



City of Cincinnati

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An Ordinance No. _____

- 2023

MODIFYING Chapter 871 of the Cincinnati Municipal Code, "Landlord-Tenant Relationships," by ordaining new Section 871-10, "Landlord's Obligation to Provide Tenant Relocation Assistance," and amending Sections 871-1, "Purpose and Construction," 871-3, "Definitions," and 871-15, "Court Action,"; **MODIFYING** Chapter 1117 of the Cincinnati Municipal Code, "Housing Code," by amending Sections 1117-31, "Connection of Fixtures," and 1117-35, "Heating Facilities"; and **MODIFYING** Title XV, "Code Compliance," by amending Section 1501-9, "Class D Civil Offenses," all to establish a procedure by which tenants may receive relocation assistance if ordered by the City to vacate their residences due to unsanitary living conditions that are either created, or knowingly and willfully left unabated, by the landlord.

WHEREAS, buildings with residential rental units are on occasion found to have severe code violations that threaten the health, safety, and welfare of the tenants, including such unsanitary or unsafe conditions that the City is required to order the building vacated and uninhabitable; and

WHEREAS, these code violations often result from intentional and unintentional neglect or deferred maintenance by landlords, and the unsanitary or unsafe conditions may constitute a breach of the landlords' implied warranty of habitability, a violation of the landlords' obligation pursuant to Ohio Revised Code 5321.04(A)(2) to maintain residential rental properties in a fit and habitable condition, and may result in the constructive eviction of tenants from residential rental units; and

WHEREAS, when the Department of Buildings and Inspections inspects a rental property and finds it to be uninhabitable due to substandard living conditions that are a direct result of the landlord's actions or inaction, the City is often forced to vacate tenants; and

WHEREAS, exposure to lead dust and paint chips is detrimental to the health, safety, and welfare of tenants, and, especially in the case of children, may result in lead poisoning and cause significant negative effects on a child's health and neuropsychological development; and

WHEREAS, the Cincinnati Health Department is occasionally required to issue a Notice of Noncompliance and Order to Vacate residential properties due to the existence of unabated lead hazards that make the properties unsafe for human occupation, and the failure to abate is due to the landlord's failure to cooperate with the City's lead hazard abatement enforcement efforts; and

WHEREAS, during cold weather months, the Cincinnati Health Department and Department of Buildings and Inspections are regularly alerted to rental properties where there is insufficient heat and are required to issue orders requiring the vacation of these properties to protect the health and safety of their occupants; and

WHEREAS, in November 2015, the City was forced to vacate and provide relocation assistance to 23 families residing at 1026 Burton Avenue due to a roof failure following a significant period of intentionally deferred maintenance by the landlord, who had been on notice for months that the roof of the building needed to be repaired; and

WHEREAS, in December 2022, the City was forced to provide relocation to dozens of tenant households residing in properties across Cincinnati who were displaced due to flooding and lack of heat resulting from deferred maintenance of electrical, heating, and plumbing systems; and

WHEREAS, vacate orders are issued by the City as a last resort, when necessary to protect the public health, safety, and welfare where living conditions become unsafe, and only after reasonable attempts to attain compliance have been exhausted; and

WHEREAS, the expenses incurred in moving and the difficulty of finding affordable replacement housing create a financial hardship on tenants, especially low-income tenants; and

WHEREAS, the City currently provides minimal tenant relocation assistance out of goodwill, not as a legal requirement, to help tenants who are forced to vacate their rental units due to substandard living conditions to obtain safe and sanitary housing; and

WHEREAS, landlords who fail to provide safe and sanitary housing, consistent with their obligations under Chapter 5321 of the Ohio Revised Code, should bear responsibility for the costs incurred by the City in providing relocation assistance to displaced tenants; and

WHEREAS, this ordinance is needed to supplement existing state and common law remedies that are insufficient to address the problems facing the tenants and the City when a rental property is deemed uninhabitable by the City's code enforcement officers due to substandard living conditions; and

