

## ORDINANCE

### **REQUIRING RESIDENTIAL LANDLORDS TO PROVIDE A NOTICE OF PROPOSED EVICTION PRIOR TO A NOTICE TO VACATE A RESIDENTIAL TENANCY AS A RESULT OF THE COVID-19 PANDEMIC; CREATING AN OFFENSE AND PENALTY.**

**WHEREAS**, on March 2<sup>nd</sup>, the City of San Antonio issued the first of five Public Health Emergencies which authorize the City to take any actions necessary to promote health and suppress disease; and

**WHEREAS**, on March 13, 2020, Governor Abbott issued a Declaration of State of Disaster to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Texans; and

**WHEREAS**, the COVID-19 virus is contagious and spreads through person-to-person contact, especially in group settings; and

**WHEREAS**, on March 15, 2020, the Centers for Disease Control and Prevention (“CDC”) recommended that organizers (whether groups or individuals) cancel or postpone in-person events that consist of 50 people or more throughout the United States; and

**WHEREAS**, on March 16, 2020, President Trump acknowledged the gravity of the COVID-19 pandemic, releasing strict new guidelines to limit people’s interactions, including that Americans should avoid groups of more than 10 people; and

**WHEREAS**, on March 19, 2020, Governor Abbott issued Executive Order GA 08 Relating to COVID-19 Preparedness and Mitigation stating people shall avoid social gatherings in groups of more than 10 people and closed all schools until April 3, 2020;

**WHEREAS**, on March 23, 2020, Bexar County issued Executive Order NW-03 which instituted the “Stay Home, Work Safe” measures county-wide to mitigate the effects of this public health emergency and to facilitate a cooperative response; and

**WHEREAS**, on April 27, 2020, the Texas Supreme Court issued its twelfth Emergency Order related to the COVID-19 State of Disaster stating the execution of the writs of possession may not occur until after May 25, 2020; and

**WHEREAS**, on April 29, 2020, the City of San Antonio issued its sixth Declaration of Local Disaster which allows the City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of San Antonio residents; and

**WHEREAS**, in order to comply with City of San Antonio Emergency Order #6 and future emergency orders related to the COVID-19 pandemic, Governor Abbott’s Executive Order, and federal guidance; and to avoid person-to-person contact, individuals may be unable to work, which will impact a tenant’s ability to pay rent, fees, or other charges associated with the tenant’s lease; and

**WHEREAS**, if a tenant is unable to timely pay rent, fees, or other charges related to residential or commercial property because of COVID-19 and therefore loses their ability to maintain housing, such a result is likely to increase person-to-person contact that spreads COVID-19; and

**WHEREAS**, if a landlord provides a proposed notice of eviction, a tenant will have an opportunity to cure overdue rent, fees, or other charges associated with the tenant's lease before the tenant loses housing, which will reduce person-to-person contact with individuals outside of the tenant's household; **NOW THEREFORE:**

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

**SECTION 1.** The City Council finds that the statements contained in the recitals above are true and correct and are incorporated in full and made a part of this ordinance.

**SECTION 2.** The City Council requires that residential landlords provide a notice of proposed eviction prior to a notice to vacate a residential tenancy as a result of the covid-19 pandemic.

**SECTION 3. DEFINITIONS.** In this ordinance, the following definitions apply:

- (1) **DELINQUENT PAYMENT** means rent, fee, or other charge owed under the lease that is not paid timely.
- (2) **IMPACTED TENANT** means a residential tenant and their household, who are authorized by a lease to occupy residential property to the exclusion of others and:
  - (a) loses wages, revenue, or income during the disaster; or
  - (b) incurs delinquent payments as a result of the local disaster.
- (3) **LANDLORD** means a person who rents residential real property to a tenant. This term also includes an owner's agent.
- (4) **LOCAL DISASTER** means the COVID-19 pandemic that is the subject of the Local Disaster Declaration, dated April 29, 2020
- (5) **NOTICE OF PROPOSED EVICTION** means a notice that precedes a notice to vacate in accordance with Texas Property Code Section 24.005(e) and complies with the requirements found in Part 4 of this ordinance.
- (6) **NOTICE TO VACATE** means the statutory notice to vacate required by Texas Property Code Section 24.005 that must precede the filing of an eviction suit.
- (7) **PERSON** means an individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity, but does not include the City.

**SECTION 4. APPLICABILITY.** This ordinance applies to a residential landlord who may evict an impacted tenant because of delinquent payments that occur from the effective date of this ordinance until the 61<sup>st</sup> day after June 15, 2020, except in cases where the landlord has delivered to the tenant a Notice to Vacate pursuant to 24.005.

**SECTION 5. REQUIREMENTS.**

- (A) In cases involving an impacted tenant's failure to pay rent, a residential landlord shall give an impacted tenant a notice of proposed eviction that provides the right of the impacted tenant to respond, which includes curing any delinquent payments, prior to giving an impacted tenant a notice to vacate.
- (B) A notice of proposed eviction must be in writing and shall include the following:
  - (1) a statement that complies with Subsection (E);
  - (2) a right for the impacted tenant to respond, which includes curing any delinquent payments, and:
  - (3) the time period to respond.
- (C) A notice of proposed eviction must be provided to an impacted tenant in a manner that is authorized by Texas Property Code Section 24.005 for a notice to vacate.
- (D) The minimum time period described in Subsection (B)(3) is 60 days.
- (E) The statement must:
  - (1) be in 16-point font, bold typeface, and underlined;
  - (2) be placed at the top of the first page of the notice of proposed eviction; and
  - (3) include the following text: "A NOTICE OF PROPOSED EVICTION AND OPPORTUNITY TO PAY TO AVOID EVICTION – THIS NOTICE DOES NOT EXCUSE YOUR OBLIGATION TO PAY AND YOU CAN BE EVICTED IF YOU FAIL TO PAY BY THE PAYMENT DEADLINE BELOW."
- (F) A notice to vacate that is given prior to the expiration of the time provided in (B)(3) shall have no effect.

**SECTION 6. OFFENSE AND PENALTY.**

- (A) A person commits an offense if the person fails to provide an impacted tenant with a notice of proposed eviction or if the person fails to comply with any other requirement imposed in this ordinance.

- (B) A person who violates this ordinance commits a separate offense for each day the violation continues.
- (C) A culpable mental state is not required for the commission of an offense under this ordinance and need not be proved.
- (D) Each offense is punishable by a fine not to exceed \$500.

**SECTION 7.** It is declared to be the intention of the City Council that the phrases, sentences, paragraphs and sections of this ordinance are severable. If any part of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect the remaining phrases, sentences, paragraphs and sections.

**SECTION 8.** The COVID-19 pandemic and related emergency declarations and orders restricting the operation of various businesses jeopardize San Antonio residents' ability to maintain housing and constitutes an emergency.

**SECTION 9.** This ordinance expires the 61st day after June 15, 2020. Provided, however, the San Antonio City Council can vote to extend the provisions within this ordinance at any time before August 14, 2020.

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

**SECTION 12. EFFECTIVE DATE.** This Ordinance is immediately effective upon passage by eight affirmative votes; otherwise it is effective on the tenth day after passage and shall not apply to any eviction proceedings instituted prior to the effective date of this ordinance, including any notice to vacate given prior to the effective date of this ordinance.

***PASSED AND APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2020.***

**M A Y O R**  
Ron Nirenberg

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Tina Flores, Acting City Clerk

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Andrew Segovia, City Attorney