

ORDINANCE NO. 20200326-090

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;

- (8) On March 24, 2020, Mayor Adler issued Order No. 20200324-007 that imposed stay at home/residence requirements on individuals and limited business operations;
- (9) In order to comply with Order No. 20200321-006, 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;
- (10) 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
- (11) 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.

PART 2. 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 person, or a member of their household, who is authorized by a lease to occupy 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 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 March 6, 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.

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

PART 4. REQUIREMENTS.

- (A) In cases involving a tenant's failure to pay rent, a 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.

PART 5. OFFENSE AND PENALTY.

- (A) A person commits an offense if the person fails to provide 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.

PART 6. 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.

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

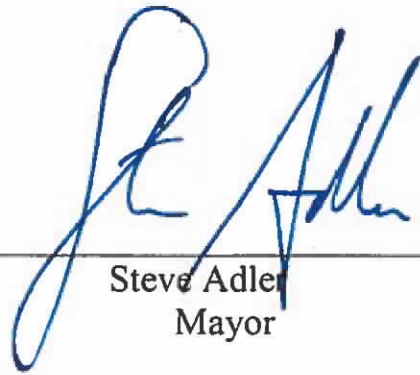
PART 8. This ordinance expires the 61st day after May 8, 2020.

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

PASSED AND APPROVED


March 26, 2020

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Steve Adler
Mayor

APPROVED:


Anne L. Morgan
City Attorney

ATTEST:


Jannette S. Goodall
City Clerk