WHEREAS, providing a more comprehensive relocation assistance to displaced tenants conforms to the guiding policy principles to "[d]evelop a culture of health embodied by thriving residents" and to "[l]ead by example to strengthen our region" as described on pages 80 and 83 of Plan Cincinnati (2012), and the "Live" goal to "[i]mprove housing quality" by "[p]rovid[ing] quality healthy housing" as described on pages 164 to 168 of the Plan; and

WHEREAS, requiring landlords to pay for the relocation costs incurred by displaced tenants or the City will encourage landlords to correct code violations and is in the interests of the public health, safety, morals, and general welfare; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 871-10, "Landlord's Obligation to Provide Tenant Relocation Assistance," of Chapter 871, "Landlord-Tenant Relationships," of the Cincinnati Municipal Code is hereby ordained as follows:

Sec. 871-10. - Landlord's Obligation to Provide Tenant Relocation Assistance.

- (a) *Relocation assistance required.*** If a tenant household is or will be displaced as a result of the issuance of a vacate order by the director of buildings and inspections or the board of health due to uninhabitable or unsafe living conditions that are the result of intentional or unintentional neglect or deferred maintenance by the landlord, the landlord shall provide relocation assistance to the displaced tenant household. The relocation assistance shall be provided in addition to any damages or other amounts to which the tenant may otherwise be entitled by law.

This section does not apply if the landlord either provides alternative or temporary housing that complies with the applicable provisions of the Cincinnati Municipal Code or demonstrates the existence of another exception under section 871-10(b). The director of buildings and inspections is hereby authorized to establish rules and regulations as are necessary and appropriate to the administration of this section. Such rules and regulations shall include, but not be limited to, minimum size requirements of proposed alternative or temporary housing.

Relocation assistance shall be provided as follows:

- (1) Within three business days of the issuance of a vacate order, the landlord shall pay a relocation amount of \$2,500 to each tenant household impacted by the vacate order and shall refund any prepaid rent and/or security deposit remitted to the landlord by the tenant household; and
- (2) If more than three business days have passed since the issuance of the vacate order and the landlord has not provided the relocation assistance required by section 871-10(a)(1), the tenant may claim in a court action against the landlord the greater of either the relocation assistance provided in section 871-10(a)(1) or the following amounts:
 - (A) A refund of any and all prepaid rent;
 - (B) A refund of the full balance of the current month's rental payment;
 - (C) A refund of any security deposit;
 - (D) Payment or repayment of the reasonable and necessary costs of the tenant household's relocation costs, such as moving company or rental moving van expenses, with such payments limited to relocations within a fifty mile radius;
 - (E) Payment or repayment of the tenant household's fees for normal and initial reconnection of any utilities at the tenant household's new residence, not including arrearage due and owing to the utility company by the tenant household; and

(F) Any and all reasonable and necessary local hotel and/or motel costs incurred by the tenant household if the tenant household is given less than thirty days' notice to vacate their rental unit. The landlord's obligation to each tenant household to reimburse for such hotel or motel costs is limited as follows:

i. the landlord shall be obligated to payment of no more than fourteen days of a tenant household's hotel or motel stay, and

ii. the amount of hotel or motel costs for which the landlord shall be obligated to reimburse to the tenant household shall not exceed the average daily rate, including taxes, which hotels and motels located in the City customarily charge for comparable accommodations.

(3) If any tenant household is given less than seven days' notice to vacate a rental unit, the landlord shall provide a one-time payment of \$50.00 per tenant, but no more than \$300.00 total, to the tenant household to cover the tenant household's cost to replace food and other incidental items.

(b) *Exceptions.* If the landlord can demonstrate by clear and convincing evidence the existence of one of the following, the landlord shall not be liable to pay relocation assistance:

(1) The vacate order is the direct result of conditions caused by the tenant or the tenant's guest or invitee;

(2) The vacate order is the direct result of disconnection of utilities for non-payment and the tenant has agreed in a written lease to assume responsibility for payment of the account(s);

(3) The vacate order results from conditions arising from a natural disaster including, but not limited to, a windstorm, tornado, landslide, earthquake, or flood;

(4) The landlord has obtained an active judgment against the tenant household for possession of the rental unit;

