

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE REQUIRING A LANDLORD TO PROVIDE A NOTICE OF PROPOSED EVICTION PRIOR TO A NOTICE TO VACATE AS A RESULT OF THE COVID-19 PANDEMIC; CREATING AN OFFENSE AND PENALTY; AND DECLARING AN EMERGENCY.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1. FINDINGS.** The City Council finds:

- (1) On March 6, 2020, the City of Austin issued a Declaration of Local Disaster that allows the City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Austin residents; and
- (2) 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
- (3) The COVID-19 virus is contagious and spreads through person-to-person contact, especially in group settings; and
- (4) 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
- (5) 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
- (6) 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;
- (7) On March 21, 2020, Mayor Adler issued Order No. 20200321-006 that imposed further requirements on social gatherings and business operations;

- 29 (8) On March 24, 2020, Mayor Adler issued Order No. 20200324-007 that  
30 imposed stay at home/residence requirements on individuals and limited  
31 business operations;
- 32 (9) In order to comply with Order No. 20200321-006, Governor Abbott's  
33 Executive Order, and federal guidance; and to avoid person-to-person  
34 contact, individuals may be unable to work, which will impact a tenant's  
35 ability to pay rent, fees, or other charges associated with the tenant's lease;
- 36 (10) If a tenant is unable to timely pay rent, fees, or other charges related to  
37 residential or commercial property because of COVID-19 and therefore  
38 loses their ability to maintain housing, such a result is likely to increase  
39 person-to-person contact that spreads COVID-19; and
- 40 (11) If a landlord provides a proposed notice of eviction, a tenant will have an  
41 opportunity to cure overdue rent, fees, or other charges associated with the  
42 tenant's lease before the tenant loses housing, which will reduce person-to-  
43 person contact with individuals outside of the tenant's household.

44 **PART 2. DEFINITIONS.** In this ordinance, the following definitions apply:

- 45 (1) **DELINQUENT PAYMENT** means rent, fee, or other charge owed under  
46 the lease that is not paid timely.
- 47 (2) **IMPACTED TENANT** means a person, or a member of their household,  
48 who is authorized by a lease to occupy property to the exclusion of others  
49 and loses wages, revenue, or income during the local disaster.
- 50 (3) **LANDLORD** means a person who rents real property to a tenant. This term  
51 also includes an owner's agent.
- 52 (4) **LOCAL DISASTER** means the COVID-19 pandemic that is the subject of  
53 the Local Disaster Declaration, dated March 6, 2020.
- 54 (5) **NOTICE OF PROPOSED EVICTION** means the notice that precedes a  
55 notice to vacate described in Texas Property Code Section 24.005(e) and  
56 complies with the requirements found in Part 4 of this ordinance.

57 (6) **NOTICE TO VACATE** means the statutory notice to vacate required by  
58 Texas Property Code Section 24.005 that must precede the filing of an  
59 eviction suit.

60 (7) **PERSON** means an individual, corporation, organization, government or  
61 governmental subdivision or agency, business trust, estate, trust, partnership,  
62 association, and any other legal entity, but does not include the City.

63 **PART 3. APPLICABILITY.** This ordinance applies to a landlord who may evict an  
64 impacted tenant because the impacted tenant incurs delinquent payments beginning on  
65 the effective date of this ordinance and ending on May 8, 2020.

66 **PART 4. REQUIREMENTS.**

67 (A) A landlord shall give a tenant a notice of proposed eviction prior to giving an  
68 impacted tenant a notice to vacate.

69 (B) A notice of proposed eviction must be in writing and shall include the  
70 following:

71 (1) a right for the impacted tenant to respond, which includes curing any  
72 delinquent payments, and:

73 (2) the time period to respond.

74 (C) A notice of proposed eviction must be provided to an impacted tenant in a  
75 manner that is authorized by Texas Property Code Section 24.005 for a notice  
76 to vacate.

77 (D) The minimum time period described in Subsection (B)(2) is 60 days.

78 **PART 5. OFFENSE AND PENALTY.**

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

82 (B) A person who violates this ordinance commits a separate offense for  
83 each day the violation continues.

84 (C) A culpable mental state is not required for the commission of an  
85 offense under this ordinance and need not be proved.

86 (D) Each offense is punishable by a fine not to exceed \$500.

87 **PART 6.** It is declared to be the intention of the City Council that the phrases,  
88 sentences, paragraphs and sections of this ordinance are severable. If any part of  
89 this ordinance shall be declared unconstitutional by the valid judgment or decree of  
90 any court of competent jurisdiction, such unconstitutionality shall not affect the  
91 remaining phrases, sentences, paragraphs and sections.

92 **PART 7.** The COVID-19 pandemic and related emergency declarations and orders  
93 restricting the operation of various businesses jeopardize Austin residents' ability  
94 to maintain housing and constitutes an emergency. Because of this emergency,  
95 this ordinance takes effect immediately on its passage for the preservation of the  
96 public peace, health, and safety.

97 **PART 8.** This ordinance expires the 61<sup>st</sup> day after May 8,2020.

98 **PART 9.** This ordinance is effective immediately upon passage due to the  
99 emergency identified in Part 7.

100 **PASSED AND APPROVED**

101  
102 §  
103 §  
104 \_\_\_\_\_, 2020 § \_\_\_\_\_  
105 Steve Adler  
106 Mayor  
107

108  
109 **APPROVED:** \_\_\_\_\_  
110 Anne L. Morgan  
111 City Attorney  
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**ATTEST:** \_\_\_\_\_  
Jannette S. Goodall  
City Clerk