feasible, based on a project's ability to provide integrated affordable housing. The related rule at 10 TAC §1.15 ensures that housing developments that are subject to the rule do not restrict occupancy solely to households with disabilities, with a maximum integration limit dependent on the size of the housing development. The current rule was last amended in March 2021. Changes include updates to references and minor technical corrections.

Public Comment

Public Comment Period: Start: 8:00 a.m. Austin local time on January 31, 2025

End: 5:00 p.m. Austin local time on March 4, 2025

Comments received after 5:00 p.m. Austin local time on March 4, 2025, will not be accepted.

Written comments may be submitted, within the designated public comment period to:

brooke.boston@tdhca.state.tx.us

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

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

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

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Departamento de Vivienda y Asuntos Comunitarios de Texas

Acción reglamentaria aprobada por la Junta Directiva del TDHCA respecto a

la sección [§] 1.15 [“Regla de vivienda integrada”] del título 10 del Código Administrativo de Texas (TAC)

Exención de responsabilidad

Se adjunta una acción reglamentaria relacionada con la sección [§] 1.15 [“Regla de vivienda integrada”] del título 10 del Código Administrativo de Texas (TAC), que recibió aprobación por parte de la Junta Directiva del Departamento de Vivienda y Asuntos Comunitarios (TDHCA) el 16 de enero de 2025.

Esta regla se publicará para someterse a comentarios del público y se devolverá a la Junta para su adopción final.

Se espera que este documento, incluyendo su preámbulo, se publique en la edición del *Texas Register* del 31 de enero de 2025. Esa versión publicada constituirá la versión oficial para fines de comentarios públicos y se puede encontrar en el siguiente enlace: <https://www.sos.texas.gov/texreg/index.shtml>.

De conformidad con la sección [§] 2001.023 del Código de Gobierno de Texas, se presenta a continuación un resumen de la regla y de la acción:

La sección [§] 2306.111(g) del Código de Gobierno de Texas ordena que las prioridades de financiación del Departamento deben disponer que los fondos se adjudiquen, cuando sea posible, en función de la capacidad de un proyecto para ofrecer viviendas económicas integradas. La regla relacionada en la sección [§] 1.15 del título 10 del Código Administrativo de Texas (TAC) garantiza que las urbanizaciones que están sujetas a la regla no restrinjan la ocupación de manera exclusiva a grupos familiares que tengan integrantes con discapacidades, con un límite máximo de integración que depende del tamaño de la urbanización. La regla actual se modificó por última vez en marzo de 2021. Los cambios incluyen actualizaciones de referencias y correcciones técnicas menores.

Comentarios del público

Periodo de comentarios del público: Inicio: 8:00 a. m., hora local de Austin, del 31 de enero de 2025

Finalización: 5:00 p. m., hora local de Austin, del 4 de marzo de 2025

No se aceptarán los comentarios que se reciban después de las 5:00 p. m., hora local de Austin, del 4 de marzo de 2025.

Los comentarios por escrito pueden enviarse de manera electrónica dentro del período designado de comentarios del público a brooke.boston@tdhca.state.tx.us.

Se anima a quienes formulen comentarios públicos a que hagan referencia al borrador de la regla, política o plan específico relacionado con su comentario, así como una referencia o cita específica asociada a cada comentario. Tenga en cuenta que todos los comentarios enviados al TDHCA se considerarán información pública.

DEPARTAMENTO DE VIVIENDA Y ASUNTOS COMUNITARIOS DE TEXAS

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Attachment 1: Preamble, including required analysis, for proposed repeal of 10 TAC §1.15, Integrated Housing Rule

The Texas Department of Housing and Community Affairs (the Department) proposes the repeal of 10 TAC §1.15, Integrated Housing Rule. The purpose of the proposed repeal is to include updates to references and make minor technical corrections.

Tex. Gov't Code §2001.0045(b) does not apply to the rule proposed for action because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the repeal would be in effect:

1. The repeal does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to integrated housing for recipients of Department funds.
2. The repeal does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The repeal does not require additional future legislative appropriations.
4. The repeal will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The repeal is not creating a new regulation, except that it is being replaced by a new rule simultaneously to provide for revisions.
6. The repeal will not expand, limit, or repeal an existing regulation.
7. The repeal will not increase or decrease the number of individuals subject to the rule's applicability.
8. The repeal will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the repeal and determined that the repeal will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The repeal does not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the repeal as to its possible effects on local economies and has determined that for the first five years the repeal would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of the changed section would be an updated and more germane rule. There will not be economic costs to individuals required to comply with the repealed section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the repeal is in effect, enforcing or administering the repeal does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

STATUTORY AUTHORITY. The repeal is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the repeal affects no other code, article, or statute.

10 TAC §1.15, Integrated Housing Rule

Attachment 2: Preamble, including required analysis, for proposed new 10 TAC §1.15, Integrated Housing Rule

The Texas Department of Housing and Community Affairs (the Department) proposes new 10 TAC §1.15, Integrated Housing Rule. The purpose of the proposed repeal is to include updates to references and make minor technical corrections.