(5) The vacate order is rescinded or withdrawn or is overturned by a court prior to the time the tenant household has taken definitive steps to move;

(6) The landlord and tenant household reach a separate agreement regarding relocation, provided that the relocation premises comply with the applicable provisions of the Cincinnati Municipal Code and the terms of the agreement otherwise comply with applicable provisions of the Ohio Revised Code and Cincinnati Municipal Code governing landlord and tenant agreements; or

- (7) The landlord has moved the tenant household into another unit or building after the tenant has voluntarily agreed to accept the replacement unit in lieu of payment for relocation under this section and the replacement unit complies with all applicable zoning, building, and housing codes.
- (c) *Rental of vacant and uninhabitable rental units prohibited.* If a rental unit is or becomes vacant because vacate orders have been issued due to uninhabitable living conditions, a landlord shall not enter into a rental agreement for the rental unit or allow new tenants to occupy the vacant rental unit until the conditions are corrected.
- (d) *Director's involvement in relocation assistance.* The director of buildings and inspections may provide the relocation assistance required by the landlord under section 871-10(a) to tenant households if the landlord fails or refuses to pay for required relocation costs. If the director provides relocation assistance to a tenant household because of the landlord's failure to comply with its obligation under section 871-10(a), the landlord shall be liable to the city for any and all such costs.
- (e) *Penalties.*
- (1) *Renting vacant and uninhabitable rental unit.* If a landlord knowingly violates section 871-10(c) and rents a vacant and uninhabitable rental unit, in addition to being liable for the relocation assistance set forth in section 871-10(a), the tenant renting a vacant and uninhabitable rental unit may also recover from the landlord either two months periodic payments of rent or up to three times the actual damages the tenant household sustained as a result of the violation, whichever is greater.
- (2) *Failure to provide relocation assistance or repay relocations costs.*
- (A) A landlord's failure to provide relocation assistance in accordance with section 871-10(a) or to repay costs incurred by the director in providing relocation assistance in accordance with section 871-10(d) shall constitute a class D civil offense under Section 1501-9(a) for every tenant household displaced.
- (B) Each and every day on which a landlord continues to violate section 871-10(a) shall constitute a separate offense.
- (f) *Appeals.*
- (1) *Administrative Ruling.* A landlord who has a controversy with the city as to the interpretation or application of this section may seek a written determination from the director pursuant to Section 1101-80 of the Cincinnati Building Code.

- (2) *Appeal of Director's Ruling.* A landlord aggrieved by an order of the director made pursuant to this section may appeal the order to the Board of Housing Appeals in accordance with Section 1101-83 of the Cincinnati Building Code.

Section 2. That Sections 871-1, "Purpose and Construction," 871-3, "Definitions," and 871-15, "Court Action," of Chapter 871, "Landlord-Tenant Relationships," of the Cincinnati Municipal Code are hereby amended to read as follows:

Sec. 871-1. - Purpose and Construction.

- (a) The purpose of this chapter is to improve the housing stock in Cincinnati, and promote equitable relationships between landlords and tenants, and ensure that tenants have access to decent, safe, and sanitary housing. To this end, the chapter shall be liberally construed.
- (b) If any of the provisions of this chapter conflict with the laws, rules, and regulations of the United States or the state of Ohio, such laws, rules, and regulations shall govern.

Sec. 871-3. - Definitions.

As used in this Chapter 871, the following words and terms shall have the meanings indicated in this section. Words and terms used and not specifically defined in this section, but which are defined in the Cincinnati—~~Ohio Basic~~ Building Code, Title XI of the Cincinnati Municipal Code, shall have the meanings there defined. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine, and the feminine the masculine.

- (a) "Director of Buildings and Inspections" or "Director" shall be construed to include the director of buildings and inspections and authorized employees appointed to perform specific duties of the Department of Buildings and Inspections in the enforcement of the provisions of the Ohio Building Code and the Cincinnati Building Code.
- (b) "Landlord" means the owner of a rental unit.
- (c) "Rental agreement" means any contract or lease, whether written, oral, or implied by operation of law, for the rental of the rental unit.
- (d) "Rental unit" means the whole or part of a building including common areas used by a person for living dining, cooking, sleeping, and sanitation purposes owned or controlled by another, under an agreement for the periodic payment of rent.

