

# City of Cincinnati

SDP

11/23/23

## An Ordinance No. \_\_\_\_\_

- 2023

**ORDAINING** new Chapter 868, “Tenant Access to Counsel in Eviction Proceedings,” of the Cincinnati Municipal Code to provide access to legal counsel to qualifying, limited-income tenants in residential housing who are facing eviction.

WHEREAS, in the City of Cincinnati, 62 percent of households rent rather than own their home, one of the highest per capita rates in the country; and

WHEREAS, numerous Cincinnati residents are housing insecure and are at risk of homelessness because of eviction; and

WHEREAS, nearly half of tenants living in rental housing in Hamilton County, Ohio are cost burdened by housing, meaning that they spend more than thirty percent of their income on rent; and

WHEREAS, cost-burdened households face an elevated risk of eviction due to income fluctuation, unexpected expenses, and other factors outside of the household’s control; and

WHEREAS, evictions have significant, well-documented, and long-lasting negative effects on the lives of families, including poorer physical and mental health and increased risks of homelessness, unemployment, loss of personal property, damage to credit standing, and relocation into substandard housing; and

WHEREAS, evictions and the subsequent housing instability and displacement damage children by negatively impacting their mental and physical health, decreasing school attendance rates, impeding academic performance, increasing instances of school discipline, and increasing the likelihood of out-of-home placement; and

WHEREAS, eviction additionally creates significant costs for state and local governments related to shelter funding, education funding, health care provided in hospitals instead of community-based providers, transportation costs for youth experiencing homelessness, and foster care; and

WHEREAS, studies have shown that many tenants facing eviction have meritorious defenses that they are not able to assert without assistance of counsel; and

WHEREAS, providing access to counsel to tenants facing eviction is a proven means of preventing the disruptive displacement of families and the resulting social, economic, and public health costs of such displacement; and

WHEREAS, similar programs in other cities across the country have proven a resounding success in preventing eviction and stabilizing housing, including in the Ohio cities of Cleveland and Toledo; and

WHEREAS, within the first two years of its own program promoting access to counsel, the City of Cleveland saw an increase in the percentage of tenants receiving legal representation in eviction court from two percent to sixteen percent; and

WHEREAS, increasing the percentage of represented tenants in eviction proceedings in Cincinnati is desirable to promote access to justice and prevent the devastating consequences of eviction; now, therefore,

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

Section 1. That new Chapter 868, "Tenants' Access to Counsel in Eviction Proceedings,"

of the Cincinnati Municipal Code is hereby ordained as follows:

**Chapter 868 – TENANTS' ACCESS TO COUNSEL IN EVICTION PROCEEDINGS**

**Sec. 868-01. – Definitions.**

For the purpose of this chapter, the words and phrases defined in the sections below shall have the meanings therein respectively ascribed to them, without limiting the generalities of the words, unless a different meaning is clearly indicated by the context.

**Sec. 868-01-A. Access to Counsel Pilot Program.**

"Access to Counsel Pilot Program" is the program defined and created by this Chapter.

**Sec. 868-01-B. Brief Legal Assistance.**

"Brief legal assistance" shall mean individualized legal assistance provided in a single consultation by a legal partner to a covered individual in connection with a covered proceeding.

**Sec. 868-01-C. Community Partner.**

"Community partner" shall mean a non-profit organization or entity with the capacity to provide tenant outreach, engagement, education, and information relating to the Access to Counsel Pilot Program, or to raise or donate funds for contribution to the Access to Counsel Pilot Program, which has been designated by the office of the city manager as a community partner.

**Sec. 868-01-C1. Covered Individual.**

"Covered individual" shall mean any person who occupies a dwelling unit in the city of Cincinnati under a claim of legal right other than the owner, including any tenant in a building owned, operated, or managed by the Cincinnati Metropolitan Housing Authority and:

- (1) Whose annual gross income is not in excess of sixty percent of the area median income, as established by the United States Department of Housing and Urban Development for the Cincinnati metropolitan area, adjusted for household size, and as may be updated from time to time (“AMI”);
- (2) Is presently subject to imminent threat of eviction; and
- (3) Has not been awarded rental assistance funds from the city’s Access to Counsel Pilot Program within twelve months prior to their current application.

