

RECORD OF ORDINANCES

Government Forms and Supplies (844) 224-3338 FORM NO. SHTOR11

Ordinance No. **Reconsideration** **Passed** **October 3** **22**
0-85-22 **Passed** **September 6**, 20**22**

Introduced by Ben Ziff
Member of Council

AN ORDINANCE AMENDING ATHENS CITY CODE TITLE 29, HOUSING REGULATIONS, CHAPTER 29.36, PROHIBITED ACTONS, TO ADD SECTION 29.36.02, TENANT'S RIGHT TO PAY TO STAY.

WHEREAS, the State of Ohio is one of only five states in the country that permits a residential landlord to file for eviction immediately upon non-payment of rent; and

WHEREAS, unlike mortgage companies, residential landlords are allowed to refuse all future rent payments and commence eviction proceedings even if a tenant immediately recognizes the deficiency of payment and is able and willing to correct it; and

WHEREAS, evictions for non-payment of rent lead to regional vulnerabilities that prolong economic instability, create educational impairments for children displaced by evictions, increase costs to the homeless system, and negatively impact community stability and relationships; and

WHEREAS, eviction has been shown to cause a 70% increase in the likelihood of an evicted person using the emergency room, as well as an estimated \$8,000 cost over two years, with costs being divided between emergency room use, homeless shelter use, and lost wages; and

WHEREAS, studies have shown that eviction dramatically worsens mental health, with a 10% increase in the probability of hospitalization for a mental health condition in the two years after eviction; and

WHEREAS, the Council of the City of Athens seeks to close this legal loophole by allowing tenants to cure a non-payment of rent by tendering the full amount owed, including reasonable late fees, court costs, and where applicable, reasonable attorney's fees prior to being evicted; and

WHEREAS, should a tenant be able to pay all past due rent, late fees, court costs, and where applicable, reasonable attorney's fees to the landlord, the tenant should have an equitable right to redeem and maintain their tenancy; and

WHEREAS, "Tenant's Right to Pay to Stay" will promote educational stability, decrease the burden on the human safety net, such as the shelter system, and ensure fairness by giving the courts and the community something tangible to reference;

1st 6/6
2nd 6/21
Amended 8/1
2nd 8/15
RECONSIDERATION 9/19
THALED 9/19
REMOVED FROM THALE 10/23

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BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATHENS, OHIO:

SECTION I: Athens City Code Title 29, Housing Regulations, Chapter 29.36, Prohibited Actions, is hereby amended to add Section 29.36.01, Tenant's Right to Pay to Stay, to read as follows:

29.36.02. TENANT'S RIGHT TO PAY TO STAY

(A) DEFINITIONS.

FOR THE PURPOSES OF THIS SECTION:

"TENANT" MEANS A PERSON ENTITLED UNDER A RENTAL AGREEMENT TO THE USE AND OCCUPANCY OF RESIDENTIAL PREMISES TO THE EXCLUSION OF OTHERS.

"TENDER" MEANS PAYMENT OF OR THE PROVISION OF A VOUCHER FROM AN ACCREDITED SOCIAL SERVICE, NONPROFIT, GOVERNMENTAL, OR QUASI-GOVERNMENTAL AGENCY THAT GUARANTEES THE PAYMENT OF ANY AND ALL PAST DUE RENT, REASONABLE LATE FEES AND COURT COSTS. SUCH TENDER SHALL BE MADE TO THE LANDLORD IN ANY LAWFUL FORM AGREED UPON BY THE LANDLORD, ANY FORM PROVIDED FOR BY STATE LAW, OR ANY FORM APPROVED OF BY A COURT WITH JURISDICTION OVER THE EVICTION ACTION. WHERE A TENANT PROVIDES PAYMENT TO A LANDLORD IN THE FORM OF A CASHIER'S CHECK, MONEY ORDER, CERTIFIED CHECK, OR CASH IN AN AMOUNT WHICH COVERS ALL PAST DUE RENT, REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, SUCH PAYMENT SHALL ALSO CONSTITUTE "TENDER."

(B) TENANT'S RIGHT TO PAY TO STAY PRIOR TO THE FILING OF AN EVICTION (COMPLAINT FOR FORCIBLE ENTRY AND DETAINER):

(1) 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 ACCRUED RENT AND REASONABLE LATE FEES TO THE LANDLORD, THE LANDLORD SHALL ACCEPT

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THE TENDERED PAYMENT AND ALLOW THE TENANT TO MAINTAIN THE TENANCY.

(2) 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.

