

Beyond Recovery

Policy Recommendations to Prevent Evictions and Promote Housing Security in Santa Fe

PolicyLink



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Promote Housing Security in Santa Fe

This is the third and final report in a series on evictions in
the Covid-19 era in Santa Fe, New Mexico.

Acknowledgments

This report is a collaboration between PolicyLink; Chainbreaker Collective; and Homes For All, a project of Right To The City Alliance. It is the third in a series on evictions in the Covid-19 era; the previous two reports were written as collaborations between Human Impact Partners and Chainbreaker Collective. We thank the following individuals and their organizations for contributions that made this report possible. Serge Martinez and Elizabeth Elia from the University of New Mexico School of Law, Kyra Ochoa and Alexandra Ladd from the City of Santa Fe, Marcela Díaz from Somos Un Pueblo Unido, and Brie Sillery from the New Mexico Coalition to End Homelessness reviewed and commented on this report. Tyrone Dion from the Washington State Tenants Union and Gabby Garcia at Building and Strengthening Tenant Action (BASTA) were interviewed for the case studies about Washington State and Austin, Texas, respectively. Human Impact Partners analyzed the data provided by the New Mexico Administrative Office of the Courts used in the charts on page 12. Primary report contributors were Chris Schildt from PolicyLink and Cathy Garcia and Tomás Rivera from Chainbreaker Collective. The sample ordinances composing the appendixes were written by Serge Martinez and clinical law student Andrea Romero from the University of New Mexico School of Law. Any errors or omissions are the authors' own.

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PolicyLink is a national research and action institute advancing racial and economic equity by **Lifting Up What Works®**.

Chainbreaker works to expand access to affordable transportation and support economically and environmentally sustainable communities for low-income people in Northern New Mexico.

Right To The City Alliance (RTTC) emerged in 2007 with a strong and powerful vision to 1) halt the displacement of low-income people; Black, Indigenous, and people of color; LGBTQ communities; and youth of color, and 2) protect and expand affordable housing in tandem with a broader movement to build democratic, just, and sustainable communities. Homes for All is a national campaign of Right to the City, launched in 2013, to win permanent, dignified, and affordable homes for all.

Contents

1.0	Introduction	page 5
2.0	Pandemic-Related Evictions in Santa Fe	page 7
3.0	Policy Solutions from Pandemic Relief to a Transformative Housing System	page 10
	Stop evictions during the pandemic	page 11
	Prevent a flood of evictions when the moratoria lift	page 14
	Codify tenant protections for long-term stability	page 16
	Build toward a transformative housing system	page 19
4.0	Conclusion	page 23
5.0	Appendices: Model Ordinances	page 25
	Prohibition of owner retaliation	page 25
	Provision of legal counsel during eviction proceedings	page 25
	Just cause eviction	page 26
	Source of income nondiscrimination	page 26
6.0	Notes	page 27

1.0

Introduction

Below: Chainbreaker Collective members and staff canvassing training. (*Chainbreaker Collective*)