**Sec. 868-01-C2. Covered Proceeding.**

“Covered proceeding” shall mean any judicial or administrative proceeding to evict or terminate the tenancy or housing subsidy of a covered individual, any proceeding initiated to protect the tenancy of a covered individual under R.C. 5321.07, any proceeding deemed by a legal partner as the functional equivalent of such a proceeding, or any first appeal of such a proceeding.

**Sec. 868-01-F. Full Legal Representation.**

“Full legal representation” shall mean ongoing legal representation provided by any designated organization to a covered individual, and all legal advice, advocacy, and assistance associated with such representation. Such representation includes, but is not limited to, the filing of a notice of appearance on behalf of the covered individual in a covered proceeding.

**Sec. 868-01-F1. Funds Administration Partner.**

“Funds Administration Partner” shall mean an organization or entity that has the capacity to administer rental assistance funds for the Access to Counsel Pilot Program and has entered into contract with the city to do so.

**Sec. 868-01-I. Imminent Threat of Eviction.**

“Imminent threat of eviction” shall mean either:

- (1) The filing of a covered proceeding; or
- (2) The receipt of a notice to leave premises, as defined by R.C. 1923.04, within sixty days prior to application.

**Sec. 868-01-L. Legal Partner.**

“Legal partner” shall mean a not-for-profit organization or an entity to be determined by the city manager’s office that has the capacity to provide legal services per the standards

set by the American Bar Association Standards for the Provision of Civil Legal Aid to covered individuals in one or more covered proceedings and has entered into contract with the City or the Funds Administration Partner to provide such services.

**Sec. 868-01-L1. Legal Services.**

“Legal services” shall mean any legal representation provided to a covered individual, including brief legal assistance and full legal representation.

**Sec. 868-01-A. Rental Assistance Funds.**

“Rental assistance funds” shall mean monetary funds designated by contract with the city for provision of rental assistance to covered individuals.

**Sec 868-03. – Legal Representation and Rental Assistance in Eviction Proceedings.**

- (a) Covered individuals shall receive legal services, rental assistance funds, or both from the legal partners or funds administration partner, as applicable, under contract with the city. If legal services are provided in a covered proceeding, the legal partner shall provide those services as soon as possible after the initiation of the covered proceeding and in accordance with ABA standards.
- (b) The provision of legal services through legal partners as described in section 868-03(a) is contingent upon additional legislative authority authorizing and appropriating the funds for a contract between the city and legal partners and is subject to any terms and conditions contained in such agreement.
- (c) The provision of rental assistance funds through a funds administration partner as described in Section 868-03(a) is contingent upon additional legislative authority authorizing and appropriating the funds for a contract between the city and the funds administration partner and is subject to any terms and conditions contained in such agreement.
- (d) If the projected or actual need for legal services or rental assistance funds exceeds the available funds, the provision of legal services or rental assistance funds may be prioritized by reasonable standards set by the City, the legal partners, and the funds administration partners.
- (e) Legal partners and the funds administration partners shall work with the city and community partners to engage and educate tenants of their rights and available resources.
- (f) Legal partners and the funds administration partners shall be contractually obligated by the City to collect, retain, and report pre-determined data and performance metrics to the City on a quarterly basis, and to adhere to quality assurance standards set by the City based on ABA standards. All such contractual

obligations must be satisfied in order to receive an on-going contract to provide legal services or administer rental assistance funds under this chapter.

- (g) Any legal services performed by a designated organization under this section shall not supplant, replace, or satisfy any obligations or responsibilities of that designated organization under any other program agreement or contract with the City.
- (h) Nothing in this chapter, or in the administration or application of this chapter, shall be construed to create a private right of action on the part of any person or entity against the City of Cincinnati or any agency, official, or employee of the City of Cincinnati.
- (i) If any provision or section of this chapter or the enforcement of any provision or section is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect or render invalid or unenforceable any other provision or section of this chapter. To this end, each of the provisions and sections of this chapter are severable.

Section 2. 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