



MODEL LOCAL TENANT PROTECTION ORDINANCE

Cities and counties across the United States face two related crises: COVID-19 and the looming threat of rising evictions as the economic fallout from the pandemic exacerbates long-standing affordable housing challenges.

States and the federal government have taken some important steps to forestall evictions and provide other tenant protections, including a national eviction moratorium issued by the Centers for Disease Control and Prevention that is slated to be in place through the end of the year. However, given the limitations and expiration of many state efforts, coupled with the looming end of federal protections, local governments will increasingly be looking to provide tenant protections of their own to forestall homelessness and dislocation with potentially grave individual, economic, and public health consequences.

This model tenant protection ordinance ([click here to download the editable document](#)) provides essential terms that local governments should consider adopting to respond in their communities. Although this ordinance focuses exclusively on residential protections, the pandemic has also harmed commercial properties and the ordinance can be used as a starting point to create protections in the commercial space if desired.

Any local government enacting a version of this ordinance should attend to the scope of its authority and to the potential for state preemption. That said, local governments have wide-ranging authority to advance the public welfare and protect public health, all the more so during a crisis, and claims in litigation that local tenant protections run afoul of state landlord-tenant law or direct state limitations on local authority have not prevailed to date.

Because local authority and preemption vary from state to state, and can vary within states for different types of local government, the Local Solutions Support Center (LSSC) offers resources to understand these variations. Please see LSSC's ["Home Rule in the 50 States" Memos](#); ["Advocates' Memos,"](#) summarizing local authority and preemption to inform policy efforts; and LSSC's ["Decision Tree"](#) for assessing whether your local government has legal authority to adopt housing and homelessness related policies in response to the COVID-19 pandemic. For a discussion of how broad grants of emergency authority to local governments might provide a separate source of local authority even when state law might normally preempt or otherwise limit local authority, see [LSSC's paper here](#).

For additional support, please contact LSSC at LSSC@supportdemocracy.org.

The information provided in this document does not, and is not intended to, constitute legal advice. Individuals and organizations should contact an attorney licensed to practice in their state to obtain advice with respect to a particular legal matter.

Access the Model Ordinance Template

Download: <https://bit.ly/LSSC-TenantProtectionOrdinance-Feb2022>



SUMMARY TERMS

The model tenant protection ordinance includes the following general provisions, among others, to protect tenants and communities from the devastating personal, economic, and public health consequences that would result from widespread evictions caused by the COVID-19 crisis.

Evictions and Occupancy

- Prohibits the eviction of a tenant during a defined “Local Emergency Period” except when the tenant poses an imminent or severe threat to the health or safety of other occupants of the property.
- Prohibits the eviction of a tenant based on the failure to pay rent that comes due during the Local Emergency Period for a period of 12 months following the end of the Local Emergency Period.
- Allows persons other than the tenant occupying a rental unit to remain in the unit under the same terms as in the rental agreement if the tenant dies or becomes incapacitated during the Local Emergency Period. Such individuals would be allowed to stay in the unit until the rental agreement expires or the Local Emergency Period ends, whichever comes later.

Charges/Fees

- Prohibits landlords from charging any fee, damages, interest or other non-rent charges based on a tenant’s failure to pay rent in a timely manner during the Local Emergency Period.

Payment of Rent that Becomes Due During the COVID-19 Emergency

- Prohibits landlords from applying funds received from a tenant toward rent that became due during the Local Emergency Period unless (i) the tenant is current in all obligations arising after the Local Emergency Period; and (ii) the tenant has authorized the landlord to apply the funds toward the rent that became due during the Local Emergency Period.
- Allows landlords to seek payment of rent that becomes due during the Local Emergency Period after the end of the Local Emergency Period, but it gives tenants 12 months to pay before a landlord may seek to evict the tenant for that debt.

Rent Increases and Utilities

- In jurisdictions where state law does not prohibit local rent control, prohibits an increase in rent beyond a cost of living adjustment.
- Prohibits landlords from shutting off a tenant’s utilities except for emergency repairs.

Vacating/Surrendering a Lease

- For up to 1 year after the end of the Local Emergency Period, allows tenants to vacate and surrender possession of a rental unit for a reason related to COVID-19, including economic impacts, without being liable for future rental payments under the lease.

Applications for Rental Units

- Prohibits landlords from charging or collecting rental application fees during the Local Emergency Period.
- Prohibits landlords from requiring a deposit of more than 50% of the monthly rent to hold a unit vacant while the landlord considers an application. If the landlord approves the application, the deposit must be credited towards the tenant’s rent, security deposit, or other charges authorized by the lease.
- Prohibits landlords from denying admission to rental housing or taking other adverse action against an applicant because (i) the applicant was unable to pay rent in a timely manner during the Local Emergency Period; (ii) the applicant terminated a lease agreement early and within 1 year of the Local Emergency Period; or (iii) an eviction proceeding was brought against the applicant during the Local Emergency Period (other than an eviction based on an imminent and severe threat to the health or safety of other occupants of the property).

Retaliation and Enforcement

- Prohibits landlords from retaliating against a tenant for asserting their rights under the ordinance.
- Provides for penalties and remedies to enforce the ordinance.