



NLIHC State and Local Tenant Protection Series: A Primer on Renters' Rights

Habitability Protections: Two Case Studies

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Introduction

Tenant protections, passed in the form of laws and policies, are critical tools that can protect tenants against rising rental costs, discriminatory and arbitrary eviction practices, and other threats to housing stability. Tenant protections can help level the playing field between landlords and tenants, rectifying the longstanding power imbalance that exists for the lowest-income and most marginalized renters across the country. When passed with one another, tenant protections work together to protect tenants at all stages of their lease terms, ensuring that tenants can access safe, stable, and affordable housing of their choosing. Since January 2021, the National Low Income Housing Coalition (NLIHC) has tracked more than 300 [state and local tenant protections](#) that have been enacted to help prevent evictions and keep renters stably housed.

NLIHC's State and Local Innovation (SLI) project's *State and Local Tenant Protection Series: A Primer on Renters' Rights* is a collection of publications and resources aiming to advance the conversation about state and local tenant protections. The series includes toolkits, case studies, and webinars meant to support advocacy for and passage of "just cause" eviction standards, rent stabilization policies, laws that strengthen habitability standards and code enforcement procedures, and laws that limit excessive rental fees, known as "junk fees," in state and local jurisdictions across the country.

The case studies were developed through analysis of state and local tenant protections, interviews conducted with state and local partners, and work undertaken by students at Duke University in conjunction with members of NLIHC's State and Local Innovation project team. The purpose of this case study is to help state and local advocates identify successful tactics for advancing, enacting, and implementing habitability protections in their own jurisdictions, as well as to offer insights into the various challenges that can occur during the advocacy and legislative processes. It is our hope that the case studies that are part of this series will spark dialogue about the importance of state and local tenant protections and provide insights about how best to approach advocacy in jurisdictions across the country.

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Background: Habitability Protections

Safe, stable, and affordable housing has long been established as a [social determinant of health](#) and wellness, impacting the outcomes of both adults and children. Nationally, there is a patchwork of federal laws and regulations that establish a minimum set of housing quality standards for rental housing. For example, federal laws mandate enhanced disclosure requirements for lead in rental housing. However, federal laws and regulations that deal specifically with habitability apply only to housing units that receive federal funding through programs such as the Section 8 Housing Choice Voucher (HCV) program and the Housing Opportunities for Persons with AIDS (HOPWA) program.

Although there are no federal habitability protections that apply to all renters, [all states have implied warranties of habitability](#), meaning residential rental properties have to meet minimum habitability standards, no matter what's in the lease. Many jurisdictions have expanded on their state's minimum standards of habitability, but the enforcement of such standards has [historically been weak](#). Strengthening state and local habitability laws can ensure that renters have access to safe and quality housing and jurisdictions have standards to uphold proactive enforcement procedures related to habitability, while also promoting the

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health and safety of tenants living in rental properties and the communities in which they are located.

Law strengthening habitability standards aim to address health and safety concerns and ensure safe, stable, and affordable housing for all renters by:

- Ensuring that all housing in the private rental market conforms to a minimum set of habitability standards.
- Ensuring that tenants have access to information related to their rights under habitability laws.
- Expanding the housing conditions covered under a municipality's warranty of habitability.
- Increasing resources for enforcement.
- Implementing and improving enforcement mechanisms.
- Preventing landlord retaliation against tenants for reporting concerns related to housing health, safety, or habitability.

While each state and local jurisdiction's laws are unique, laws strengthening habitability protections commonly include the minimum habitability requirements for which a landlord is responsible, ways in which the locality ensures the standards are met, exemptions to the requirements, and enforcement mechanisms to hold landlords accountable for failing to abide by the law. Including retaliation clauses in habitability laws is a critically important way to limit the harassment sometimes faced by renters and ensure that renters who are evicted or harassed for reporting habitability issues have recourse.

In this case study, we explore laws that strengthen habitability protections in two localities: New Orleans, Louisiana, and Cincinnati, Ohio.

