

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS REQUIRING A LANDLORD TO PROVIDE A NOTICE OF PROPOSED EVICTION PRIOR TO ISSUING AN ACTUAL NOTICE TO VACATE AND PROVIDE TENANTS A NINETY DAY PERIOD TO CURE ANY DELINQUENCY 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 SAN MARCOS, TEXAS:

RECITALS:

- 1.** On March 15, 2020, the City of San Marcos 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 San Marcos residents.
- 2.** On March 25, 2020, Hays County Judge Ruben Becerra issued an Order mandating that all individuals currently living in Hays County remain at home unless performing essential functions in order to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of Hays County citizens.
- 3.** On March 19, 2020, the Texas Supreme Court issued the Fourth Emergency Order Regarding the COVID-19 State of Disaster requiring that certain legal procedures relating to actions for eviction to recover possession of residential properties be suspended in light of the COVID-19 pandemic.
- 4.** The COVID-19 virus is extremely contagious and spreads through person-to-person contact, especially in group settings.
- 5.** In order to comply with the Hays County Stay at Home Order, the Texas Supreme Court Order, and federal guidance from the Centers for Disease Control and other agencies 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.
- 6.** If a tenant is unable to timely pay rent, fees, or other charges because of COVID-19 and loses housing because of untimely payments, such a result is likely to increase the person-to-person contact that spreads COVID-19 in a community.
- 7.** 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.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. The City Council finds that the recitals above are true and they are hereby adopted as a matter of public record. The recitals shall become a part of the legislative history pertaining to the adoption of this ordinance and shall serve to document the extraordinary circumstances existing at the time of its approval.

SECTION 2. Any individual or company that leases residential property in the City of San Marcos must comply with any Emergency Order issued by the Texas Supreme Court including the Fourth Emergency Order Regarding the COVID-19 State of Disaster Order issued on March 19, 2020 and any subsequent Orders governing any action for eviction to recover possession of residential property contained in Chapter 24 of the Texas Property Code and Rule 510 of the Texas Rules of Civil Procedure.

SECTION 3. Before any action for eviction to recover possession of residential property may occur a landlord shall give a tenant a notice of proposed eviction prior to giving a tenant an actual notice to vacate. A notice of proposed eviction must be in writing and shall include a statement informing the tenant of their right to respond and cure any delinquent rental payments due for a period of at least 90 days.

SECTION 4. 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. A person who violates this ordinance commits a separate offense for each day the violation continues. A culpable mental state is not required for the commission of an offense under this ordinance and need not be proved. Each offense is punishable by a fine not to exceed \$500.

SECTION 5. 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.

SECTION 6. The COVID-19 pandemic and related emergency declarations and orders restricting the operation of various businesses jeopardize San Marcos residents' ability to maintain housing and constitutes an emergency. The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the San Marcos City Charter requiring that ordinances be presented at two separate meetings are hereby waived and this ordinance will take effect immediately upon adoption.

SECTION 7. This ordinance shall remain in effect until such time as there is no longer a Declaration of Local Disaster in effect in San Marcos due to the COVID-19 pandemic.

CONSIDERED, APPROVED AND ADOPTED on April 7, 2020.

Jane Hughson
Mayor

Attest:

Approved:

Tammy K. Cook
Interim City Clerk

Michael Cosentino
City Attorney