

Memorandum



CITY OF DALLAS

DATE December 9, 2022

TO Honorable Mayor and Members of the City Council

SUBJECT **Draft Permanent Eviction Ordinance and Fact Sheet**

On November 9, 2022, City Council repealed the COVID-19 Notice of Possible Eviction ordinance and simultaneously approved the temporary Notice of Proposed Eviction. Upon adoption of the temporary Notice of Proposed Eviction, City staff was instructed to draft a permanent Evictions Ordinance with input from stakeholders.

A permanent Evictions Ordinance has been drafted and attached to this memo. Also, attached to this memo is a draft copy of the Tenant's Rights Fact Sheet which includes resource and educational information such as available rental assistance and legal assistance programs, and a summary and timeline of the eviction process. A landlord seeking to initiate the eviction process shall provide the tenant with a copy of the Tenant's Rights Fact Sheet with the Notice of Proposed Eviction. The Office of Equity and Inclusion and Office of Community Care will continue to work with internal City Departments and external stakeholders to receive additional feedback and present a final draft of the permanent Evictions Ordinance to the Housing and Homeless Solutions Committee on January 23, 2023, and proceed to the full Council in the first quarter of 2023.

Should you have any questions or would like to provide input, please do not hesitate to contact me or Dr. Lindsey Wilson, Director of the Office of Equity and Inclusion, at lindsey.wilson@dallas.gov.

A handwritten signature in black ink, appearing to read 'Liz Cedillo-Pereira'.

M. Elizabeth (Liz) Cedillo-Pereira
Assistant City Manager

c: T.C. Broadnax, City Manager
Chris Caso, City Attorney
Mark Swann, City Auditor
Billieae Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Deputy City Manager
Jon Fortune, Deputy City Manager

Majed A. Al-Ghafry, Assistant City Manager
Dr. Robert Perez, Assistant City Manager
Carl Simpson, Assistant City Manager
Jack Ireland, Chief Financial Officer
Genesis D. Gavino, Chief of Staff to the City Manager
Directors and Assistant Directors

12-9-22

ORDINANCE NO. _____

An ordinance amending Chapter 50, “Consumer Affairs,” of the Dallas City Code by amending Article II; providing _____; providing a penalty not to exceed \$500; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Article II, “Reserved,” of Chapter 50, “Consumer Affairs,” of the Dallas City Code is amended to read as follows:

“ARTICLE II.

EVICCTIONS [RESERVED].

SEC[S]. 50-5. DEFINITIONS.

(1) CURE means to correct the lease violation that may entitle the landlord to file an eviction suit.

(2) LANDLORD means a person who rents residential real properties to a tenant in the city of Dallas. This term also includes the owner, a sublessor, and the agent of an owner or sublessor of residential real property.

(3) MEDIATION means a process where an impartial mediator facilitates a settlement conference between the parties so that they can discuss ways to resolve their differences.

(4) NOTICE OF PROPOSED EVICTION means a notice of proposed eviction within the meaning of Texas Property Code Section 24.005(e), which notifies the tenant of the tenant’s lease violations and provides the tenant the right to respond and cure in compliance with the requirements found in Section 50-6 (Notice Requirements), before giving a tenant a notice to vacate.

(5) 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.

(6) PERSON means an individual, corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity, but does not include the city.

(7) TENANT means a person, or a member of a person’s household, who is authorized by a lease to occupy residential property to the exclusion of others.

(8) LEASE VIOLATIONS means a default by the tenant under a provision of the lease, which if remained uncured may entitle the landlord to file an eviction suit under Texas Property Code § 24.005.

SEC. 50-6. NOTICE REQUIREMENTS.

(a) Except as provided in this section and Section 50-8, a landlord shall give a tenant a notice of proposed eviction prior to giving a tenant a notice to vacate.

(b) A notice of proposed eviction must be in writing and include the following:

(1) notice to the tenant of the lease violations that may result in an eviction;

(2) a request for a response to the notice of proposed eviction from the tenant;

(3) a statement that complies with Subsection (f) of this section;

(4) a right for the tenant to cure the lease violations described in the notice, including the minimum time to cure required under Section 50-7;

(5) the minimum time period of days to respond required under Section 50-7;
and

(6) the current Tenant’s Rights Fact Sheet produced by the Office of Equity and Inclusion which includes information on available rental assistance and legal assistance programs, and a summary and timeline of the full eviction process and is available on the city of Dallas website (<https://dallascityhall.com/departments/office-of-equity-and-inclusion/Equity/Pages/default.aspx> or <https://dallascityhall.gov/departments/office-of-equity-and-inclusion/Equity/Pages/default.aspx>).

(c) Except as provided in this section, a notice of proposed eviction must be delivered to a tenant in person or by mail at the premises in question. Notice in person may be by personal delivery to the tenant or any person residing at the premises who is 16 years of age or older or by affixing the notice to the inside of the main entry door. Notice by mail may be by regular mail, by registered mail, or by certified mail, return receipt requested, to the premises in question. If the landlord chooses to deliver the notice of proposed eviction by mail, the tenant has an additional five days to respond and to cure violation.

