

THE CITY COURT OF ZACHARY
P.O. BOX 10
ZACHARY, LA 70791-0310
TELEPHONE (225) 570-4643
FAX (225) 654-6569

EVICITION PROCEDURE GUIDELINES

RENTAL PROPERTY MUST BE LOCATED WITHIN THE **CITY LIMITS OF ZACHARY**

EVICITION PROCEDURES ONLY APPLY TO THE EVICTION OF THE TENANT AND NOT RECOVERY OF BACK RENT.

1. If you wish to evict a tenant because of the termination of the lease by expiration of its term, nonpayment of rent, or for any other reason, the following is necessary.
 - A. Write a letter to the tenant giving him/her a five (5) day ** notice to move.
 1. Do not include holidays or weekends when counting the five days.
 2. Notice should not contain a specific date to vacate but should simply state that tenant has five (5) days from date of delivery of notice.
 3. This letter should be handed to the tenant in front of a witness. If the tenant is not at home when you serve the letter, either post it on the door, or the letter may be sent to the tenant **CERTIFIED MAIL - RETURN RECEIPT REQUESTED**.
 4. Keep a copy of the letter for yourself.
 5. **THE INDIVIDUAL WHO ACTUALLY HANDS THE TENANT THE NOTICE MUST APPEAR WITH THE WITNESS IN COURT.**

**** PLEASE NOTE: IF LEASE HAS AN INDETERMINATE TERM, THE NOTICE MAY REQUIRE A DIFFERENT AMOUNT OF TIME. REFER TO LA CIVIL CODE ARTICLES 2727-2728.**

- B. If the Tenant has not moved in five (5) working days (or longer based on La Civil Code Articles 2727-2728) after handing, posting, or certified mail date on receipt, you may file an eviction. The procedure for the eviction suit is as follows:
 1. File a PETITION FOR EVICTION including the name of the tenant and the premises address with the City Court of Zachary. If more than one tenant is on the lease, all parties must be served. File a copy of the lease with the petition.
 2. Enclose **\$220.00** advanced court costs for one (1) defendant. Additional **\$135.00 per defendant**. *Payments are accepted in the form of cash, check, or money order.*
 3. It is necessary to file a resolution in the record authorizing an agent to act on behalf of a corporation. If an individual appears on behalf of the Owner/Lessor, a Power of Attorney is required to be filed with the Civil Division of the Clerk of Court's Office that authorizes this individual to act in that capacity.
 4. The Clerk of Court will have the notice served on the tenant by the City Marshal which tells the tenant you are suing him/her for eviction and giving him/her a date to appear in court if he/she wishes to contest the case. The court date is scheduled approximately one (1) week from the date the suit is filed. The court date will be given to you when you file your suit, or it will be mailed to you.
 5. If the tenant moves before the court date, and all of his possessions have been removed from the premises, call the Clerk of Court at (225) 570-4643 and you will not have to appear.
 6. If the tenant or possessions are still in the house the morning of the Court hearing, you have to appear before the Judge. If you handed the letter (or posted it) to the tenant, you **MUST** bring one of your witnesses with you and the Court will ask them to swear that they saw you hand the notice to the tenant or post the notice.
2. If you are evicting a tenant in accordance with LA C.C.P. Art. 4701 and 4731 authorizing waiver of the "Notice of Vacate" requirement you must bring a copy of the lease when filing your eviction. Please highlight the waiver provision in the lease agreement.
3. If the tenant is still on the premises twenty-four (24) hours after you are granted Judgment of Eviction, you can call the Civil Division at 225-570-4643 and make arrangements for the execution of the Writ of Possession. A Writ of Possession authorizes the City Marshal to give you possession of your property. No action should be taken by you until a Deputy Marshal meets you at the property.

★ **Acceptance of rent after the notice to vacate has been given but before Judgment of Eviction cancels the notice and prevents the lessor from obtaining such a Judgment.**

LOUISIANA CODE OF CIVIL PROCEDURE ARTICLES
4701,4702,4731,4732,4733,4734,4735

Art. 4701. Termination of lease; notice to vacate; waiver of notice

When a lessee's right of occupancy has ceased because of the termination of the lease by expiration of its term, action by the lessor, nonpayment of rent, or for any other reason, and the lessor wishes to obtain possession of the premises, the lessor or his agent shall cause written notice to vacate the premises to be delivered to the lessee. The notice shall allow the lessee not less than five days from the date of its delivery to vacate the leased premises.

If the lease has no definite term, the notice required by law for its termination shall be considered as a notice to vacate under this Article. If the lease has a definite term, notice to vacate may be given not more than thirty days before the expiration of the term.

A lessee may waive the notice requirements of this Article by written waiver contained in the lease, in which case, upon termination of the lessee's right of occupancy for any reason, the lessor or his agent may immediately institute eviction proceedings in accordance with Chapter 2 of Title XI of the Louisiana Code of Civil Procedure.