- (e) "Security deposit" means any deposit of money or other property however denominated whose primary function is to secure the performance of the tenant under a rental agreement.
- (f) "Tenant" means an occupant of a rental unit other than an owner or operator.
- (g) "Tenant household" means an individual tenant who lawfully resides in a rental unit or two or more individuals who lawfully reside in the same rental unit, whether or not such individuals are related to one another by blood or marriage.
- (h) "Vacate order" means an order to vacate and keep vacant an occupied rental unit, which order is issued pursuant to the city's police powers to protect public health, safety, and welfare, including pursuant to Section 3742.40 of the Ohio Revised Code, Rule 370-30-11 of the Ohio Administrative Code, Section 602-7 or Section 1101-65 of the Cincinnati Municipal Code, or the director's authority pursuant to Section 5, Article XXI of the Cincinnati Administrative Code.

Sec. 871-15. – Court Action.

- (a) The obligations imposed upon landlords and tenants under of this chapter, including the duty of the landlord to maintain the rental unit in substantial compliance with the Cincinnati—~~Ohio Basic~~ Building Code, the Cincinnati Fire Prevention Code, and the Regulations of the Board of Health confer in the other party to a rental agreement a concomitant right to enforce those obligations. A landlord or tenant may bring an action for mandatory or injunctive relief to secure compliance with these obligations.
- (b) A landlord or tenant may recover damages, including damages for injury to person or property, for the breach of any obligation imposed by this chapter.
- (c) The city may recover costs from a landlord for any relocation assistance that it provides in accordance with Section 871-10(d).
- (d) A tenant may seek the ~~appoint~~-appointment of a receiver for the building in which the tenant ~~he~~ resides only in any pending action where the tenant and landlord are parties. The tenant shall show that a city official has ordered the landlord to make repairs to the building, that such order has not been complied with within the time allotted for compliance, and that there is a pattern of neglect of the building on the part of the landlord. The tenant shall also show that the orders are for the correction of conditions which are in violation of the Cincinnati —~~Ohio Basic~~ Building Code, the Cincinnati Fire Prevention Code, the Regulations of the Board of Health, or related laws and ordinances. Finally, the tenant shall show that the conditions of the building impose a serious threat to the life, health, or safety of the occupants.

- (e) Upon appointment, a receiver shall collect all rents for the building due the landlord for a period not to exceed six months and use the sums collected for the purpose of correcting violations of the Cincinnati ~~Ohio Basic~~ Building Code or for such other purposes authorized by the court. The obligation of a tenant to pay rent shall be discharged upon payment of rent due to the receiver. A building may not be placed under a receivership more than once in a period of 365 days to run from the time of appointment.
- (f) A receiver may be allowed out of the rents collected a fee for services. The fee allowed shall be as determined reasonable by the court but shall not exceed 20 percent of the amount actually and reasonably expended for repairs.
- (g) If a receiver is appointed at the request of the tenant, the tenant may be allowed as part of the costs of the action expenses and a reasonable attorney's fee for services relating to the appointment and service of the receiver.

Section 3. That Sections 1117-31, "Connection of Fixtures," and 1117-35, "Heating Facilities," of Chapter 1117, "Housing Code," of the Cincinnati Municipal Code are hereby amended to read as follows:

Sec. 1117-31. - Connection of Fixtures.

1117-31.1 *Water supply:* All plumbing fixtures in every residential building shall be connected to an approved water supply.

1117-31.2 *Sewer connection:* All plumbing fixtures in every residential building shall be provided with a public sewer connection, or an approved private sewage disposal system.

1117-31.3 *Hot and cold running water:* All sinks, lavatories, bathtubs, and showers shall be supplied with hot and cold running water. It shall be an affirmative defense to a charge brought under this section that the tenant of the dwelling unit has agreed in writing to provide or pay for the required water service for the unit occupied by that tenant.

Sec. 1117-35. - Heating Facilities.

