

ORDINANCE NO. 79-2021 (AS), *Second Reading*

By Council Member Ungar

An Ordinance enacting and adopting Chapter ___, “Tenant’s Right to Pay to Stay,” of the Codified Ordinances of the City of Cleveland Heights.

WHEREAS, the public health crisis from the COVID-19 pandemic has had substantial and continuing negative impacts on residents and the economy, internationally and nationally, including within the State of Ohio, Cuyahoga County, and the City of Cleveland Heights; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the City experienced and will likely continue to experience material loss of income; and

WHEREAS, the public health crisis has caused multiple adverse economic impacts for numerous people including loss of employment, reduction in income and loss of health care coverage, leading for many to the inability to pay for housing and basic needs, and placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

WHEREAS, further adverse economic impacts are anticipated, leaving residential tenants vulnerable to eviction; and

WHEREAS, notwithstanding COVID-19 and its deleterious effects, it is essential at all times to avoid unnecessary housing displacement/evictions to protect the City’s housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, although unemployment compensation, rental assistance, and other programs have been made available to Ohioans so they can meet their basic needs, the City wishes to provide additional safeguards to residents and tenants concerning their ability to pay to stay in rental properties located within the City.

BE IT ORDAINED by the Council of the City of Cleveland Heights, County of Cuyahoga, State of Ohio, that:

SECTION 1. That until December 31, 2022, in any eviction action for non-payment of rent due under a residential lease, the following shall apply:

SECTION 2. Chapter ___ of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted to read as follows:

Chapter ___ Tenant’s Right to Pay to Stay

- .01 **Definition**
- .02 **Tenant's affirmative defense after tendering rent prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)**
- .03 **Tenant's affirmative defense after tendering rent prior to an eviction judgment (Judgment for Restitution)**
- .04 **Rent receipt required**
- .05 **Other Causes for Eviction**
- .06 **Reasonable Fees**
- .07 **Severability**

 .01 **Definition**

For the purposes of this Chapter, "Tenant" means a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others.

For the purposes of this Chapter, "Tender" means an offer of payment.

- .02 **Tenant's right to pay to stay prior to the filing prior to the filing of an eviction action for non-payment of rent (Complaint for Forcible Entry and Detainer)**
 - (a) At any time prior to the filing of an action under Ohio Revised Code 1923 for nonpayment of rent by a landlord, a tenant shall have the right to pay the landlord all past due rent with reasonable late fees to avoid the filing of such action for the restitution of the lands or tenements.

If the tenant tenders all past due rent and reasonable late fees to the landlord, the landlord shall accept the tendered payment and allow the tenant to maintain the tenancy.
 - (b) If the tenant tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code 1923 and the landlord refuses the tender, the tenant's tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.
- .03 **Tenant's right to pay to stay prior to an eviction judgment (Judgment for Restitution)**

(a) After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to a judgment, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs so that the tenant may maintain the tenancy. If the tenant tenders all past due rent amounts, including late fees and court costs, the landlord must accept the payment. Upon receipt of the payment, the landlord shall dismiss the action against the tenant.

(b) If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to a judgment and the landlord refuses the tender, the tenant's tender of all past due rent, reasonable late fees and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.

.04 Rent receipt required

The landlord shall provide the tenant with a signed receipt for the security deposit and all rental payments except for payments made by personal check of the tenant, at the time the security deposit or rental payments are made.

.05 Reasonable Late Fees

No landlord may charge a tenant late fees that are not reasonable late fees. If a rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, to be considered "reasonable late fees" the total amount of that late payment fee for any month may not exceed the larger of: (i) twenty-five dollars (\$25.00); or (ii) five percent (5%) of the monthly contract rent.

.06 Other Causes for Eviction

This Chapter in no way limits the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

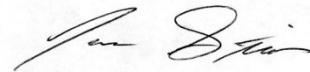
.07 Severability

If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. Cleveland Heights City Council hereby declares that it would have adopted this ordinance and each provision thereof irrespective of whether any one or more provisions are found invalid, unconstitutional or otherwise unenforceable

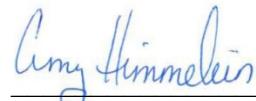
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SECTION 3. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 4. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.



JASON S. STEIN
President of the Council



AMY HIMMELEIN
Clerk of Council

PASSED: December 20, 2021