Art. 4702. Notice to occupant other than tenant to vacate

When an owner of immovable property wishes to evict the occupant therefrom, after the purpose of the occupancy has ceased, the owner or his agent, shall first cause a written notice to vacate the property to be delivered to the occupant.

This notice shall allow the occupant five days from its delivery to vacate the premises.

Art. 4731. Rule to show cause why possession should not be delivered; abandonment of premises; federally declared disasters

A. If the lessee or occupant fails to comply with the notice to vacate required under this Title, or if the lessee has waived his right to notice to vacate by written waiver contained in the lease, and has lost his right of occupancy for any reason, the lessor or owner, or agent thereof, may cause the lessee or occupant to be cited summarily by a court of competent jurisdiction to show cause why he should not be ordered to deliver possession of the premises to the lessor or owner. The rule to show cause shall state the grounds upon which eviction is sought.

B. After the required notice has been given, the lessor or owner, or agent thereof, may lawfully take possession of the premises without further judicial process, upon a reasonable belief that the lessee or occupant has abandoned the premises. Indicia of abandonment include a cessation of business activity or residential occupancy, returning keys to the premises, and removal of equipment, furnishings, or other movables from the premises.

C. (1) In parishes subject to a federal disaster declaration, cessation of residential occupancy shall not be deemed evidence of abandonment pursuant to Paragraph B of this Article for thirty days following the initial declaration of a federally declared disaster.

(2) Failure of the lessor to comply with this Article shall give a residential lessee the right to recover five hundred dollars or twice the amount of the monthly rent, whichever is greater, from the lessor or owner, or from the lessor's successor in interest. A residential lessee may obtain a restraining order or a preliminary injunction to enforce the provisions of this Article.

(3) The court may award costs and attorney fees to the prevailing party for actions brought pursuant to this Article.

(4) In parishes subject to a federally declared disaster, a court shall not require a residential lessee bringing an action for a temporary restraining order or preliminary injunction under this Article to furnish security as required by Article 3610 for the thirty days following the initial declaration of a federally declared disaster.

(5) Nothing in this Paragraph shall preempt the rights afforded to a lessor in Civil Code Article 2693.

Art. 4732. Trial of rule; judgment of eviction

A. The court shall make the rule returnable not earlier than the third day after service thereof, at which time the court shall try the rule and hear any defense which is made.

B. If the court finds the lessor or owner entitled to the relief sought, or if the lessee or occupant fails to answer or to appear at the trial, the court shall render immediately a judgment of eviction ordering the lessee or

occupant to deliver possession of the premises to the lessor or owner. The judgment of eviction shall be effective for not less than ninety days.

Art. 4733. Warrant for possession if judgment of eviction not complied with

If the lessee or occupant does not comply with the judgment of eviction within twenty-four hours after its rendition, the court shall issue immediately a warrant directed to and commanding its sheriff, constable, or marshal to deliver possession of the premises to the lessor or owner.

Art. 4734. Execution of warrant

The sheriff, constable, or marshal shall execute a warrant rendered under Article 4733 in the presence of two witnesses, by clearing the premises of any property therein, in order to put the lessor or owner in possession of the premises.

If the sheriff, constable, or marshal finds the windows, doors, or gates of the premises locked or barred, he shall break open any of these when necessary to effect convenient entry into the premises.

Art. 4735. Appeal; bond

An appeal does not suspend execution of a judgment of eviction unless the defendant has answered the rule under oath, pleading an affirmative defense entitling him to retain possession of the premises, and the appeal has been applied for and the appeal bond filed within twenty-four hours after the rendition of the judgment of eviction. The amount of the suspensive appeal bond shall be determined by the court in an amount sufficient to protect the appellee against all such damage as he may sustain as a result of the appeal.

LOUISIANA CIVIL CODE ARTICLES
2720,2721,2723-2729

Art. 2720 Termination of lease with a fixed term

A lease with a fixed term terminates upon the expiration of that term, without need of notice, unless the lease is reconducted or extended as provided in the following Articles.

Art. 2721. Reconduction

A lease with a fixed term is reconducted if, after the expiration of the term, and without notice to vacate or terminate or other opposition by the lessor or the lessee, the lessee remains in possession:

- (1) For thirty days in the case of an agricultural lease;
- (2) For one week in the case of other leases with a fixed term that is longer than a week; or
- (3) For one day in the case of a lease with a fixed term that is equal to or shorter than a week.

Art. 2723. Term of reconducted nonagricultural lease

The term of a reconducted nonagricultural lease is:

- (1) From month to month in the case of a lease whose term is a month or longer;
- (2) From day to day in the case of a lease whose term is at least a day but shorter than a month; and
- (3) For periods equal to the expired term in the case of a lease whose term is less than a day.

Art. 2724. Continuity of the reconducted lease

When reconduction occurs, all provisions of the lease continue for the term provided in Article 2722 or 2723.

A reconducted lease is terminated by giving the notice directed in Articles 2727 through 2729.