New Orleans's Healthy Homes Ordinance

In November 2022, lawmakers in New Orleans passed [Ordinance No. 29239](#), creating the [Healthy Homes Program](#) to ensure safe and habitable dwellings by requiring the registration of residential property, imposing stronger health and safety standards for housing units, implementing anti-retaliation protections, and creating an unfunded Anti-Displacement Fund. Tenant advocates and other housing justice-focused organizations led a decade-long campaign to secure these protections for tenants.

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WHAT'S INCLUDED IN NEW ORLEANS'S HEALTHY HOMES PROGRAM

New Orleans's Article XIII, addressing the “[Healthy Homes](#) Program,” sets minimum habitability standards for all rental units, requires all landlords to possess a “[Certificate of Compliance](#)” to rent a housing unit in the city, ensures tenants can report violations without fear of landlord retaliation, and creates an Anti-Displacement Fund.

- Article XIII requires that all rental housing units meet minimum habitability standards, including requiring safe and operable plumbing systems, electrical systems, smoke alarms, and heating and

cooling systems; roofs and windows that prevent dampness and deteriorations and are free of mold; interior surfaces without significant signs of decay; no rodent infestations; well-maintained mechanical and cooking appliances; and carbon monoxide detectors (added by [Amendment 34,817](#)).

- To ensure compliance with the habitability standards, Article XIII establishes that to rent a unit in New Orleans, landlords must apply for a Certificate of Compliance with the city's Department of Safety and Permits. Currently, the law states that landlords must renew certificates annually. However, if [Amendment 34,863](#) passes at the end of 2024, landlords will be required only to renew the certificate on a bi-annual basis to reduce the administrative burden on the Healthy Homes Department, which is responsible for administering and enforcing Article XIII. Moreover:
 - When applying for a Certificate of Compliance, landlords must self-certify that the unit was recently inspected and that it meets the minimum rental standards.
 - Landlords who do not apply for or renew their certificate by the deadline are charged a late fee, determined by how late the application is.
 - A certificate of compliance can be revoked for repeated violations of the law, or if a rental unit poses health or safety risks.
- Renters are responsible for reporting violations to the city. If revoking the certificate displaces a tenant, the tenant must be given notice of the revocation hearing and 60 days to vacate. The certificate can only be reissued after all violations are corrected and any fines or fees are paid.
- All registered rental housing units must be listed in a public rental housing database established and operated by the city. The database includes the unit's address, information about past and pending inspections, the date when the Certificate of Compliance was received, and whether the certificate has been revoked.
- A landlord must provide a written copy of the Certificate of Compliance and the minimum rental standards to tenants, delivered in their mailbox.
- Tenants have a right to report violations of the law or the [Minimum Property Maintenance Code](#) without fear of retaliation from their landlord, with a few exceptions.
 - Protected activities include notifying the landlord of violations, requesting repairs, reporting issues to authorities or the public, and providing testimony in legal proceedings.

- Prohibited retaliatory actions by landlords include terminating the lease, increasing rent, decreasing services, threatening legal action, or refusing to renew a lease. If these actions occur within six months of a tenant engaging in protected activities, the landlord is presumed to have committed an act of retaliation.
- A tenant is not protected from retaliation if they are behind on rent payments or they complain about an issue that is beyond the scope of the habitation standards; the tenant, family, or a guest damages the unit on purpose or threatens the safety of others; or the tenant has violated the lease agreement in any other way.
- Any violations of the Healthy Homes Program are prohibited, and each day of non-compliance is considered a separate offense. The city can enforce compliance through administrative hearings, fees or penalties, tax liens, and revoking the lessor's Certificate of Compliance.
- The Healthy Homes Program also includes an Anti-Displacement Fund. Depending on funding availability, renters can use funds to find and obtain alternate housing if they face displacement due to enforcement of the Healthy Homes statute. However, no money has been allocated to the fund since its passage.

