

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;
- (8) In order to comply with Order No. 20200321-006, Governor Abbott’s Executive Order, and federal guidance; and to avoid person-to-person

31 contact, individuals may be unable to work, which will impact a tenant's
32 ability to pay rent, fees, or other charges associated with the tenant's lease;

33 (9) If a tenant is unable to timely pay rent, fees, or other charges because of
34 COVID-19 and loses housing because of untimely payments, such a result is
35 likely to increase person-to-person contact that spreads COVID-19; and

36 (10) If a landlord provides a proposed notice of eviction, a tenant will have an
37 opportunity to cure overdue rent, fees, or other charges associated with the
38 tenant's lease before the tenant loses housing, which will reduce person-to-
39 person contact with individuals outside of the tenant's household.

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

41 (1) **DELINQUENT PAYMENT** means rent, fee, or other charge owed under
42 the lease that is not paid timely.

43 (2) **IMPACTED TENANT** means a person, or a member of their household,
44 who is authorized by a lease to occupy property to the exclusion of others
45 and loses wages or income during the local disaster.

46 (3) **LANDLORD** means a person who rents real property to a tenant. This term
47 also includes an owner's agent.

48 (4) **LOCAL DISASTER** means the COVID-19 pandemic that is the subject of
49 the Local Disaster Declaration, dated March 6, 2020.

50 (5) **NOTICE OF PROPOSED EVICTION** means the notice that precedes a
51 notice to vacate described in Texas Property Code Section 24.005(e) and
52 complies with the requirements found in Part 4 of this ordinance.

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

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

59 **PART 4. REQUIREMENTS.**

- 60 (A) A landlord shall give a tenant a notice of proposed eviction prior to giving an
61 impacted tenant a notice to vacate.
- 62 (B) A notice of proposed eviction must be in writing and shall include the
63 following:
- 64 (1) a right for the impacted tenant to respond, which includes curing any
65 delinquent payments, and:
- 66 (2) the time period to respond.
- 67 (C) A notice of proposed eviction must be provided to an impacted tenant in a
68 manner that is authorized by Texas Property Code Section 24.005 for a notice
69 to vacate.
- 70 (D) The minimum time period described in Subsection (B)(2) is 60 days.

71 **PART 5. OFFENSE AND PENALTY.**

- 72 (A) A person commits an offense if the person fails to provide a notice of
73 proposed eviction or if the person fails to comply with any other
74 requirement imposed in this ordinance.
- 75 (B) A person who violates this ordinance commits a separate offense for
76 each day the violation continues.
- 77 (C) A culpable mental state is not required for the commission of an
78 offense under this ordinance and need not be proved.
- 79 (D) Each offense is punishable by a fine not to exceed \$500.

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

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

