

Pre-Eviction Notice Ordinance

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Recap: Eviction Process

- Reasons for Eviction
 - *Failure to Pay Rent*
 - *Violation of lease terms*
 - *Illegal activity or unsafe behavior*
- 1. Three day notice to Vacate/Quit
- 2. Forcible Entry and Detainer Suit filed within 21 days in JP Court
- 3. Eviction Hearing in JP Court
- 4. 5 day appeal period for tenant
- 5. Writ of Possession

Current Orders on Evictions

The Texas Supreme Court and Bexar County have suspended **eviction proceedings** until May 18.

JP Courts suspended proceedings until June 1

- Statutory pre-eviction steps can and are continuing, e.g., landlords issuing “notices to vacate”

CARES Act Moratorium on Eviction **Filings**

CARES Act – Temporary Moratorium on Eviction Filings

- Prohibited from filing new actions until July 24, 2020
- Covered properties are those insured, guaranteed, supplemented, protected, or assisted in any way by one of the following:
 - HUD/ Fannie Mae / Freddie Mac
 - the rural housing voucher program, or
 - the Violence Against Women Act of 1994.
- An estimated 50% of San Antonio units are covered
- Landlords prohibited from charging late fees or penalties
- Landlords cannot evict a tenant after the moratorium expires except on 30 days' notice—which may not be given until after the moratorium period

Texas Realtors Association Initiative

Guidance to landlords on how to deal with tenants who are having trouble paying rent due to the COVID-19 pandemic.

- Encourages landlords to act early in making accommodations with tenants who are facing COVID-19 related financial hardship
- Lease Payment Plan Agreement

Pre-Eviction Notice Ordinances For COVID-19 Tenant Relief

City of Austin

- 60 day Pre-Notice
- Commercial / Residential
- Does not stop or prevent an eviction proceeding
- Does not waive or forgive rental obligations
- Effective for 61 days after end of the emergency
- Up to \$500 fine

City of Dallas

- 60 day Pre-Notice
- Residential Only
- Tenant must provide evidence of COVID financial impact
- Does not stop or prevent an eviction proceeding
- Does not waive or forgive rental obligations
- Ends on the last day of the emergency
- Up to \$500 fine

San Antonio Ordinance

- Landlords required to provide a “Notice of Proposed Eviction” to tenants before issuing a Notice to Vacate
- Notice of Proposed Eviction will give tenants who have failed to pay rent 60 days to respond and to cure delinquent payments or reach payment agreement.
- If the landlord and tenant do not reach an agreement during the 60 day period then the landlord may issue a 3-day Notice to Vacate consistent with state law

San Antonio Ordinance

- The 60-day Notice of Proposed Eviction will be required beginning on the effective date of the ordinance
- The requirement to issue the Notice of Proposed Eviction prior to a Notice to Vacate will extend until September 24, 2020
- Failure to comply with the ordinance is a Class C misdemeanor punishable by a fine up to \$500

San Antonio Ordinance

- Applies to residential properties only
- Does not require documentation to show non-payment related to COVID-19
- Does not waive or forgive any accumulated rent, fees, or penalties
- JP Courts will determine whether failure to comply will stop or delay an eviction.
 - *City does not have independent authority to intervene in the eviction process.*

Pre-Eviction Notice Ordinances For COVID-19 Tenant Relief

- Both Austin and Dallas ordinances rely on a provision within the Texas Property Code (Section 24.005(e)):

“If the lease or applicable law requires the landlord to give a tenant an opportunity to respond to a notice of proposed eviction, a notice to vacate may not be given until the period provided for the tenant to respond to the eviction notice has expired.”