Art. 2725. Extension

If the lease contract contains an option to extend the term and the option is exercised, the lease continues for the term and under the other provisions stipulated in the option.

Art. 2726. Amendment

An amendment to a provision of the lease contract that is made without an intent to effect a novation does not create a new lease.

Art. 2727. Termination of lease with an indeterminate term

A lease with an indeterminate term, including a reconducted lease or a lease whose term has been established through Article 2680, terminates by notice to that effect given to the other party by the party desiring to terminate the lease, as provided in the following Articles.

Art. 2728. Notice of termination; timing

The notice of termination required by the preceding Article shall be given at or before the time specified below:

- (1) In a lease whose term is measured by a period longer than a month, thirty calendar days before the end of that period;
- (2) In a month-to-month lease, ten calendar days before the end of that month;
- (3) In a lease whose term is measured by a period equal to or longer than a week but shorter than a month, five calendar days before the end of that period; and
- (4) In a lease whose term is measured by a period shorter than a week, at any time prior to the expiration of that period.

A notice given according to the preceding Paragraph terminates the lease at the end of the period specified in the notice, and, if none is specified, at the end of the first period for which the notice is timely.

Art. 2729. Notice of termination; form

If the leased thing is an immovable or is a movable used as residence, the notice of termination shall be in writing. It may be oral in all other cases.

In all cases, surrender of possession to the lessor at the time at which notice of termination shall be given under Article 2728 shall constitute notice of termination by the lessee.

LETTER TO TENANT FOR EVICTION

MUST BE WITHIN CITY LIMITS

DATE: _____

TO: _____

YOU ARE HEREBY NOTIFIED TO VACATE THE PREMISES DESCRIBED IN THE ADDRESS ABOVE WITHIN _____ DAYS OF THE DATE OF THE DELIVERY OF THIS NOTICE. YOU ARE REQUIRED TO VACATE THE PREMISES FOR THE FOLLOWING REASONS:

SHOULD YOU FAIL TO VACATE THE PREMISES WITHIN THIS PERIOD, COURT PROCEEDINGS WILL BE TAKEN IMMEDIATELY TO EVICT YOU FROM THE PREMISES.

LANDLORD/AGENT

WITNESS

PLAINTIFF

SUIT NO. _____

VERSUS

CITY COURT OF ZACHARY

PARISH OF EAST BATON ROUGE

DEFENDANT

STATE OF LOUISIANA

PETITION FOR EVICTION

The petition of _____, of lawful age and a resident of _____, Louisiana respectfully shows:

1.

The defendant(s), _____, who is domiciled in the City of Zachary, Parish of East Baton Rouge, State of Louisiana.

2.

Plaintiff rented/leased to defendant the premises located at _____ on a _____ basis, commencing on the _____ day of _____, 20_____, at a monthly rate of \$ _____, payable in advance.

3.

Plaintiff requests eviction on the following basis:

4.

Petitioner notified defendant by written notice dated _____ to vacate the premises described in the address above within _____ days of the date of the delivery of written notice to him. Delivery of written notice was witnessed by _____.

OR

Petitioner notified defendant by certified mail dated _____ to vacate the premises described in the address above within _____ days of the date of the delivery of certified mail to him. A copy of the letter and the envelope are attached hereto and made a part hereof.

AND/OR

The lease agreement contains a waiver of notice.
Provide a copy of the lease and highlight the waiver information.

WHEREFORE, petitioner prays for proper citation to defendant, _____, to appear and answer this petition, and after due proceedings had, for judgment in favor of petitioner and against said defendant.

1. For a rule issued to defendant ordering him to show cause on a date and time set by this Honorable Court, why he should not be ordered to vacate the premises and deliver possession thereof to petitioner.
2. For all costs of these proceedings.

SERVICE INSTRUCTIONS:

PLAINTIFF

ADDRESS

PHONE

**THE CITY COURT OF ZACHARY
P.O. BOX 10
ZACHARY, LA 70791
(225) 570-4643**

LEGAL REPRESENTATION FORM

VERSUS

CIVIL DOCKET NO. _____
CITY COURT OF ZACHARY
PARISH OF EAST BATON ROUGE
STATE OF LOUISIANA

I, _____, do hereby acknowledge I have filed a civil suit in the City Court of Zachary without legal representation. I have been informed by the Zachary City Court personnel that NO LEGAL ADVICE will be rendered in this matter by any employee. I further acknowledge I may retain an attorney of my choice if I so choose.

I also acknowledge that I understand that the Court's authority to handle cases affecting defendants who do not reside within the Zachary City limits depends on numerous factors concerning jurisdiction and proper venue that may warrant professional legal advice.

I have also been informed the court costs are to be paid in advance of each filing. I may demand reimbursement from the defendant of all costs incurred relating to this suit.

I have also been informed that any forms supplied by the City Court of Zachary are advisory and may have to be reviewed by my attorney.

I further acknowledge the Clerk has advised me of the above.

DATE

SIGNATURE