1117-35.1 *General:* The owner, person in control, or operator of any dwelling, other than those erected exclusively for summer use, shall provide heating facilities which are capable of safely heating all habitable rooms and toilet rooms to a temperature of 70° F., at a distance of three feet above the floor level at the center of the room when the outside temperature is 0° F. The owner, person in control, or operator shall cause such heating facilities to be installed in an approved manner, safely safely maintained, and in good working condition. ~~It shall be an affirmative defense to a charge brought under this section that the tenant of the dwelling unit has agreed in writing to provide or pay for the required heating facilities for the unit occupied by that tenant. No landlord may evict a~~

~~tenant or refuse to rent to a prospective tenant solely because the tenant fails to agree to provide the required heating facilities.~~

1117-35.2 *Flue connections*: All heating and water heating devices which burn gaseous, liquid or solid fuel shall be connected to an approved flue.

Exception: Unvented gas space heaters equipped with oxygen depletion sensors and listed in accordance with ANSI Standard “Z21.11.2 1978” or later edition, shall be permitted in one-family and two-family dwellings.

1117-35.3 *Flues to be clean and unobstructed*: The owner or person in control of the dwelling shall be required to see that flues are clean and unobstructed, provided with a cleanout, and capable of providing the draft necessary to remove the products of combustion from heating or water heating equipment connected thereto.

1117-35.4. *Sale of Space Heaters*: It shall be unlawful to sell, offer for sale, or display for sale in the City of Cincinnati any gas space heater which is not an approved vented gas space heater equipped with an approved gas pressure regulator.

Exception: Unvented gas space heaters equipped with oxygen depletion sensors and listed in accordance with ANSI Standard “Z21.II.2-1978” or later edition, shall be permitted in one-family and two-family dwellings.

1117-35.5. *Installation of Space Heaters*: It shall be unlawful to install in the City of Cincinnati any gas space heater which is not an approved vented gas space heater equipped with an approved gas pressure regulator without connecting such gas space heater to an approved flue in an approved manner.

Exception: Unvented gas space heaters equipped with oxygen depletion sensors and listed in accordance with ANSI Standard “Z21.11.2-1978” or later edition, shall be permitted in one-family and two-family dwellings.

1117-35.6. *Authority to Shut-Off Gas-Fired Space Heaters and Water Heaters*: Whenever it shall appear on inspection that gas equipment used for space heating or water heating is discharging dangerous fumes, or is unsafe for use, and when, in the opinion of the director of buildings and inspections or other persons in the fire division or department of health authorized by the city manager, immediate action is necessary, they shall be authorized to shut off the supply of gas to the equipment by turning off the valve or cock to the equipment, or when required, by capping or plugging gas lines to the equipment or other mechanical means to accomplish shut off of gas to the equipment and attaching thereto a tag and seal out of service so as to make inoperative or to take any steps necessary in the interest of the public safety with or without notice to the owners or persons in control of the property or equipment involved.

1117-35.7. *Nonconforming Gas-fired Equipment*: Whenever it shall appear on inspection that gas equipment used for space heating or water heating is in violation of any of the requirements of any section of this Code, or of any law or ordinance relating to the same subject matter, an order shall be issued to the owner or the person in control of

the gas equipment to correct same. After such order and the failure of the owner or person in control of such gas equipment to correct the violation within the time specified in the order, the director of buildings and inspections or other persons in the fire division or department of health authorized by the city manager, shall be authorized to shut off the supply of gas to the gas equipment in the manner herein provided.

1117-35.8. *Sealing Device Not to Be Removed*: It shall be unlawful to remove the tag, seal, cap, plug, or other mechanism or sealing device or to use or permit to be used any gas equipment which use has been ordered discontinued in accordance with § 1117-35.6 or 1117-35.7 CBC until such equipment is made to comply with the applicable provisions of the CBC and OBC.

Section 4. That Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code is hereby amended to read as follows:

Sec 1501-9. - Class D Civil Offenses.

