

ORDINANCE

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.

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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 Tenants 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's 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.

(c) A notation on a copy of the Notice of Tenants 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. Penalties provided for in this Ordinance shall be effective five days after publication by the City Clerk.

SECTION 12. 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 ____ day of _____, 2020.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Tina Flores, Acting City Clerk

Andrew Segovia, City Attorney

EXHIBIT 1
NOTICE OF TENANT RIGHTS

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