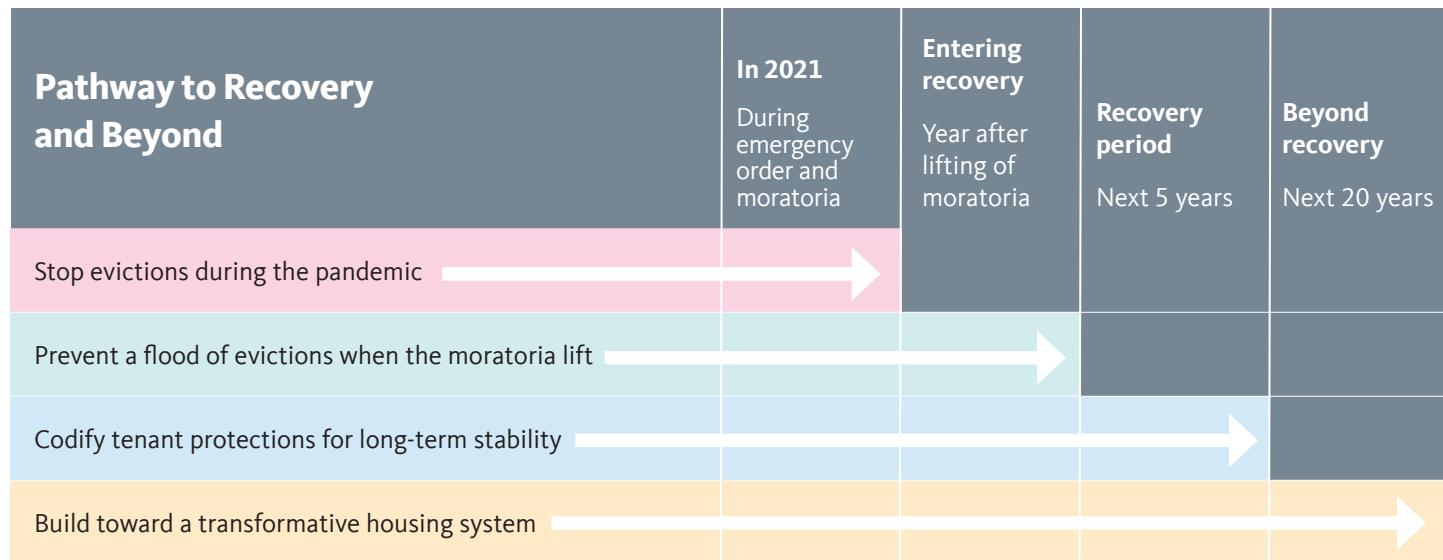
This report is the third and final in a series examining the health impacts of the escalating eviction crisis in Santa Fe, New Mexico. The first two reports, co-authored by Human Impact Partners and Chainbreaker Collective, describe Santa Fe's housing insecurity before Covid-19, the experiences of residents during the pandemic, and the extent to which evictions and the eviction moratoria impacted Santa Fe renter households in 2020. These previous reports—[Evictions in the Covid-19 Era: A Threat to Family and Community Health in Santa Fe](#) and [Evictions in the Covid-19 Era: Successes and Limitations of Moratoria to Keep People Housed and Healthy in Santa Fe](#)—are available at humanimpact.org/hiprojects/santa-fe-evictions/.

Highlights from the previously published briefs include the following:

- While evictions were cut in half in 2020 compared to previous years—from an average of 558 eviction filings to 280 in 2020—even with eviction moratoria in place, a large number of residents still face evictions moving forward, particularly those in low-income, predominantly Latinx neighborhoods of Santa Fe.
- People already struggling with housing insecurity were hit hardest by eviction filings in 2020, especially those in the Hopewell/Mann neighborhood, the Midtown Campus area, and the Airport Road corridor.

- As many as 5,700 Santa Fe renter households could be evicted when the city, state, and federal moratoria expire.
- The health impacts of Covid-19 will be felt long after the threat of the virus subsides for people facing evictions. Both the threat and experience of eviction negatively impact physical and mental health and cause additional negative social and behavioral outcomes.
- Financial support for rent, utilities, and other needs is helpful but insufficient to stop the upcoming eviction tsunami.

This report presents solutions to keep Santa Fe families housed through the duration of the Covid-19 crisis. It also describes 15 actions the city can take to create a more equitable housing system for all residents. It charts the immediate steps necessary to stop current evictions and prevent a flood of evictions as local, state, and federal eviction moratoria lift; to codify tenant protections for the long term; and to invest in a long-term equitable recovery that addresses the structural roots of our housing crisis. These recommendations align with and support the City of Santa Fe Resident's Bill of Rights resolution regarding a framework for housing and urban planning policy, which was [passed unanimously by the City Council in 2015](#)¹ and ultimately can be used to build a transformative housing system for all Santa Feans.



2.0

Pandemic-Related Evictions in Santa Fe



Santiago works in construction and lives with his wife and two children in an apartment in Santa Fe, New Mexico. As a result of the [booming](#) housing market [in the local area](#), his hours and salary have increased over the last year.² Despite this added income, Santiago still struggles to make ends meet. In addition to covering his family's living expenses in Santa Fe, he also sends money regularly to extended family members in Mexico. At the onset of the coronavirus pandemic, his wife lost her job and contracted Covid-19. The loss of one household income coupled with unexpected and high medical bills led to an accumulation of back rent of nearly \$8,500 and repeated threats of eviction. When his landlord presented him with written notices of eviction, he called Chainbreaker's Eviction Protection Hotline and learned that New Mexico's moratoria on evictions likely protected him. Despite this, he decided to find a new place to live until the eviction hearing date, which is as yet unscheduled. Qualifying for rental and legal assistance as an undocumented person is especially challenging. Finding information in his native language is equally challenging. Furthermore, Santiago keeps long hours as a construction worker and has difficulty shifting his schedule to attend required meetings and hearings. The moratoria are likely to keep Santiago housed during the pandemic, regardless of the outcome of the court hearing, but once they lift, Santiago and his family will be faced with back rent and eviction.

