



City of Gahanna

200 South Hamilton
Road
Gahanna, Ohio 43230

Signature

Ordinance: ORD-0061-2022

File Number: ORD-0061-2022

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF GAHANNA, ENACTING CHAPTERS 790, 791 AND 792 TO CREATE A FAIR HOUSING BOARD, TO ESTABLISH HOUSING NONDISCRIMINATION LAWS, AND TO CODIFY AN AFFIRMATIVE DEFENSE TO EVICTION COMMONLY REFERRED TO AS PAY TO STAY

WHEREAS, the Council of the City of Gahanna seeks to provide appropriate protection for all citizens and their right to housing opportunities; and

WHEREAS, any person, irrespective of their race, color, creed, national origin, disability, age, sex, sexual orientation or gender identity, or other protected status should have fair access to housing in the City of Gahanna; and

WHEREAS, all persons who receive financial assistance, housing vouchers, or other support for the payment of housing costs should have fair access to housing in the City of Gahanna; and

WHEREAS, veterans, people with disabilities, retired people, parents of children, and others who receive income from non-employment sources such as public or private benefits, child or spousal support, or other forms of verified and substantiated income should be protected from discrimination when seeking housing solely on the basis of their source of income; and

WHEREAS, landlords who own rental property in the City of Gahanna will retain rights to apply appropriate screening criteria regarding ability to meet financial obligations, tenant history, credit scores and other factors, the rights to evict tenants who have violated their lease agreements, and the rights to determine tenancy based on safety and other factors; and

WHEREAS, regional housing strategy requires communities including the City of Gahanna to take a proactive approach to ensuring protections for our residents, to establish a foundation of equitable and fair treatment, and to set policy to ensure prosperity and success for all our neighbors; and

WHEREAS, source of income nondiscrimination is needed as a forward-thinking measure to address equity in housing, to ensure that the City of Gahanna is part of the efforts to address housing challenges regionally, and to lower the burden for lower-income individuals and families including seniors and those on fixed incomes remain in their homes; and

WHEREAS, the City of Gahanna reaffirms its commitment to being a welcoming community for all and will continue to explore and enact policy reforms and programs in order to expand the quality and availability of diverse housing in the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GAHANNA, COUNTY OF FRANKLIN, STATE OF OHIO:

Section 1. That Chapter 790 of the Codified Ordinances of the City of Gahanna be and is hereby enacted to establish and govern a Fair Housing Board as set forth in EXHIBIT A, attached hereto and made a part herein.

Section 2. That Chapter 791 of the Codified Ordinances of the City of Gahanna be and is hereby enacted to establish housing nondiscrimination laws as set forth in EXHIBIT A, attached hereto and made a part herein.

Section 3. That Chapter 792 of the Codified Ordinances of the City of Gahanna be and is hereby enacted to establish residential tenants' rights to assert tender of rent as an affirmative defense to eviction (commonly referred to as "Pay to Stay") as set forth in EXHIBIT A, attached hereto and made a part herein.

Section 4. That this Ordinance shall be in full force and effect after passage by this Council and 30 days after the date of signature of approval by the Mayor.

At a meeting of the City Council on October 17, 2022, a motion was made by Schnetzer, seconded by Weaver, that this Ordinance be Adopted. The vote was as follows:

Ms. Angelou, yes; Ms. Bowers, yes; Ms. McGregor, no; Ms. Padova, yes; Mr. Renner, yes; Mr. Schnetzer, yes; Mr. Weaver, yes.

President




Stephen A. Renner

Date

10/17/2022

Attest by

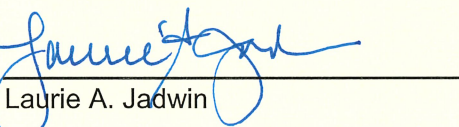


Jeremy A. VanMeter
Clerk of Council

Date

10/17/2022

Approved by the Mayor

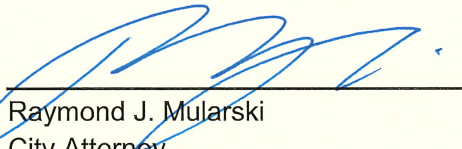


Laurie A. Jadwin

Date

10.17.2022

Approved as to Form



Raymond J. Mularski
City Attorney

Date

10-17-2022

CHAPTER 790 - FAIR HOUSING BOARD

790.01 - BOARD MAKEUP

- (a) The Fair Housing Board shall be composed of three members as follows:
- (1) three current members of the City's Civil Service Commission shall be selected and appointed by the City Council (selecting two) and the Mayor (selecting one) to serve as the Fair Housing Board.
 - (2) In the event that fewer than three current members of the Civil Service Commission are unwilling or unable to serve on the Fair Housing Board, then additional members of the Board shall be selected as follows:
 - i. City Council shall select and appoint a qualified resident as the first selection.
 - ii. The Mayor shall select and appoint a qualified resident as the second selection if needed.
 - iii. City Council shall select and appoint a qualified resident as the third selection if needed.
 - (3) If a Ward is not represented, all efforts shall be made to select a qualified person from an unrepresented Ward.