(d) As an alternative to the procedures in Subsection (c), a landlord may deliver a notice of proposed eviction by securely affixing to the outside entrance of the main entry door a sealed envelope that contains the notice of proposed eviction and on which is written the tenant’s name, address, and in all capital letters, the words “IMPORTANT DOCUMENT” or substantially similar language and, not later than 5:00 p.m. of the same day, depositing in the mail in the same county

in which the premises in question is located, a copy of the notice of proposed eviction to the tenant if:

(1) the premises has no mailbox and has a keyless bolting device, alarm system, or dangerous animal that prevents the landlord from entering the premises to affix the notice of proposed eviction to the inside of the main entry door; or

(2) the landlord reasonably believes that harm to any person would result from personal delivery to a tenant or a person residing at the premises or from personal delivery to the premises by affixing the notice of proposed eviction to the inside of the main entry door.

(e) A notice of proposed eviction is considered delivered under Subsection (d) on the date the envelope is affixed to the outside of the door and is deposited in the mail, regardless of the date the notice of proposed eviction is received.

(f) The statement described in Subsection (b) 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 in English, Spanish, and Vietnamese; and

(3) include the following text in English, Spanish, and Vietnamese:

“NOTICE OF PROPOSED EVICTION: THIS NOTICE IS TO INFORM YOU OF LEASE VIOLATIONS AND TO PROVIDE YOU WITH AN OPPORTUNITY TO CORRECT AND CURE THOSE LEASE VIOLATIONS TO AVOID EVICTION.

YOU DO NOT HAVE TO MOVE WHEN YOU GET THIS NOTICE BUT YOU MAY HAVE TO MOVE IF YOU AND YOUR LANDLORD DO NOT WORK OUT AN AGREEMENT REGARDING THE LEASE VIOLATIONS.

YOU ARE REQUESTED TO DISCUSS THIS NOTICE WITH YOUR LANDLORD AS SOON AS POSSIBLE AND TO MAKE AN OFFER TO CURE NO LATER THAN SEVEN DAYS FROM WHEN YOU RECEIVE THIS NOTICE.

IF YOU RESPOND IN WRITING TO YOUR LANDLORD BETWEEN ONE AND FIVE DAYS AFTER RECEIPT OF THIS NOTICE WITH AN OFFER TO CURE THEN YOU HAVE AN ADDITIONAL 20 DAYS TO CURE YOUR LEASE VIOLATION.

IF YOU RESPOND IN WRITING TO YOUR LANDLORD BETWEEN SIX AND SEVEN DAYS AFTER RECEIPT OF THIS NOTICE WITH AN OFFER TO CURE THEN YOU HAVE AN ADDITIONAL 10 DAYS TO CURE YOUR LEASE VIOLATION.

FAILURE TO CONTACT YOUR LANDLORD MAY END THE OPPORTUNITY TO CORRECT THE LEASE VIOLATIONS. THIS NOTICE DOES NOT EXCUSE YOUR OBLIGATIONS UNDER THE LEASE, INCLUDING YOUR OBLIGATION TO PAY, AND YOU CAN BE EVICTED IF YOU FAIL TO CORRECT THE LEASE VIOLATIONS.

SPANISH VERSION:

VIETNAMESE VERSION:

”
—

(g) A notice to vacate that fails to comply with the requirements of this article or is given before the expiration of the time periods provided in Section 50-7 has no legal effect.

(h) A landlord is only required to provide a notice of proposed eviction once for every lease term up to one year, and annually for lease terms in excess of one year.

SEC. 50-7. TIME PERIOD TO RESPOND TO LANDLORD; TIME PERIOD TO CURE LEASE VIOLATIONS.

(a) A landlord shall provide a tenant a minimum of seven days to respond to the notice of proposed eviction.

(b) A landlord must allow the tenant to respond to the notice of proposed eviction in writing, including by facsimile or electronic mail (i.e. email, text message/sms), a landlord established web portal, or the listed form of notice established in the lease or by the landlord used to communicate with tenants in the regular course of business activity.

(c) A landlord shall provide a tenant at least 20 days to cure lease violations if the tenant responds between one to five days after receipt of notice of proposed eviction, and at least 10 days if the tenant responds between six and seven days after receipt of notice of proposed eviction.

(d) If the tenant fails to respond to the landlord within seven days after receipt of notice proposed eviction, the landlord may proceed with a notice to vacate that must precede the filing of an eviction suit.

SEC. 50-8. EXCEPTIONS TO NOTICE REQUIREMENT.

