

Austin 60-day Proposed Notice of Eviction Ordinance: A Quick Understanding of the Ordinance

Ordinance Overview

- On March 26, 2020 Austin passed an Ordinance Requiring a 60-day Notice of Proposed Eviction before any Notice to Vacate can be given. The ordinance was modified and extended in year 2020 on May 7, July 29 and September 17, December 10 and March 4, 2021.
- The ordinance was passed in recognition of the economic hardship faced by many renters due to the city and county restrictions on business operations and Stay Home - Stay Safe Orders.
- The ordinance provides at least 60-days to those impacted by wage or job loss due to the COVID-19 pandemic to cure unpaid rent, fees, or other charges associated with the lease.
- The ordinance only applies to properties in the Austin city limits.
- The ordinance does not prohibit late fees.
- Includes a \$500 per day criminal penalty for violation of the ordinance.
- Failure to give 60-day notice for missed rent payments renders any subsequent delivered 3-day Notice to Vacate or eviction filing ineffective and not applicable for that missed payment. The Travis County Justices of the Peace will require proof that the 60-day Notice of Proposed Eviction ordinance has been followed before setting an eviction hearing.
- Does not apply to previously filed evictions occurring before March 26.

When is it Required?

- The 60-day Notice of Proposed Eviction requirement is for delinquent rent and related fee payments arising between March 27, 2020 and May17, 2021.
- Only applies to “impacted tenants”.
 - Defined as tenants that loses wages, revenue, or income during the disaster; or
 - Incurs delinquent payments as a result of the local disaster.
- Only applies to properties in Austin city limits.

How is the Notice Given?

- Must have the following statement in 16-point font that is bold and underlined:
 - **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**
- Must be delivered in the same manner as a Notice to Vacate as outlined in the Texas Property Code:
 - Notice may be made by personal delivery to the tenant or anyone residing at the premises who is age 16 or older; or
 - Personal delivery to the premises and affixing the notice to the inside of the main entry door; or

- By regular mail, by registered mail, or by certified mail, return receipt requested; or
- Posting to the exterior of the main entry door in an envelope addressed to all residents and the words IMPORTANT DOCUMENT on the envelope AND mailing by first class mail in the county where the property is located if you reasonably believe harm would come to by entering.
- As modified on May 7, the notice can be delivered electronically using the email the landlord uses to communicate with the tenant in the regular course of business.
- Posted on the front door of the impacted tenant's dwelling unit.

Frequently Asked Questions:

- *Can a property simply wait and deliver a 3-day Notice to Vacate (NTV) after the ordinance expires on December 31 for any past rent owed?*
 - No. The 60-day Notice of Proposed Eviction is required for any delinquent payments not cured between March 26, 2020 and May 17, 2021, and the 60-day time period must expire before the NTV can be delivered. For example, if December 2020 rent was missed and a 60-day Notice of Proposed Eviction was given to the resident on December 7, a NTV cannot be given for the missed rent until sixty days have passed and presuming the rent delinquency has not been cured.
 - However, even if the rent delinquency is not cured (by, roughly, February 7), the issuance of a NTV must still wait until after March 31 because city and county orders prohibit any issuance of a NTV for nonpayment of rent until after March 31. NOTE: the Travis County Justices of the Peace still require a 30-day NTV for any property covered by the CARES Act.
- *How can I verify that a tenant is an "Impacted Tenant" and has lost wages or income as a result of the local disaster?*
 - The ordinance is silent on this issue. Many properties request verification through paycheck stubs, termination letters from employers or confirmation that unemployment benefits have been applied for and/or awarded by the Texas Workforce Commission. Some properties simply accept the tenant's statement to them that they are economically impacted and have lost wages or lost their job.
- *Is the rent still owed?*
 - Yes. As the required language on the notice states, the rent is still owed. The 60-day period is intended to allow those impacted by wage or job lost due to the COVID-19 pandemic time to establish a deferred rent payment plan or establish other arrangements to maintain their residency. Many properties have been creative when working with impacted tenants such as renegotiating the lease and granting immediate concessions or extending the lease term.