

ORDINANCE 2020-06-25-0453

REQUIRING LANDLORDS AND PROPERTY OWNERS TO PROVIDE TENANTS WITH A NOTICE OF TENANT RIGHTS UPON DELIVERY OF A NOTICE TO VACATE FOR NON-PAYMENT OF RENT; PROVIDING A PENALTY NOT TO EXCEED \$500; AND PROVIDING AN EFFECTIVE DATE.

* * * * *

WHEREAS, when a property owner or landlord delivers a notice to vacate for non-payment of rent, the tenant should be provided with information that educates the tenant regarding the eviction process before the tenant loses housing and their ability to remain in the housing unit until a Writ of Possession has been presented to the tenant; and

WHEREAS, a tenant who receives a notice to vacate for non-payment should be provided with information that educates them as to how the eviction process is conducted and that they do not have to immediately move; and

WHEREAS, establishing a requirement for an information sheet to be provided to a tenant when a Notice to Vacate for Non-Payment of rent is delivered will help educate tenants and may enable landlords and tenants to work collaboratively to permit tenants to remain in their homes while at the same time ensuring landlords will maintain a level of revenue that will permit them to continue to provide housing options for tenants, which is a matter of public health, safety, and welfare; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. If a residential tenant fails to timely pay rent and a landlord delivers to the tenant a Notice to Vacate for Non-Payment of Rent, a landlord shall provide the tenant a Notice of Tenant Rights within one (1) business day of the date of delivery of the Notice to Vacate for Non-Payment of Rent. A copy of the required Notice of Tenant Rights is attached as **Exhibit 1** and incorporated into this ordinance.

SECTION 2. The Notice of Tenant Rights shall be delivered to the tenant by any of the following methods: personal in hand delivery, affixing to the inside or outside of the main entry door, text message, e-mail, overnight courier or USPS mail.

SECTION 3. NO EXCUSE FROM THE PAYMENT OF RENT OR FEES.

Nothing in this ordinance should be construed as relieving a tenant from the requirement to timely pay rent or fees under a lease or as having any effect on the eviction process.

SECTION 4. NOTICES TO VACATE FOR OTHER THAN NON-PAYMENT OF RENT OR OTHER FEES

The requirement to provide a Notice of Tenant Rights does not apply where a landlord delivers a Notice to Vacate other than for non-payment of rent or other fees.

SECTION 5. VOLUNTARY MEDIATION.

The City encourages landlords and tenants to attempt to resolve issues regarding non-payment of rent and other fees and to utilize settlement conferences that may be encouraged by the justice court. This section does not impose a mandatory requirement that landlords and tenants participate in discussions.

SECTION 6. ADMINISTRATIVE ADJUDICATION HEARING.

The jurisdiction of administrative hearing officers set out in Section 20-102 of the City code is amended by adding the following subsection at 20-102 (a) (7) as follows:

- (7) Relating to the provision of Notices of Tenant Rights by landlords and property owners to tenants in residential rental units who have received a Notice to Vacate for Non-Payment of Rent as set out in Section 16-6 of the City Code.

SECTION 7. OFFENSE AND PENALTY.

The City Code for the City of San Antonio is hereby amended by adding the following language in Chapter 16, Section 16-6:

Section 16-6. Notice of Tenant Rights

- (a) If a residential tenant fails to timely pay rent and a landlord delivers to the tenant a Notice to Vacate for Non-Payment of Rent, a landlord shall provide the tenant a Notice of Tenant Rights within one (1) business day of the date of delivery of the Notice to Vacate for Non-Payment of Rent.
- (b) A property owner or landlord who, individually or through an agent or representative intentionally, knowingly, recklessly, or negligently violates this ordinance shall be given one warning. After the first violation and receipt of a warning, a property owner who, individually or through an agent or representative intentionally, knowingly, recklessly, or negligently violates this ordinance shall, consistent with the judicial procedure laid out in Section 20-104 *et seq.* of the City Code (Administrative Adjudication Hearings) and as the sole remedy for the violation, be fined an amount not more than five hundred dollars (\$500.00). Nothing herein shall create a private cause of action for the failure to deliver a Notice of Tenant Rights.
- (c) A complaint alleging a violation of this section must be reported within ninety (90) days from the date of the violation.
- (d) It shall be a defense to prosecution:
 - i. that the eviction proceedings were instituted against a tenant when the tenant, members of the tenant's household, or guests breached the terms of the lease other than for non-payment of rent or fees; or
 - ii. delivery of a prior version of the Notice of Tenant's Rights unless the property owner has received a warning for delivery of an obsolete version of the Notice of Tenant's Rights.
- (e) A notation on a copy of the Notice of Tenant Rights shall be prima facie evidence of the manner of its delivery.

