

ORDINANCE NO. 2021-25, As Amended

INTRODUCED BY: Mayor Annette M. Blackwell

MOTION FOR ADOPTION BY:

**AN ORDINANCE ENACTING NEW CHAPTER 1488 - TENANT'S RIGHT TO
PAY TO STAY OF THE CODIFIED ORDINANCES OF THE CITY OF MAPLE
HEIGHTS, AND DECLARING AN EMERGENCY.**

WHEREAS, international, national, state, and local governments and health authorities are responding to an outbreak of a disease caused by the novel coronavirus referred to as COVID-19; and

WHEREAS, the State of Ohio, the County of Cuyahoga, and the City of Maple Heights are experiencing a public health crisis from the COVID-19 pandemic that will have lasting impacts on residents and the economy; and

WHEREAS, on March 9, 2020, the Governor of the State of Ohio declared a State of Emergency to exist in Ohio as a result of the threat of COVID-19; and

WHEREAS, the Centers for Disease Control and Prevention, the Ohio Department of Health, and the Cuyahoga County Department of Public Health have all issued recommendations including, but not limited to, social distancing, staying home if sick, canceling or postponing large group events, working from home, and other precautions to protect public health and prevent transmission of this communicable virus; and

WHEREAS, as a result of the public health emergency and the precautions recommended by health authorities, many residents and businesses in the City of Maple Heights have experienced or expect to soon experience sudden and unplanned income loss; and

WHEREAS, the Governor of the State of Ohio has stated that individuals exposed to COVID-19 may be temporarily unable to report to work due to illness caused by COVID-19 or quarantines related to COVID-19 and individuals directly affected by COVID-19 may experience potential loss of income, health care and medical coverage, and ability to pay for housing and basic needs, thereby placing increased demands on already strained regional and local health and safety resources, including shelters and food banks; and

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

WHEREAS, during this local emergency and in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement to protect the City's affordable housing stock and to prevent housed individuals from falling into homelessness; and

WHEREAS, housing displacement and homelessness place the City's residents at a higher risk of COVID-19 infections; and

WHEREAS, unemployment compensation, ~~renal~~ **rental** assistance and other dollars are being made available to Ohioans so they can meet their basic needs but these dollars have been slow to make their way into people's bank accounts.

NOW, THEREFORE, BE IT ORDAIND by the Council of the City of Maple Heights, County of Cuyahoga, State of Ohio that:

Section 1: Council hereby enacts New **Chapter 1488** of the Codified Ordinances of the City of Maple Heights entitled "**Tenant's Right to Pay to Stay**" to read as follows:

CHAPTER 1488
"Tenant's Right to Pay to Stay"

- 1488.01** **Definition**
- 1488.02** **Tenant's right to pay to stay prior to the filing of an eviction action (Complaint for Forcible Entry and Detainer)**
- 1488.03** **Tenant's right to pay to stay prior to an eviction judgment (Judgment for Restitution)**
- 1488.04** **Tenant's right to pay to stay prior to the execution of the eviction judgement for non-payment of rent (Writ of Restitution)**
- 1488.05** **Late fees**
- 1488.06** **Rent receipt required**
- 1488.07** **Other Causes for Eviction**
- 1488.08** **Legislative Review**
- 1488.09** **Severability**

1488.01 **Definition**

As used in this Chapter:

- (a) "Tenant" means any person, company, organization, or franchise that rents or leases a rental unit for living, dwelling or business purposes with the consent of the owner or agent in charge.
- (b) "Tender" means an offer of payment.

1488.02 **Tenant's right to pay to stay prior to the filing of an eviction action (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 accrued 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.

1488.03 Tenant's right to pay to stay prior to an eviction judgment for non-payment of rent (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.

1488.04 Tenant's right to pay to stay prior to the execution of the eviction judgment (Writ of Restitution)

- (a) After the filing of an action under Ohio Revised Code 1923 for nonpayment of rent but prior to the execution of the eviction judgment through a writ of restitution, the tenant shall have the right to pay the landlord all past due rent, reasonable late fees and court costs, 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 and court costs, 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.
- (b) If the tenant tenders all past due rent with reasonable late fees and court costs to the

landlord prior to the execution 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 and court costs, the court shall vacate the eviction judgment and dismiss the eviction action against the tenant.

1488.05 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, 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.

1488.06 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.

1488.07 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.

1488.08 Legislative Review

This Chapter is subject to review by Council ~~one year after adoption and annually thereafter.~~ by December 31, 2021 and by December 31st of every year thereafter. Council may review this Chapter more often throughout any calendar year.

1488.09 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. The City Council/~~Commission~~ 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 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and

that all deliberations of this Council and any of its Committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 3: This Ordinance constitutes an emergency measure necessary for the health, safety and general welfare of the residents of the City, and for the further reason that it is necessary to assure that tenants have stable housing to assure health and safety during the current pandemic, and provided it receives the affirmative vote of two-thirds (2/3) of the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor, otherwise it shall take effect and be in force from and after the earliest period allowed by law

PASSED: _____, 2021

Ron Jackson, Council President

Annette M. Blackwell, Mayor

Approved as to legal form:

Frank Consolo, Director of Law

ATTEST: _____
Leonette Cicirella Johnson, Clerk of Council

I, Leonette Cicirella Johnson, Clerk of Council of the City of Maple Heights, County of Cuyahoga, State of Ohio, do hereby certify the above to be a true and exact copy of the original as contained in the records of my office and that the same has been and will remain duly posted as required by law.

Date: _____

Leonette Cicirella Johnson, Clerk of Council

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