The requirement to send a notice of proposed eviction does not apply when a landlord initiates eviction proceedings due to following circumstances:

(1) the actions of the tenant, members of the tenant’s household, or guests, pose an imminent threat of physical harm to any person, including children and elders within the same household, other tenants, as well as the landlord’s employees or management representatives;

(2) the tenant, members of the tenant’s household, or guests, engage in any criminal activity including abatable crime and squatting, and the reason is stated in the notice to vacate as the grounds for the eviction;

(3) an insured casualty loss such as fire, smoke, hail, explosion, or a similar cause creates a condition that makes the residential premises totally unusable;

(4) the tenant, members of the tenant’s household, or guests, intentionally damage property on the premises; or

(5) the tenant holds over after giving notice of termination of the lease or intent to vacate the premises

SEC. 50-9. VOLUNTARY MEDIATION.

(a) Landlords and tenants are encouraged to utilize mediation to attempt to resolve disputes that they cannot resolve themselves.

(b) This section does not impose a mandatory requirement that landlords and tenants participate in mediation.

(c) Landlords and tenants should take advantage of no cost or low-cost mediators to help reduce costs to both the landlord and the tenant.

SEC. 50-10. OFFENSE AND PENALTY.

(a) A person who knows of facts that provide a tenant with an affirmative defense to eviction under this article and who nonetheless in bad faith endeavors to evict a tenant, commits an offense punishable by a fine not to exceed \$500.

(b) It is a defense to prosecution that a landlord or property owner initiates eviction proceedings for any tenant, members of the tenant’s household, or guests if they pose an imminent threat of:

(1) physical harm to any person, including children and elders within the same household and other tenants as well as the landlord’s employees, or management representatives,
or

(2) any criminal activity including abatable crime and squatting.

SECS. 50-11 THRU 50-35. “RESERVED.”

SECTION 2. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$500.

DRAFT DOCUMENT—FOR DISCUSSION PURPOSES ONLY.

SECTION 3. That Chapter 50 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 4. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 5. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 6. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, City Attorney

By _____
Assistant City Attorney

Passed _____

DRAFT Your Rights After Receiving a Notice of Proposed Eviction

We are required to deliver this information to you under **City of Dallas Ordinance #XXX**

The Notice of Proposed Eviction is ***not*** an eviction:

- PLEASE DO NOT IGNORE THIS NOTICE OF PROPOSED EVICTION.
- This notice is to inform you of a potential lease violation, time to respond, and an opportunity to cure the lease violation. You do not have to move after receiving a notice of proposed eviction.
- You should contact your landlord or an attorney after receiving a notice of proposed eviction.
- You must respond to this notice in a minimum of 7 days.
- If you respond within 5 days after receiving the notice of proposed eviction, you will be granted twenty (20) days to cure the lease violation.
- If you respond within 6 to 7 days, you will be granted 10 days to cure the lease violation.
- A notice of proposed eviction is limited to once for every lease term up to one year, and once annually for any lease terms in excess of one year. This notice excludes any lease violations related to any criminal activity including abatable crime and squatting.

The Notice to Vacate is ***not*** an eviction:

- If you fail to timely respond to the Notice of Proposed Eviction or cure your lease violation, your landlord can serve you with a notice to vacate.

If your landlord issues a notice to vacate:

- You do not have to move out without an order from the Justice of the Peace (JP).
- You should speak with your landlord and/or contact an attorney.
- You will need to cure your lease violation within the time given in the notice to vacate.
- Failure to cure your lease violation will result in your landlord filing a forcible detainer suit (an eviction suit) against you in a JP court <https://www.dallascounty.org/government/jpcourts/>.
- Once an eviction hearing is filed, you will be served by the constable with your court date to appear in court.
- Please appear in court. Failure to appear will result in a decision against you.
- Once a judgement is issued, you will have 5 days to appeal your case.
- Failure to appeal within 5 days, the landlord has the right to request a Writ of Possession on day 6. See link for information on how to appeal <https://texaslawhelp.org/article/appealing-an-eviction>.
- When a judgment is in favor of the landlord, the tenant may choose to file an appeal. If the tenant files an appeal, the hearing cannot take place for at least **8 days**.

If you do not move or file an appeal within five days of the hearing, the landlord can request a Writ of Possession from the Court.

- A writ of possession is an official letter from a Texas court that orders tenants to vacate the indicated property by court-specified date and time.
- If a tenant fails to comply, the writ of possession is carried out by removing you and your personal belongings from the residence. <https://www.texaseviction.com/faq/what-is-writ-of-possession>.
- The constable must post a **24-hour** notice before executing the writ of possession.

Please do not ignore this Notice of Proposed Eviction

To learn more about available resources:

- Financial resources visit Office of Community Care www.dallascityhall.com/rentrelief or call (214) 670-8416
- Legal resources and Housing rights visit the Office of Equity and Inclusion, Fair Housing <https://dallascityhall.com/Fair-Housing/Evictions-Resources.aspx> at (214) 670-3247

Name of Resident: _____

Address/Unit: _____

Date of Delivery: _____

Manner of Delivery: _____