ADVOCACY EFFORTS TO PASS THE HEALTHY HOMES PROGRAM IN NEW ORLEANS

New Orleans housing advocates led a 10-year advocacy campaign to pass tenant protections to ensure renters in the city had safe housing. The conditions renters faced, as well as the advocacy efforts conducted by advocates, are documented here.

- According to the [American Housing Survey](#), there was a total of 190,200 rental units in New Orleans in 2015, and more than half of those units were occupied by Black renters. Thus, habitability issues in the city disproportionately affect Black renters.
 - Of the 190,200 rental units in New Orleans in 2015, 10,900 units were considered moderately inadequate, 16,800 showed signs of mice or rats in the past 12 months, 77,500 showed signs of cockroaches in the past 12 months, 15,100 had open cracks or holes in the interior, and 14,600 had water leakage from an outside structure.
- Black renters in New Orleans were and still are [over-represented in eviction filings](#), further emphasizing the importance of laws that strengthen the ability of tenants to remain housed after reporting housing quality violations.

- Before the Healthy Homes Program, there were no clear anti-retaliation stipulations for reporting code violations besides those addressing working with [lead-based paint](#).
- Housing advocates, including [Louisiana Fair Housing Action Center \(LaFHAC\)](#), [Housing NOLA](#), [Jane Place Neighborhood Sustainability Initiative](#) and other housing partners advocated for 10 years for an ordinance to protect the city's renters from substandard housing units and retaliatory landlords.
- In 2015, at the urging of housing advocates, the city developed a task force to better understand and develop solutions for substandard housing. At the city's urging, the Center for Community Progress drafted a [report](#) that provided a rental housing regulatory framework for cities to implement to address mismanaged and unsound residential rental properties.
- In 2016, then-Councilmembers LaToya Cantrell and Jason Williams coauthored an [ordinance](#) that incorporated the report's recommendations, including by establishing a rental registry and landlord licensing system. [The ordinance never came up for a vote](#) due to opposition from the Home Builders Association and the Apartment Association of New Orleans.
- After the ordinance was shelved in 2016, Housing NOLA created the Healthy Homes workgroup to keep discussions around creating a Healthy Homes program alive. The workgroup continued to advocate for the legislation each year, until Ordinance 29239 was introduced in 2022.
- The [Healthy Homes Coalition](#) was created in 2022 and included housing advocates such as Housing NOLA and Louisiana Fair Housing Action Center, as well as groups from other sectors, including the healthcare, disability rights, civil rights, environmental justice, social justice, and community development sectors.
- The Coalition advocated that any habitability legislation introduced by the City Council should include a basic standard of health and safety; allow renters and neighbors to report landlords who refused to make repairs; allow the city to conduct pro-active inspections; and create a fund to support small landlords and displaced renters. The group worked with Councilmember Morrell to create a policy that reflected all their goals, which he introduced as "Ordinance 29239" in 2022.

- The Healthy Homes Coalition spoke publicly about the importance of all the components of the Healthy Homes legislation at [New Orleans City Council hearings](#) and encouraged those in their members' networks to make calls, schedule meetings, and send emails in support of the legislation. Despite these efforts, the Healthy Homes Law passed in November 2022 [without a proactive inspections requirement](#) due to backlash from landlords. As the law currently stands, a landlord must self-certify that their unit meets the program criteria. If there are violations, tenants have to report the issue to the city and request an inspection to ensure the property is adhering to the new standards.
- HousingNOLA/GNOHA and the Louisiana Fair Housing Action Center monitored implementation of the Healthy Homes Ordinance. When the implementation of the program was delayed by six months because of a lag in hiring, advocates negotiated with the city to make the anti-retaliation protections active by July 1, 2023, so that there would be no further delays in protections. Thus, in practical terms, the antiretaliation protection went into effect six months before the delayed implementation of the program.
- The Healthy Homes Program was not funded in the mayor's proposed fiscal year (FY) 2024 budget, so LaFHAC's policy team, Housing NOLA/GNOHA, and other housing advocates worked with the

City Council to fully fund the program at \$2.5 million to ensure the program could be implemented on January 1, 2024.