Tex. Gov't Code §2001.0045(b) does not apply to the rule because it was determined that no costs are associated with this action, and therefore no costs warrant being offset.

The Department has analyzed this rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson has determined that, for the first five years the new section would be in effect:

1. The new section does not create or eliminate a government program but relates to changes to an existing activity: requirements relating to integrated housing for recipients of Department funds.
2. The new section does not require a change in work that would require the creation of new employee positions, nor are the rule changes significant enough to reduce work load to a degree that eliminates any existing employee positions.
3. The new section does not require additional future legislative appropriations.
4. The new section will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The new section is not creating a new regulation, except that they are replacing sections being repealed simultaneously to provide for revisions.
6. The new section will not expand, limit, or repeal an existing regulation.
7. The new section will not increase or decrease the number of individuals subject to the rule's applicability.
8. The new section will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002.

The Department has evaluated the new section and determined that it will not create an economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The new section does not contemplate nor authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6).

The Department has evaluated the new section as to its possible effects on local economies and has determined that for the first five years the new section would be in effect there would be no economic effect on local employment; therefore, no local employment impact statement is required to be prepared for the rule.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has determined that, for each year of the first five years the new section is in effect, the public benefit anticipated as a result of the new section would be a more current and germane rule. There will not be economic costs to individuals required to comply with the new section.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the new section is in effect, enforcing or administering the section does not have any foreseeable implications related to costs or revenues of the state or local governments.

REQUEST FOR PUBLIC COMMENT. The public comment period will be held January 31, 2025 through March 4, 2025, to receive input on the proposed action. Comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston at brooke.boston@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, March 4, 2025.

STATUTORY AUTHORITY. The new section is made pursuant to Tex. Gov't Code §2306.053, which authorizes the Department to adopt rules. Except as described herein the new sections affects no other code, article, or statute.

10 TAC §1.15, Integrated Housing Rule

(a) Purpose. It is the purpose of this section to provide a standard by which Developments funded by the Department offer an integrated housing opportunity for Households with Disabilities. This rule is authorized by Tex. Gov't Code, §2306.111(g) that promotes projects that provide integrated affordable housing.

(b) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Capitalized words used herein have the meaning assigned in the specific Chapters and Rules of this Part that govern the program associated with the funded or awarded Development, or assigned by federal or state law.

(2) Households with Disabilities--A Household composed of one or more persons, at least one of whom is an individual who is determined to have a physical or mental impairment that substantially limits one or more major life activities; or having a record of such an impairment; or being regarded as having such an impairment. Included in this meaning is the term handicap as defined in the Fair Housing Act or disability as defined by other applicable federal or state law.

(3) Integrated Housing--Living arrangements typical of the general population. Integration is achieved when Households with Disabilities have the option to choose housing units that are located among units that are not reserved or set aside for Households with Disabilities. Integrated Housing is distinctly different from assisted living facilities/arrangements.

(4) Unit--has the meaning in §11.1(d)Chapter 11 of this title, or of Single Family HousingDwelling Unit in §20.3Chapter 20 of this title, or Dwelling Unit in §7.2Chapter 7 of this title, or as determined by the applicable funding source or funding announcement.

(c) Applicability. This rule applies to:

(1) All Multifamily Developments subject to Chapter 11 of this title, Chapter 12 of this title (relating to Multifamily Housing Revenue Bond Rules), and Chapter 13 of this title (relating to Multifamily Direct Loan Rule), with the exclusion of Transitional Housing Developments;

(2) Single Family Developments subject to Chapter 23, Subchapter F, Single Family Development Program, of this title (relating to Single Family HOME Program), §7.3 of this title, or done with Neighborhood Stabilization Program funds, with the exclusion of Shelters, Transitional Housing, and Scattered-site developments, meaning one to four family dwellings located on sites that are on non-adjacent lots, with no more than four units on any one site; and

(3) Only the restrictions or set asides placed on Units through a Contract, LURA, or financing source that limits occupancy to Persons with Disabilities. This rule does not prohibit a Development from having a higher percentage of actual occupants who are Persons with Disabilities.

(4) Previously awarded Multifamily Developments that would no longer be compliant with this rule are not considered to be in violation of the percentages described in subsection (d)(2) or subsection (d)(3) of this section if the award is made prior to September 1, 2018, and the restrictions or set asides were already on the Development or adopted in the Application for the Development.

(d) Integrated Housing Standard. Units exclusively set aside or containing a preference for Households with Disabilities must be dispersed throughout a Development.

(1) A Development may not market or restrict occupancy solely to Households with Disabilities unless required by a federal funding source.

(2) Developments with 50 or more Units shall not exclusively set aside more than 25% of the total Units in the Development for Households with Disabilities.

(3) Developments with fewer than 50 Units shall not exclusively set aside more than 36% of the Units in the Development for Households with Disabilities.

(e) Board Waiver. The Board may waive the requirements of this rule if the Board can affirm that the waiver of the rule is necessary to serve a population or subpopulation that would not be adequately served without the waiver, and that the Development, even with the waiver, does not substantially deviate from the principle of Integrated Housing.