



TO: Gahanna City Council

FROM: Merisa K. Bowers, Councilmember At-Large

Cc: Laurie Jadwin, Mayor
Raymond J. Mularski, Esq., City Attorney

DATE: September 23, 2022

SUBJECT: Legislative Summary & Flowchart for ORD-0061-2022 Enacting Chapters 790, 791, & 792 of the Codified Ordinances of the City of Gahanna

Legislative Summary

Proposed Ordinance No. 0061-2022 establishes three new chapters under Part Seven – Business Regulation Code of the City of Gahanna Codified Ordinances. Chapter 790 establishes a Fair Housing Board, Chapter 791 establishes housing nondiscrimination laws, and Chapter 792 establishes residential tenants’ right to assert tender of rent as an affirmative defense to eviction. Each Chapter is summarized as follows:

CHAPTER 790 – FAIR HOUSING BOARD

Ordinance No. 0061-2022 establishes a three-member volunteer board comprised of two Council appointees and one mayoral appointee, with effort made to create a board that is geographically representative of the city through its wards. The Clerk of Council, or designee, serves as the custodian of records for the Board and is charged with taking minutes and providing notices. The board meets at least once per year to adopt and review rules of procedure and receive training on Fair Housing matters.

Additionally, this Chapter governs the complaint process and hearing standards for the Board and corresponds with proposed Section 791.08. A complaint can be filed by an aggrieved party or by the City’s Fair Housing Officer. There is no fee proposed for the filing of a complaint.

CHAPTER 791 – HOUSING NONDISCRIMINATION

As stated in the proposed Code, the goal of the City of Gahanna with the enactment of the Code is to continue the City’s efforts in strengthening neighborhoods by protecting the rights of its citizens to equal access to housing. This Chapter provides for the definitions of protected classes and makes it unlawful for any person or entity engaged in the sale or rental of housing to discriminate based on any of the following:

- (1) race, creed, color, national origin, sex, disability or reliance upon any service & assistance animal, familial status, marital status, age, or military status;
- (2) sexual orientation or gender identity and expression;
- (3) or source of income.

Moreover, the Chapter also defines the rights of landlords and property owners. The proposed Code does not prohibit a landlord or its agent or a property owner from refusing to rent a housing accommodation or from selling to a person if the person's income is insufficient to pay the rent or qualify for the purchase or is from an unlawful source. Additionally, refusal could also be permitted if the person seeking housing accommodation intends to occupy with a larger number of persons than could be accommodated under occupancy standards.

Public awareness and promotion of the fair housing goals is also codified within this Chapter. Within 120 days of the effective date of the Ordinance, all landlords owning more than ten (10) rental units and all real estate offices selling more than ten (10) residential housing accommodations within the City of Gahanna in a calendar year are required to use the equal opportunity logotype or have an equal opportunity statement on applications and marketing material and on display within their offices. Additionally, every owner required to obtain a certificate of occupancy as detailed in existing Code Section 1301.01 (Ohio Building Code) must under this proposal complete a certification acknowledging the awareness of the Fair Housing Ordinance.

The enforcement provisions of this Chapter involve the City Attorney's designation of an employee or contractor to serve as the Fair Housing Officer, a position that receives and investigates complaints under the chapter. Any person or organization may file a complaint within one year of the occurrence. The complaint goes through an administrative adjudication process (See attachment "Fair Housing Complaint Process Flowchart").

CHAPTER 792 - RESIDENTIAL TENANTS' RIGHT TO ASSERT TENDER OF RENT AS AN AFFIRMATIVE DEFENSE TO EVICTION

Communities around central Ohio have been called on to mitigate the ongoing housing crisis exacerbated by COVID-19 pandemic and regional population growth. One policy promoted by various organizations across the state to help reduce the eviction rate and homelessness is to codify pay-to-stay rights, encouraging landlords and property owners to accept tender of past due rent. Landlords may still evict tenants for other reasons, and landlords are not required to extend lease agreements.

Ordinance No. 0061-2022 also enacts new Codified Ordinance Chapter 792, Residential Tenants' Right to Assert Tender of Rent as an Affirmative Defense to Eviction. This codifies an existing equitable defense under state case law that a tenant can raise in an eviction action of tendering past due rent. If a tenant tenders past due rent with reasonable late fees, either prior to an eviction filing or prior to judgment (if a Complaint has already been filed, the tenant must also tender reasonable costs outlined in their lease agreement to the landlord), the landlord should accept said tender. If the landlord refuses, then the tenant's attempted tender shall be an affirmative defense to an eviction action for non-payment of rent. This chapter, when read in conjunction with source of income nondiscrimination provisions in Chapter 791, allows a tenant to utilize rental assistance and housing vouchers to catch up on past due rent.

Requested Legislation and Funding

- Legislation Needed: Ordinance
- Emergency/Waiver: **N/A**
- Vendor Name: N/A
- Vendor Address: N/A
- Already Appropriated: N/A
- Supplemental/Transfer: N/A

Attachments

- Fair Housing Complaint Process Flowchart