

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 KYLE:

PART 1. FINDINGS. The City Council finds:

- (1) The COVID-19 virus is contagious and spreads through person-to-person contact, especially in group settings; 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) 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 released 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 19, 2020, Mayor Travis Mitchell of the City of Kyle issued a Declaration of Disaster Due to Public Health Emergency which allowed the City to take measures to reduce the possibility of exposure to COVID-19 and promote the health and safety of Kyle residents and imposed further requirements on social gatherings and business operations;
- (8) On March 25, 2020, Judge Becerra issued Orders that imposed stay at home/residence requirements on individuals and limited business operations;
- (9) In order to comply with Stay at Home orders of the county & city, 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 loses wages, revenue, or income during 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 19, 2020.

(5) NOTICE OF PROPOSED EVICTION means the notice that precedes a notice to vacate described in 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 the impacted tenant incurs delinquent payments beginning on the effective date of this ordinance and ending on May 8, 2020.

PART 4. REQUIREMENTS.

(A) A landlord shall give a tenant a notice of proposed eviction 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 right for the impacted tenant to respond, which includes curing any delinquent payments, and:

(2) 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)(2) is 60 days.

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 \$1,000.

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 Kyle 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 on this the _____ day of April, 2020.

FINALLY PASSED AND APPROVED on this the _____ day of April, 2020.

The City of Kyle, Texas

Travis Mitchell, Mayor

ATTEST:

Jennifer A. Vetrano, City Secretary