"Qualified resident" shall be defined as a resident over the age of 18.

(b) The terms of appointment of all public members shall be three years each, and they shall serve until a successor is appointed.

(c) If Fair Housing Board members are not fulfilled by current members of the City's Civil Service Commission, then the Board shall be selected from a pool of applications filed with the offices of the Mayor and/or City Council.

(d) The Clerk of Council, or designee, shall be responsible for taking of minutes at meetings and hearing of the Board, posting and notice of hearings or other such meetings as the Board may call, shall serve as the official custodian of its records, and shall perform such duties for the Board as are reasonably necessary. All filings pertaining to official Board actions and appeals shall be submitted to said Clerk.

(e) The Board shall meet at least once per year, and such meeting shall include on the agenda the following:

- (1) Adoption, modification, or review of the Board's Rules of Procedure;
- (2) Training on fair housing laws or other relevant topics as determined by the Fair Housing Officer; and
- (3) Any additional topics or items as determined by the Fair Housing Officer.

(f) The Board shall adopt Rules of Procedure necessary to conduct its affairs, which the Board may amend.

790.02 - COMPLAINTS TO THE BOARD

- (a) As prescribed in Gahanna City Code 791.08, formal complaints shall be in writing, in the form prescribed by law, and shall be filed with the Clerk of Council. The formal complaint, whether filed by the aggrieved party or the Fair Housing Officer, must conform with the requirements herein.

The following items shall be filed with each complaint:

- (1) A concise statement of the reason or legal basis for the complaint, along with a citation of the applicable Code section(s) signed by the Fair Housing Officer, complainant or agent, with the filing party's printed name, address, telephone number and email address (if available). The complaint shall include the names, addresses, phone numbers and email addresses (if available) of the alleged aggrieved party and the accused party.
- (2) All exhibits the filing party intends to introduce at a hearing on the complaint.

All materials submitted with the complaint may be submitted electronically in a format prescribed by the Clerk of Council.

- (b) Notice and response.

The accused party shall be noticed of the complaint's filing and shall be a party to the complaint and hearing.

Within fourteen days of notification of a complaint having been filed with the Fair Housing Board, the accused party may transmit to the Clerk of Council responsive records pertaining to the matter along with a written statement regarding the subject matter of the complaint.

Upon the scheduling of a hearing before the Fair Housing Board, the Clerk of Council shall notify in writing the complainant, Fair Housing Officer, and the accused party of the hearing date. Notice shall be given at least seven (7) days in advance of the scheduled hearing.

- (c) Hearing procedures.

Upon the request of the Fair Housing Officer, alleged aggrieved party, or the accused party, the Fair Housing Board may grant a reasonable continuance of the hearing date for good cause shown.

If a party wishes to have a stenographer present at hearing, the party shall provide at least five (5) days' prior written notice to the Clerk. The party requesting the stenographer is responsible for the cost of such stenographer. The Board may have a stenographer present at a hearing. If no stenographer is present, the Clerk's minutes serve as the official record of the hearing.

Any matter concerning hearing procedures not governed herein shall be governed by the Board's rules.

- (d) Standards.

The complainant has the burden of proof by a preponderance of the evidence. The Board shall consider all relevant evidence brought before it, provided however,

evidence not disclosed as required may only be admitted in accordance with the Board's rules. Evidence not admitted into the record by the Board may be proffered into the record by a party.

790.03 - FEES

There shall be no fee associated with filing a complaint by the alleged aggrieved party or the Fair Housing Officer.

CHAPTER 791 – HOUSING NONDISCRIMINATION

791.01- LEGISLATIVE INTENT

It is the goal of the City of Gahanna to continue its efforts to strengthen its neighborhoods. The City finds it necessary to protect the rights of its citizens to equal access to housing, which will serve to strengthen its neighborhoods and ensure housing choices for all residents.