- Implementation of the ordinance is occurring in phases, with the final phase taking effect on January 1, 2025.

THE IMPACT OF THE HEALTHY HOMES PROGRAM IN NEW ORLEANS

Since the Healthy Homes Program is still being phased in, the impact of the ordinance is yet to be determined. Once the Healthy Homes Program is fully implemented, there will be a public dashboard enabling users to access rental properties' housing code violations and complaints. The dashboard will ensure that landlords are held accountable for maintaining habitability standards and provide tenants with more transparency and an avenue for advocacy. Moreover, there now exists a tool to identify "slumlords" and to identify the locations of all rental properties in the city for communications, especially following disasters.

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STRENGTHENING THE HEALTHY HOMES PROGRAM IN NEW ORLEANS

The Healthy Homes Program is a first step toward ensuring renters in New Orleans have access to safe housing. Unfortunately, the current iteration puts the onus on tenants to enforce the law by requiring them to report issues to the city and request an inspection of their unit. Likewise, complaints from just a few residents [will not force landlords to fix dangerous and deteriorating conditions](#) in large multifamily buildings. To reduce the burden placed on tenants, the law could be amended to require proactive inspections, a provision that was included in the first iteration of Ordinance 29239. Funding would be required to increase the number of inspectors needed to conduct a greater number of proactive inspections and could be passed as part of the annual budget process. Additionally, the Anti-Displacement Fund should be funded to allow renters to move to safe units when their current units are uninhabitable.

Strengthening Code Enforcement in Cincinnati, Ohio

In December 2023, legislators in Cincinnati passed three bills aiming to improve substandard conditions in rental housing: "Ordinance 413-2023," "Ordinance 414-2023," and "Ordinance 415-2023." The ordinances amended the city's housing code to allow the Director of Buildings and Inspections to make emergency repairs to rental units across the city to ensure that properties are kept up to code, expand a rental inspection program to additional neighborhoods throughout the city, and mandate that landlords provide relocation assistance to tenants who must relocate due to uninhabitable conditions. These updates were made only because tenants and housing advocates raised concerns about habitability issues in residential rental properties in Cincinnati, successfully pushing the Council to address the problem through the three new laws.

WHAT'S INCLUDED IN CINCINNATI'S CODE ENFORCEMENT LAWS

- [Ordinance 413-2023](#) amended Chapter 1101 of Cincinnati's municipal code authorizing Cincinnati's Director of Buildings and Inspections to remedy emergency conditions related to essential building facilities in residential rental properties, recover costs for repairs from property owners, and establish an "Emergency Remediation of Defect in Rental Housing" Fund.
 - The Ordinance defines emergency conditions as building conditions that are hazardous and dangerous due to a failure of essential facilities, including heating, plumbing, structural, electrical, and fire safety systems.
 - Once the director determines that an emergency condition exists and chooses to proceed with remediation, they must issue an order to relevant property owners detailing the condition that needs correction, the timeframe in which it should be fixed, and the consequences of failing to comply. Once the order has been served, contractors can enter the premises and make the needed repairs.
 - All costs to remediate emergency conditions are paid for by the city and are recoverable by the city. Once recovered, these funds are deposited in the "Emergency Remediation of Defect in Rental Housing" Fund, established for the purpose of making resources available to enforce the law.
- The director may recover the total costs of remediation via a variety of actions, including invoicing the property owner of the benefitted property, placing a lien on a benefitted property, asking the city solicitor to commence a civil action against the property owner for the costs incurred, or pursuing a foreclosure of the benefitted property.
- A property owner's obligation to pay the total cost of abatement can be suspended for a year by the director in specific circumstances.
- [Ordinance 414-2023](#) expanded Cincinnati's "Residential Rental Property Inspection Pilot Program" (RRI) to cover four additional neighborhoods, bringing the total number of covered neighborhoods to seven. The new neighborhoods were added due to the high number of rental properties, the large volume of code violations, and the age of the housing stock in the selected areas. The program developed a process and timeline to ensure that substandard rental properties in the designated neighborhoods are remedied and remain in compliance in future years.
 - The law allows for the periodic evaluation of applicable residential rental properties to ensure they adhere to the relevant codes.