(C) TENANT'S RIGHT TO PAY TO STAY PRIOR TO AN EVICTION JUDGMENT (ENTRY OF RESTITUTION):

(1) 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, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES SO THAT THE TENANT MAY MAINTAIN THE TENANCY. IF THE TENANT TENDERS ALL PAST DUE RENT AMOUNTS, INCLUDING LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, THE LANDLORD MUST ACCEPT THE PAYMENT. UPON RECEIPT OF THE PAYMENT, THE LANDLORD SHALL DISMISS THE ACTION AGAINST THE TENANT.

(2) IF THE TENANT TENDERS ALL PAST DUE RENT WITH REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, 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, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES SHALL BE AN AFFIRMATIVE DEFENSE TO THE EVICTION ACTION FILED BY THE LANDLORD AGAINST THE TENANT FOR NONPAYMENT OF RENT.

(D) TENANT'S RIGHT TO PAY TO STAY PRIOR TO THE ISSUANCE OF THE EVICTION JUDGMENT (WRIT OF RESTITUTION):

(1) AFTER FILING OF AN ACTION UNDER OHIO REVISED CODE 1923 FOR NONPAYMENT OF RENT BUT PRIOR TO THE ISSUANCE OF THE

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EVICTON JUDGMENT THROUGH A WRIT OF RESTITUTION, THE TENANT SHALL HAVE THE RIGHT TO PAY THE LANDLORD ALL PAST DUE RENT, REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, INCLUDING THE COST OF OBTAINING THE WRIT, SO THAT THE TENANT MAY MAINTAIN THE TENANCY. IF THE TENANT TENDERS ALL PAST DUE RENT AMOUNTS, INCLUDING REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, THE LANDLORD MUST ACCEPT THE PAYMENT. UPON RECEIPT OF THE PAYMENT, THE LANDLORD SHALL NOTIFY THE COURT WHO SHALL VACATE THE EVICTION JUDGMENT AND DISMISS THE EVICTION ACTION AGAINST THE TENANT.

- (2) IF THE TENANT TENDERS ALL PAST DUE RENT WITH REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, TO THE LANDLORD PRIOR TO THE ISSUANCE OF THE EVICTION JUDGMENT THROUGH A WRIT OF RESTITUTION AND THE LANDLORD REFUSES THE TENDER, THE BAILIFF SHALL NOT ENFORCE THE EVICTION JUDGMENT UNTIL THE COURT INSTRUCTS THE BAILIFF TO DO SO AFTER AN EMERGENCY HEARING ON THE TENANT'S RIGHT TO PAY AND STAY AT THE PREMISES. IF THE COURT FINDS DURING THE EMERGENCY HEARING THAT THE TENANT TENDERED ALL PAST DUE RENT, REASONABLE LATE FEES, COURT COSTS, AND WHERE APPLICABLE, REASONABLE ATTORNEY'S FEES, NOT TO EXCEED \$125.00, THE COURT SHALL VACATE THE EVICTION JUDGMENT AND DISMISS THE EVICTION ACTION AGAINST THE TENANT.

(E) 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.

(F) OTHER CAUSES FOR EVICTION.

THIS SECTION IN NO WAY LIMITS THE ABILITY OF A LANDLORD TO INITIATE AN EVICTION ACTION FOR REASONS OTHER THAN SOLELY FOR NONPAYMENT OF RENT. A LANDLORD HAS NO OBLIGATION TO ACCEPT RENT UNDER THIS SECTION.

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(G) 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.


(H) LIMITATIONS OF AFFIRMATIVE DEFENSE.

TENANT'S RIGHT TO UTILIZE THE AFFIRMATIVE DEFENSES UNDER EITHER SECTION 29.36.01 (C) OR (D) SHALL BE LIMITED TO ONE USE PER CALENDAR YEAR. NOTHING IN SECTION 29.36.02 (C) OR (D) SHALL LIMIT THE RIGHTS OF TENANTS TO RAISE ANY OTHER DEFENSES AND THE ATHENS MUNICIPAL COURT'S CONSIDERATION OF THOSE DEFENSES MORE THAN ONCE IN A CALENDAR YEAR.

(I) 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. ATHENS 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.

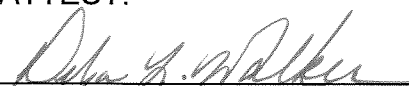
SECTION II: This Ordinance shall be in effect and full force upon its passage and approval by the Mayor.



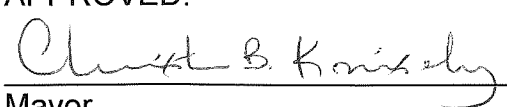
President of Council

ATTEST:

pro tem
APPROVED:



Clerk of Council



Mayor