

**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;

- 27 (7) On March 21, 2020, Mayor Adler issued Order No. 20200321-006 that  
28 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:
- 50 (a) loses wages, revenue, or income during the disaster; or
- 51 (b) incurs delinquent payments as a result of the local disaster.
- 52 (3) **LANDLORD** means a person who rents real property to a tenant. This term  
53 also includes an owner's agent.

- 54 (4) **LOCAL DISASTER** means the COVID-19 pandemic that is the subject of  
55 the Local Disaster Declaration, dated March 6, 2020.
- 56 (5) **NOTICE OF PROPOSED EVICTION** means a notice that precedes a  
57 notice to vacate in accordance with Texas Property Code Section 24.005(e)  
58 and complies with the requirements found in Part 4 of this ordinance.
- 59 (6) **NOTICE TO VACATE** means the statutory notice to vacate required by  
60 Texas Property Code Section 24.005 that must precede the filing of an  
61 eviction suit.
- 62 (7) **PERSON** means an individual, corporation, organization, government or  
63 governmental subdivision or agency, business trust, estate, trust, partnership,  
64 association, and any other legal entity, but does not include the City.

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

68 **PART 4. REQUIREMENTS.**

- 69 (A) In cases involving a tenant's failure to pay rent, a landlord shall give an  
70 impacted tenant a notice of proposed eviction that provides the right of the  
71 impacted tenant to respond, which includes curing any delinquent payments,  
72 prior to giving an impacted tenant a notice to vacate.
- 73 (B) A notice of proposed eviction must be in writing and shall include the  
74 following:
- 75 (1) a statement that complies with Subsection (E);
- 76 (2) a right for the impacted tenant to respond, which includes curing any  
77 delinquent payments, and:
- 78 (3) the time period to respond.

- 79 (C) A notice of proposed eviction must be provided to an impacted tenant in a  
80 manner that is authorized by Texas Property Code Section 24.005 for a notice  
81 to vacate.
- 82 (D) The minimum time period described in Subsection (B)(3) is 60 days.
- 83 (E) The statement must:
- 84 (1) be in 16-point font, bold typeface, and underlined;
- 85 (2) be placed at the top of the first page of the notice of proposed eviction;  
86 and
- 87 (3) include the following text: “A NOTICE OF PROPOSED EVICTION  
88 AND OPPORTUNITY TO PAY TO AVOID EVICTION – THIS  
89 NOTICE DOES NOT EXCUSE YOUR OBLIGATION TO PAY AND  
90 YOU CAN BE EVICTED IF YOU FAIL TO PAY BY THE  
91 PAYMENT DEADLINE BELOW.”
- 92 (F) A notice to vacate that is given prior to the expiration of the time provided in  
93 (B)(3) shall have no effect.

94 **PART 5. OFFENSE AND PENALTY.**

- 95 (A) A person commits an offense if the person fails to provide a notice of  
96 proposed eviction or if the person fails to comply with any other  
97 requirement imposed in this ordinance.
- 98 (B) A person who violates this ordinance commits a separate offense for  
99 each day the violation continues.
- 100 (C) A culpable mental state is not required for the commission of an  
101 offense under this ordinance and need not be proved.
- 102 (D) Each offense is punishable by a fine not to exceed \$500.

103 **PART 6.** It is declared to be the intention of the City Council that the phrases,  
104 sentences, paragraphs and sections of this ordinance are severable. If any part of  
105 this ordinance shall be declared unconstitutional by the valid judgment or decree of

106 any court of competent jurisdiction, such unconstitutionality shall not affect the  
107 remaining phrases, sentences, paragraphs and sections.

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

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

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

116 **PASSED AND APPROVED**

117  
118 §  
119 §  
120 \_\_\_\_\_, 2020 § \_\_\_\_\_  
121 Steve Adler  
122 Mayor

123  
124  
125 **APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
126 Anne L. Morgan Jannette S. Goodall  
127 City Attorney City Clerk  
128