- A new clause added to the existing law states that if a housing provider owns a property within the identified neighborhoods that becomes eligible for the program, the eligibility triggers a review of all the owner's residential rental properties located anywhere within the city limits.
- The owner of a property that has outstanding code violations, delinquent property taxes, or a history of health and/or safety violations, or that meets other similar requirements, must apply for a Residential Rental Inspection Certificate.
- Once the application is received, the property is internally and externally inspected for a fee. If the property is found to be code-compliant, the owner of the property receives a certificate of compliance. If the property is substantially compliant or non-compliant, the property must be reinspected every 30 days until the conditions are fixed. The property owner is charged for each re-inspection. Once compliance is achieved, the property is reinspected one to four years after the initial inspection date, depending on whether the property was initially deemed compliant, substantially compliant, or non-compliant.
- A certificate of compliance can be revoked if the property has outstanding code violations, delinquent property taxes, a history of health and/or safety violations, or meets other similar requirements.
- If a landlord or tenant refuses to provide the inspector access to private areas within the rental property, the inspector can obtain an administrative search warrant.
- If a landlord's property qualifies for the RRI program and the landlord fails to apply for a residential rental inspection, the landlord has committed a Class C1 civil offense, as well as a Class D offense for each additional day they fail to comply.
- Property owners are able to appeal a decision, order, or adjudication if they have an objection to how the law is interpreted, applied, or enforced.
- [Ordinance 415-2023](#) created section 871-10 in Cincinnati's Municipal Code to require landlords to provide tenants with relocation assistance if the tenant had to vacate their property due to uninhabitable and unsanitary living conditions created or knowingly and willfully left unfixed by the landlord.
- Once a vacate order is issued, the

landlord has three business days to pay a relocation fee of \$2,500 to each tenant household impacted by the order. If the landlord does not pay relocation assistance within the time period, the tenant may take the landlord to court to receive the greater of relocation assistance OR refunds/repayments of prepaid rent, security deposits, relocation costs, and hotel/motel stays if the tenant was given fewer than 30 days to vacate their rental unit. A landlord's failure to provide relocation assistance is considered a Class D civil offense, and every day the landlord fails to follow the law is considered a separate offense.

- A landlord is not liable to pay relocation assistance if (1) the landlord can provide evidence that the vacate order is a direct result of conditions caused by the tenant; (2) the conditions are due to disconnection of utilities because of a tenant's failure to pay the utility bill; (3) the conditions occurred from natural disasters; (4) the landlord has an active judgement against the tenant; (5) the court has rescinded or withdrawn the vacate order; (6) the landlord and tenant have reached a separate

agreement regarding relocation; or (7) the landlord has moved the tenant to another unit or building as agreed to by the tenant.

- A tenant is able to recover damages from a landlord if they are residing in a unit that is determined to be vacant and uninhabitable, or, as mentioned above, the landlord does not pay relocation assistance.
- A landlord is able to appeal the city's interpretation or application of Section 871-10.

ADVOCACY EFFORTS TO PASS CODE ENFORCEMENT LAWS IN CINCINNATI

For years, Cincinnati housing advocates and tenant organizers worked to elevate concerns regarding habitability issues in residential rental properties, gaining attention from the media and policy leaders and leading to passage of Ordinances 413, 414, and 415. The process leading to their passage is documented here.

- In 2019, [according to the American Community Survey](#), 8% of Cincinnati's rental units had signs of rats or mice, 9% had

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open cracks or holes in the interior, 8% had water leakage from an inside structure, 8% had leakage from an outside structure, and 5% had heating problems (e.g., they were “uncomfortably cold for 24 hours or more”).