791.02- DEFINITIONS

- (a) Advertising- The Printing, circulating, placing or publishing, or causing to be placed or published, any written statement, including upon electronic media, with respect to the availability for sale or rent of a housing accommodation or the listing of a housing accommodation with any person, business or entity which maintains a referral list of available housing.
- (b) Disability-
 - 1) A physical, mental, or medical impairment resulting from anatomical, physiological, genetic, and/or neurological conditions, which prevents the exercise of a normal bodily function which substantially limits one or more major life activities, or is demonstrable by medically accepted clinical or laboratory diagnostic techniques; or
 - 2) A record of having such an impairment, or a condition regarded by others as an impairment, or an association with a person with such an impairment.
- (c) Familial Status - Any person who is pregnant or has a child or is in the process of obtaining legal custody of an individual who has not attained the of age of 18 years domiciled with a parent or another person having legal custody of such individual or the designee thereof.
- (d) Gender Identity and Expression – A person’s perceived gender, as well as a person’s gender identity, self-image, appearance, expression or behavior which is different from that traditionally associated with the person’s sex at birth.
- (e) Housing Accommodation – Any building, structure or portion thereof located within the City of Gahanna which is occupied, intended or designed for occupancy as the home, residence, or sleeping place of one or more person sharing living quarters.
- (f) Landlord – An owner, lessor, sublessor, owner’s assignee, or managing agent, or other person having the right to sell, rent or lease a housing accommodation constructed, or to be constructed, or agent or employee thereof.

- (g) Major Life Activities – For the purposes of this section, include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, neurological, brain, respiratory, circulatory, endocrine, and reproductive function.
- (h) Marital Status- Single, married, divorced, separated, or widowed.
- (i) Military Status – A person’s participation in the United States military or the military of a state.
- (j) National Origin – Ancestry.
- (k) Person – One or more individuals, partnership, associations, corporations, their agents, assigns and representatives.
- (l) Rent – To lease or sublease, to let or to otherwise grant for a consideration the right to occupy a premises not owned by the occupant.
- (m) Service & Assistance Animal – An animal that is individually trained to work, provide assistance, or perform tasks for the benefit of a person with a disability. A pet, or an animal whose sole function is to provide comfort or emotional support does not qualify as a service & assistance animal.
- (n) Sexual Orientation - A person’s actual or perceived sexuality (such as heterosexuality, homosexuality, or bisexuality).
- (o) Source of Income – Payments from a lawful occupation or employment, as well as other substantiated and verified payments, including, but not limited to, assistance from private and public sources, supplemental security income, child support, spousal support (alimony), pensions, annuities, unemployment benefits, government subsidies such as housing vouchers, rental assistance, or other housing subsidies.

791.03- RIGHTS OF LANDLORDS AND PROPERTY OWNERS.

This article does not prohibit a landlord or its agent from refusing to rent a housing accommodation or a property owner, its agent, or person associated with the sale of residential property from selling to a person if one or more of the following conditions are met:

- (a) The person’s source of income is insufficient to pay the rent or qualify for the purchase, or the source of said income is from an unlawful source; or
- (b) The person intends to occupy the rental housing accommodation with a larger number of persons than can be accommodated under occupancy standards established by laws; or
- (c) For any reason not prohibited by the laws of the United States, the State of Ohio or the discriminatory practices set forth in this article, provided that such refusal is based upon legally permitted criteria and those criteria are applied equally to all prospective tenants or purchasers.

791.04- PROMOTION OF FAIR HOUSING GOALS.

Within 120 days of the effective date of this article, all landlords owning more than ten (10) rental units within the City of Gahanna, and all real estate offices selling more than ten (10)

residential housing accommodations within the City of Gahanna in a calendar year, shall be required to use the equal opportunity logotype or a statement of equal opportunity housing on applications and marketing material and to display in rental or real estate offices a public notice of equal opportunity in housing.

791.05- NOTIFICATION TO MULTIPLE DWELLING OWNERS.

Every owner required to obtain a certificate of occupancy as detailed in the City of Gahanna Code 1301.01, which adopted the Ohio Building Code and/or the Residential Code of Ohio, shall also complete a certification before said certificate of occupancy may be issued that the owner is fully aware of the Fair Housing Ordinance for the City of Gahanna and has received a copy of the Fair Housing Ordinance.