SECTION 8. AMENDMENTS TO EXHIBIT 1 – NOTICE OF TENANT RIGHTS.

Exhibit 1 – Notice of Tenant Rights is hereto attached in substantially final form. The City Manager or their designee, in consultation with the City Attorney, has the authority to make non-substantive changes to Exhibit 1 without City Council approval limited to spelling, punctuation, grammar, syntax, contact information, agencies identified to provide rental payment assistance, or changes to the eviction process as prescribed by state law.

SECTION 9. SEVERABILITY.

If any subsection, sentence, clause, phrase, or word of these regulations or any application of them to any person, structure, gathering, or circumstance is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, then such decision will not affect the validity of the remaining portions or applications of these regulations.

SECTION 10. The City Clerk is directed to publish public notice of this ordinance in accordance with Section 17 of the City Charter of San Antonio, Texas.


SECTION 11. The publishers of the City Code of San Antonio, Texas are authorized to amend said code to reflect the changes adopted herein and to correct typographical errors and to index, format and number paragraphs to conform to the existing code.

SECTION 12. Penalties provided for in this Ordinance shall be effective five days after publication by the City Clerk.

SECTION 13. EFFECTIVE DATE.

This Ordinance is effective immediately upon passage (or after ten (10) days if less than eight (8) votes are received), and enforcement of this Ordinance shall begin thirty (30) days after its passage. This Ordinance shall not apply to any Notices to Vacate for Non-Payment of Rent delivered prior to the effective date of this ordinance.


PASSED AND APPROVED this 25th day of June, 2020.


M A Y O R
Ron Nirenberg

ATTEST:


Tina Flores, Acting City Clerk

APPROVED AS TO FORM:


Andrew Segovia, City Attorney



City of San Antonio

City Council

June 25, 2020

Item: 13

Enactment Number:

File Number: 20-3692

2020-06-25-0453

Ordinance requiring a landlord or property manager to provide an information sheet to a tenant when a Notice to Vacate for Non-Payment of rent is delivered. [Lori Houston, Assistant City Manager; Verónica R. Soto, Director, Neighborhood and Housing Services]

Councilmember John Courage made a motion to approve. Councilmember Ana E. Sandoval seconded the motion. The motion passed by the following vote:

Aye: 11 Nirenberg, Treviño, Andrews-Sullivan, Viagran, Rocha Garcia, Gonzales, Cabello Havrda, Sandoval, Pelaez, Courage and Perry

EXHIBIT 1

NOTICE OF TENANT RIGHTS

Your Rights & Resources After Receiving a Notice to Vacate For Non Payment of Rent

The City of San Antonio requires that we deliver this information to you.

You should know:

- **The Notice to Vacate is not an eviction.** It is only the first step in the eviction process and does not mean you must move out immediately. You still have time to resolve the issue. You do not need to leave your dwelling right now and should not move without talking to your landlord first.
- **Learn more about your rights & next steps.** Refer to this self-help legal information provided by Bexar County:
<https://www.bexar.org/DocumentCenter/View/22596/Self-Help-Legal-Information-Packet-When-an-Eviction-Case-Has-Been-Filed-Against-You-PDF>

Steps you can take now:

- **Contact your landlord right away to try to work out a payment arrangement.** Payment arrangements should be in writing and signed by both you and your landlord.
- **There is help.** If you need help, there are resources available to you:
 - **Questions about your rights and resources:** Please call 210-207-5910 (City of San Antonio)
 - **Help with paying rent, utilities, fees and, if needed, moving costs:**
 - i. **City of San Antonio:** Call 210-207-5910 or visit: www.sanantonio.gov/emergencyhousingassistance.
 - ii. **Guadalupe Community Center:** Call 210-226-6178

Funding for rental and utility assistance is limited.