- Cincinnati tenants, neighbors, community councils, and housing advocates had [raised concerns](#) about these substandard rental housing conditions to city administrators for years.
- The [Cincinnati Tenants' Union](#), comprised of tenants working together to make renting in Cincinnati easier and less exploitative, [engaged with the media](#) to highlight deplorable conditions in properties throughout the city and encouraged, educated, and supported tenants organizing for better conditions. For example, Kevin Hengehold with the Cincinnati Tenants Union helped a woman in the Avondale neighborhood put her rent in escrow until her previous landlord completed repairs, and the [story was featured on WCPO](#).
- The [Affordable Housing Advocates](#), a group made up of over 50 individuals and organizations working to ensure adequate housing throughout Southwest Ohio, hosted community forums, including [one](#) on the impact of housing insecurity on the health and education of women and girls in 2019. Audience members discussed ideas and made recommendations for resolving housing insecurity in Hamilton County. The group also identified the need for strong tenant protections, identifying various policies that could be passed to counter the disparities between landlords and tenants.
- Because of habitability concerns raised by community members, the Cincinnati City Council passed a plethora of tenant protections in 2019, including [Ordinance 405-2019](#), which created the Residential Rental Inspection Pilot Program in the CUF, East Price Hill, and Avondale neighborhoods.
- The pilot program operated for four years and in that time [demonstrated](#) that “regular inspections of residential rental properties protect the health, welfare, and safety of tenants by incentivizing correction of code violations before housing deteriorates to the point of becoming uninhabitable and assists in the City’s broader goal of preserving affordable housing stock.”
- Because of the success of the pilot program, Mayor Aftab Pureval submitted Ordinance 414-2023 in October 2023 to expand the inspection program. The ordinance became law two months later, in December 2023.
- Mayor Pureval also submitted Ordinance 413-2023 and 415-2023, furthering the [commitment](#) to improving substandard housing conditions throughout the city.

THE IMPACT OF CODE ENFORCEMENT LAWS IN CINCINNATI

The City of Cincinnati operates a public dashboard to track code enforcement cases, although there is no way to publicly track whether overall building conditions have improved over time, or whether a property currently has a certificate of compliance. In order to understand the impact of the various laws on building conditions, data must be compiled and made available to the public, especially to tenants in substandard properties.

Currently, the Cincinnati Tenant's Union is unaware of tenants using Ordinance 415-2024 to receive relocation assistance or adequate compensation for having to vacate a property for uninhabitable and unsanitary living conditions. As mentioned above, analysis is needed to determine whether and how these various policies are working.

STRENGTHENING CODE ENFORCEMENT LAWS IN CINCINNATI

According to John Schridder, an attorney and director of the [Legal Aid Society of Southwest Ohio, LLC](#), a key problem preventing the expansion of the pilot program is the fact that the law increased the demand on city inspectors without increasing funding to hire additional inspectors. Inspectors are required to prioritize the properties that are part of the RRI program, meaning many properties that are not part of the program are not receiving timely inspections. The RRI

program should receive annual funding to hire designated program inspectors. The RRI program also requires owners of applicable properties to self-impose the certification requirements. If they fail to apply for a certificate, they can receive a Class C offense, but there is no mechanism for ensuring that landlords are abiding by the law in the first place.

Enforcement is also a key challenge for implementation of the relocation assistance law. In theory, a tenant could file a lawsuit against their landlord if they failed to provide them with relocation assistance, but not all tenants have access to legal representation. The existing right to counsel program [only covers certain eviction proceedings](#). The Legal Aid Society provides additional legal representation but is inadequately staffed to meet demand, meaning the group cannot help all tenants. [In 2023, the Legal Aid Society](#) received 23,887 requests for service but was only able to respond to 16,583 of them. The Legal Aid Society needs additional funding to increase staff capacity to be able to provide representation to tenants in cases where landlord are not fulfilling their obligations.

For more information on habitability standards and code enforcement laws, please visit the NLIHC Tenant Protections Website at <https://nlihc.org/tenant-protections> or download the [Code Enforcement and Habitability Standards Toolkit](#).

Looking for more information?

Please visit the NLIHC [Tenant Protections Website](#).