791.06- UNLAWFUL DISCRIMINATORY PRACTICES

It shall be unlawful for any person or entity engaged in the sale or rental of housing to do any of the following:

- (a) Refuse to sell, rent, lease, make unavailable for inspection/sale/rental, or otherwise to deny or withhold from any person or persons housing accommodation because of
 - (1) race, creed, color, national origin, sex, disability or reliance upon a service & assistance animal, familial status, marital status, age or military status; or
 - (2) sexual orientation or gender identity and expression;
 - (3) or source of income.
- (b) Discriminate against any person in the terms, conditions or privileges of sale, rental or lease of any housing accommodation or in the furnishing of facilities or services in connection therewith because of
 - (1) race, creed, color, national origin, sex, disability or reliance upon a service & assistance animal, familial status, marital status, age or military status; or
 - (2) sexual orientation or gender identity and expression;
 - (3) or source of income.
- (c) To print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form or application for the purchase, rental, or lease of a housing accommodation or to make any record or inquiry in connection with the prospective purchase, rental or lease of a housing accommodation which expresses, directly or indirectly, any limitation, specification or discrimination as to
 - (1) race, creed, color, national origin, sex, disability or reliance upon any service & assistance animal, familial status, marital status, age, or marital status; or
 - (2) sexual orientation or gender identity and expression; or
 - (3) source of income.
- (d) To induce or attempt to induce any person to sell or rent any housing accommodation by representations regarding the entry or prospective entry into the neighborhood of persons of
 - (1) a particular 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; or
 - (3) source of income.

- (e) Refusal to permit, at the expense of a person with disabilities, reasonable modifications of existing premises, if such modifications may be necessary to afford such person full enjoyment of the housing accommodation, and/or a refusal to make reasonable accommodations in rules, policies, practices or services which may be necessary to afford a person with disabilities equal opportunity to use and enjoy the housing accommodation. However, nothing in this section shall prohibit a landlord from requiring, at the conclusion of the tenancy, restoration of the premise to its original condition at the expense of the tenant.
- (f) To deny access or otherwise to discriminate against a person with a disability because he or she is accompanied by a service & assistance animal.
- (g) To incite, compel or coerce the doing of any acts forbidden by this section, or to retaliate or discriminate against any person or entity who has filed a complaint or testified or assisted in any proceeding commenced under this article.
- (h) For any bank, savings or loan organization, insurance company or other entity whose business consists in whole or part of the making of loans or the arranging of financing for housing or those secured by real property, or of the issuance of property insurance, to discriminate in the issuance or in the terms and conditions of a loan or insurance policy because of
 - (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.
- (i) For purposes of qualifying a person as a tenant, for any landlord or its agent to fail to deduct from the monthly financial rental obligation the amount of any stipend, subsidy, or rental assistance paid directly to the landlord or its agent that have been allocated or made available to the tenant. Further, the landlord or its agent must utilize the same ratio of income to rent for qualifying the tenant for the balance of the monthly financial rental obligation as is utilized for all other tenants.

791.07 - EXEMPTIONS.

The provisions of this section shall apply to all housing accommodations within the City of Gahanna as well as land zoned for residential uses except those exempted under Ohio Rev. Code § 4112.024.

791.08 - ENFORCEMENT.

- (a) The City Attorney of the City of Gahanna shall designate an employee or contractor as the Fair Housing Officer to receive and investigate complaints under this section.
- (b) Any alleged aggrieved party may file with the Fair Housing Officer a complaint alleging violation of this section within one year of the occurrence. Such complaint shall be in writing, and in such form as required by the Fair Housing Officer.
- (c) The Fair Housing Officer shall notify the accused party within thirty (30) days of the date of the filing of the complaint and request that the accused party answer the complaint in writing within (20) days of the date of the notice. The date of the

mailing of the Fair Housing Officer's notification shall be endorsed thereon. The Fair Housing Officer shall, thereafter, make a prompt investigation in connection with the complaint. If the basis of the complaint alleges discrimination enforceable under federal or state law, then the Fair Housing Officer shall refer the matter to a qualified fair housing enforcement agency operating under state or federal law to investigate and handle fair housing complaints within the county. If the basis of the complaint alleges discrimination enforceable under local ordinance only, then the Fair Housing Officer shall proceed with further investigation sufficient to determine whether there is probable cause to establish discriminatory conduct.