What can happen after you receive a Notice to Vacate?

After the Notice to Vacate has been delivered, the landlord may file a suit in a Justice Court. The Justice Court will set a date for the hearing which is usually within 21 days of the filing. The Court will notify you in writing of the date you must appear.

You may appear at the hearing and defend your rights. The court will hear the case and issue a decision. If you do not appear, a judge may conclude that you do not oppose the eviction and issue judgment for the landlord. You have the right to appeal.

If you can work out an agreement with your landlord before the eviction hearing begins, show the court the agreement. The landlord will usually dismiss the case if you pay everything due before the hearing.

If you do not move or file an appeal within five days the hearing, the landlord can request a Writ of Possession from the Court. A 24-hour notice will be posted on your door before the Writ of Possession is carried out by removing you and your personal belongings from your residence.

Remember that you have options and there are people who can help you.

It is a good idea to communicate with your landlord during the entire process to work out an agreement. There are City, County, or community services designed to help.

Name of Resident: _____

Address/Unit: _____

Date of Delivery: _____

Manner of Delivery: _____

Sus derechos y recursos cuando recibe un aviso de desalojo por falta de pago de la renta

La Ciudad de San Antonio requiere que le entreguemos esta información.

Usted debe saber:

El Aviso de desalojo no es un desalojo. Es solo el primer paso en el proceso de desalojo y no significa que deba mudarse de inmediato. Aún tiene tiempo para resolver el problema. No necesita abandonar su vivienda en este momento y no debe mudarse sin hablar primero con el propietario.

- **Obtenga más información sobre sus derechos y los próximos pasos.** Consulte esta información legal de autoayuda proporcionada por el Condado de Bexar:

<https://www.bexar.org/DocumentCenter/View/22596/Self-Help-Legal-Information-Packet-When-an-Eviction-Case-Has-Been-Filed-Against-You-PDF>

Pasos que puede tomar ahora:

- **Comuníquese con su propietario de inmediato para tratar de llegar a un acuerdo de pago.** Los arreglos de pago deben ser por escrito y firmados por usted y su arrendador.
- **Hay ayuda.** Si necesita ayuda, hay recursos disponibles para usted:
 - **Preguntas sobre sus derechos y recursos: llame al 210-207-5910 (Ciudad de San Antonio)**
 - **Ayuda para pagar el alquiler, los servicios públicos, las tarifas y, si es necesario, los costos de mudanza:**

i. **Ciudad de San Antonio:** Llame al 210-207-5910 visite:
www.sanantonio.gov/emergencyhousingassistance

ii. **Guadalupe Community Center:** llame al 210-226-6178

Los fondos para el alquiler y la asistencia de servicios públicos es limitada.

¿Qué puede suceder después de recibir un aviso de desalojo?

Después de que se haya entregado la Notificación de Desalojo, el propietario puede presentar una demanda en un Tribunal de Justicia. El Tribunal de Justicia fijará una fecha para la audiencia que generalmente es dentro de los 21 días posteriores a la presentación. El Tribunal le notificará por escrito la fecha en que debe presentarse.

Puede presentarse en la audiencia y defender sus derechos. El tribunal escuchará el caso y emitirá una decisión. Si no se presenta, un juez puede concluir que no se opone al desalojo y emitir un fallo para el arrendador. Tiene derecho a apelar.

Si puede llegar a un acuerdo con el propietario antes de que comience la audiencia de desalojo, muéstrela el acuerdo a la corte. El arrendador generalmente desestimaré el caso si usted paga todo lo que debe antes de la audiencia.

Si no se muda o presenta una apelación dentro de los cinco días posteriores a la audiencia, el arrendador puede solicitar una orden de posesión del tribunal. Se publicará un aviso de 24 horas en su puerta antes de que se lleve a cabo la orden de posesión al retirarlo a usted y sus pertenencias personales de su residencia.

Recuerde que tiene opciones y que hay personas que pueden ayudarlo.

Es una buena idea comunicarse con su arrendador durante todo el proceso para llegar a un acuerdo. Hay servicios municipales, del condado o comunitarios diseñados para ayudar.

Nombre del residente: _____

Dirección / Unidad: _____

Fecha de entrega: _____

Forma de entrega: _____