A person who violates a standard of conduct set forth in a provision of the Cincinnati Municipal Code listed below is liable for the civil fine specified in § 1501-99 for a Class D Civil Offense. If the provision is listed under paragraph (a) below, the otherwise applicable civil fine is reduced by 50% if the person charged shows in accordance with § 1501-15 that the violation has been corrected. If a person has previously been found to have violated the same provision of the Cincinnati Municipal Code within one year that person may be charged as a second offender and on being found to have committed a second or subsequent offense is liable for the civil fine for the subsequent offense provided below, which fine is specified in § 1501-99 and is not subject to reduction for correction of the violation.

(a) Class D Civil Offenses With Civil Fines Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 720-13	Private Facilities	Class E
(2)	§ 720-45	Notice of Violations	Class E
(3)	§ 720-69	Notice to Correct Drainage	Class E
(4)	Chapter 855	Rooming Houses	Class D
(5)	Chapter 895	Outdoor Advertising Signs	Class D
(6)	Chapter 1101	Administration, Cincinnati Building Code	Class E
(7)	Chapter 1106	General and Specialty Contractors	Class E

(8)	Chapter 1107	Elevator and Conveyor Equipment	Class E
(9)	Chapter 1117	Housing Code	Class E
(10)	Chapter 1119	Building Hazard Abatement Code	Class E
(11)	Chapter 1127	General Inspections Programs Code	Class E
(12)	Title XIV	Zoning Code	Class E
(13)	§ 1201-21	Maintenance	Class D
(14)	§ 1201-33	Evacuation	Class D
(15)	§ 1201-35	Spills and Leaks	Class D
(16)	Chapter 1235	Detectors, Early Fire Warning Systems	Class D
(17)	§ 1123-11(a)	Vacant Foreclosed Property Registration - Failure to register a vacant, foreclosed property.	Class E
(18)	§ 874-07(a)	Failure to Register Residential Rental Property	Class D
(19)	<u>§ 871-10</u>	<u>Landlord's Obligation to Provide Tenant Relocation Assistance</u>	<u>Class D</u>

(b) Class D Civil Offenses With Civil Fines Not Subject to 50% Reduction for Correction of Violation:

			Civil Fine for Subsequent Offense
(1)	§ 718-25	Secret Street Uses	Class E
(2)	§ 721-59	Taking Material from Streets	Class E
(3)	§ 729-71(c)(2)	Personal Property Left Abandoned on Streets and Sidewalks- 4 or more items	Class D
(4)	§ 761-14	Eviction or Retaliation by Landlord	Class E
(5)	Chapter 891	Home Improvement	Class E
(6)	§ 1201-47	Failure to Comply with Orders	Class D
(7)	§ 1219-21	Causing Fire Through Negligence	Class D
(8)	Chapter 1251	Fire Starting Apparatus	Class D
(9)	§ 759-4	Use of a Motor Vehicle to Facilitate a Drug Related Crime	Class D
(10)	Chapter 722	Management and Control of the Use of the City Right-of-Way	Class E
(11)	Chapter 730	Commercial Waste Franchises	
(12)	§ 856-25(c)	Violation of Limitations on Operators or Operation of Short Term Rentals	Class D

(13)	§ 1125-17(1)	Failure to Register a Vacant Building	Class E
(14)	§ 1601-57	Enforcement of Emergency Orders	Class D
(15)	§ 1601-59	Enforcement of Health Orders	Class D
(16)	§ 723-79	Failure to Obtain Streetcar Power-Down or Shutdown Work Permit	Class D
(17)	Chapter 811	e-Scooter Rental Franchises	Class D

Section 5. That existing Sections 871-1, “Purpose and Construction,” 871-3, “Definitions,” and 871-15, “Court Action,” of Chapter 871, “Landlord-Tenant Relationships,” of the Cincinnati Municipal Code, Sections 1117-31, “Connection of Fixtures,” and 1117-35, “Heating Facilities,” of Chapter 1117, “Housing Code,” and Section 1501-9, “Class D Civil Offenses,” of Title XV, “Code Compliance and Hearings,” of the Cincinnati Municipal Code are hereby repealed.

Section 6. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2023

Aftab Pureval, Mayor

Attest: _____
Clerk

New language underscored. Deleted language indicated by strikethrough.