- (d) If probable cause is found pursuant to the investigation into the complaint on the basis of discrimination enforceable under local ordinance only, then the Fair Housing Officer shall invite the parties to mediation. If, in the judgment of the Fair Housing Officer, a conciliation agreement would resolve the complaint, the Fair Housing Officer shall include in such agreement provisions requiring the accused party to refrain from unlawful discriminatory practices and may include such compensation and/or affirmative relief as is agreed upon by the parties. Conciliation agreements may be subject to confidentiality agreements upon the agreement of the parties.
- (e) If conciliation is not achieved, and the basis of the complaint is a matter not covered by state or federal law, a formal complaint shall be filed and the matter set for a hearing before the City's Fair Housing Board, which shall set the matter for a hearing at their next meeting at least fifteen days from when the Fair Housing Officer's complaint is filed.
- (f) If the Fair Housing Officer does not make a finding of probable cause pursuant to Section (c), above, the alleged aggrieved party may file a complaint against the accused party directly to the City's Fair Housing Board.
- (g) The Fair Housing Board shall issue its finding at the time of the hearing, or continue the matter for a hearing on a date certain. Appeals of findings of the Fair Housing Board shall be pursuant to Ohio Revised Code Chapter 2506.

791.09 - PENALTIES FOR OFFENSES.

If the Fair Housing Board makes a finding that a discriminatory practice in violation of this Code has been committed, it shall issue such a finding and assess a civil penalty of \$1,500.00 against the accused party. Said penalty funds shall be paid into the General Fund and used to offset the administrative costs of enforcement and for the promotion of fair housing in Gahanna.

791.10 – 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.

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

792.01- LEGISLATIVE INTENT

It is the goal of the City of Gahanna to continue its efforts to strengthen its neighborhoods. The City finds it necessary to codify an existing equitable defense under state common law in order to mitigate housing instability and to support vulnerable populations in avoiding eviction where appropriate.

792.02 - DEFINITIONS

- (a) Housing Accommodation – Any building, structure or portion thereof located within the City of Gahanna which is occupied, intended or designed for occupancy as the home, residence, or sleeping place of one or more person sharing living quarters.
- (b) Landlord – An owner, lessor, sublessor, owner’s assignee, or managing agent, or other person having the right to sell, rent or lease a housing accommodation constructed, or to be constructed, or agent or employee thereof.
- (c) Person – One or more individuals, partnership, associations, corporations, their agents, assigns and representatives.
- (d) Rent – To lease or sublease, to let or to otherwise grant for a consideration the right to occupy a premises not owned by the occupant.
- (e) Tenant – A person who has the right to occupy, reside in, or otherwise occupy a housing accommodation owned by another person due to a rental or contractual relationship with the landlord of that housing accommodation.
- (f) Tender – means an offer of payment.

792.03 – TENANT’S AFFIRMATIVE DEFENSE AFTER TENDERING RENT PRIOR TO THE FILING OF AN EVICTION ACTION (Complaint for Forcible Entry and Detainer)

- (a) If a tenant of a housing accommodation, or an agency or individual on the tenant’s behalf, tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code Section 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.
- (b) If the tenant tenders all accrued rent and reasonable late fees to the landlord prior to the filing of an action filed under ORC 1923, the landlord shall accept the tendered payment and allow continued tenancy.

792.04 – TENANT’S AFFIRMATIVE DEFENSE AFTER TENDERING RENT PRIOR TO AN EVICTION JUDGMENT (Judgment Entry Granting Forcible Entry and Detainer and/or Writ of Restitution)

- (a) After the filing of an action for forcible entry and detainer under Ohio Revised Code Chapter 1923 for nonpayment of rent but prior to the entry of a judgment for forcible entry and detainer or writ of restitution, the tenant, or an agency or individual on the tenant’s behalf, shall have the right to tender to the landlord all past due rent with reasonable late fees, court costs, and reasonable costs to the landlord.
- (b) If the tenant tenders all past due rent with reasonable late fees and costs to the landlord prior to the judgment or writ described above, irrespective of the landlord’s acceptance or

refusal to tender, the tenant's tender of all past due rent, reasonable late fees and costs shall be an affirmative defense to the eviction action for nonpayment of rent.

(c) Payment of reasonable late fees and costs shall only be required if the parties have a written lease agreement that explicitly provides for such fees and costs, and further, landlord shall set forth the amount of fees and costs in the notice required by Ohio Revised Code Section 1923.04.

792.05 – LANDLORD'S ABILITY TO EVICT FOR REASONS OTHER THAN NONPAYMENT OF RENT

Nothing in this section limits the ability of a landlord to initiate, seek judgment, or execute a judgment or writ for forcible entry and detainer or restitution under ORC Chapter 1923 for reasons that exceed the sole basis of nonpayment of rent.

792.06 – 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.