Santiago's story is not unique in Santa Fe. According to the National Equity Atlas [Rent Debt in America Dashboard](#), as of early June 2021, Santa Fe County had the highest estimated rent debt per household in New Mexico, with an average of about \$3,400 per household.³ This debt is experienced disproportionately by low-income families, people who have lost their jobs or income during the Covid-19 pandemic, and people of color. Using data on rent arrears from the US Census Household Pulse Survey, the Atlas analysis estimates that as of June 2021, 15 months into the Covid-19 pandemic, more than 2,800 households in Santa Fe County owed a combined total of \$9.5 million in rent debt. Given the challenges of reaching vulnerable communities through national surveys (the very same communities hardest hit by the pandemic and rent debt), the reality could be that many more Santa Fe households face rent debt and are at risk of eviction. This accumulation of rent debt and risk of eviction poses a grave threat to all Santa Feans, leading to increases in people who are unhoused, forced into unsafe or unstable housing situations, or pushed out of the area altogether.

The impact of local, state, and federal eviction moratoria on Santa Fe renters

While certain qualified renters nationwide were protected from eviction through [the federal order issued by the Centers for Disease Control and Prevention](#), this protection did not apply to New Mexicans because the state's moratorium provided a greater level of public-health protection.⁴ In March 2020, the New Mexico Supreme Court issued two moratoria, one affecting all [residential tenants](#) and another affecting all owners of [mobile home trailers](#), which protected them against evictions based on nonpayment of rent.⁵ These orders interrupt the typical legal steps of eviction: while landlords can still file evictions in court, and judges can still issue judgments, law enforcement cannot remove a tenant from a residence until the state Supreme Court lifts its orders. These orders remain in effect until amended or withdrawn by the court. As of publication, the court has not indicated when that might be.

Residents of the City of Santa Fe have an additional layer of protection. Under the [moratorium issued by the Mayor of Santa Fe](#), which affects both residential and commercial tenants, landlords and managers cannot even threaten eviction, orally or in writing.⁶ However, because the mayoral moratorium is an emergency proclamation, enforcement requires a tenant to report an eviction threat to the local police department. Should a tenant decide to make a report, law enforcement then initiates contact with the landlord and explains the emergency law.

The ways in which each of these moratoria are affecting the overall eviction filing rates are difficult to determine with any certainty. As explained in the [second report](#) in this series, while the federal moratorium has no legal effect on evictions in New Mexico, it has likely had a chilling effect on eviction filing rates.⁷ Because the New Mexico moratorium only affects those cases that have made it to court, it is impossible to know how many tenants were displaced before a legal filing. The city's moratorium, which intervenes prior to legal filing, is limited by its enforcement mechanism—specifically, tenants are reluctant to escalate the situation by involving law enforcement.

Analysis of the data for the reports in this series was made all the more challenging by a lack of robust quantitative and demographic data on landlords and tenants. Chainbreaker's Eviction Prevention Hotline has helped fill in those gaps with valuable qualitative data. The recommendations in this report are intended primarily for local decision makers and stakeholders, while recognizing that systemic changes at the state and federal levels are equally and urgently needed.

Despite the challenge in data collection, it is clear that Santa Fe's current housing crisis would have been much worse without the crucial interventions of local government in partnership with community-based organizations. An [analysis of court eviction data](#) revealed that eviction rates in Santa Fe were cut in half in 2020 compared to the prior three years, likely due to organizing and education efforts and the local, state, and federal eviction moratoria.⁸

Emergency cash assistance to cover rent and other essentials, such as utilities, food, and transportation costs, has provided temporary relief to thousands of Santa Fe families. However, that assistance is nowhere near enough to fully help tenants facing eviction and prevent a looming mass eviction event. Santa Fe elected officials and staff need to act boldly and swiftly to keep renters in their homes and set Santa Fe in a new direction toward equitable recovery.

3.0

Policy Solutions from Pandemic Relief to a Transformative Housing System

Below: Chainbreaker members at a neighborhood gathering for the Residents' Bill of Rights. (*Chainbreaker Collective*)



Stop evictions during the pandemic

Mass evictions would be a public health emergency even after the threat of Covid-19 subsides. While current protections and emergency assistance have successfully reduced evictions, hundreds of families are still being evicted during the Covid-19 pandemic; landlords filed 280 eviction claims in 2020, [according to court records](#).⁹

Several challenges are leading to evictions right now:

- **Eviction moratoria are set to expire without a transition plan.** After the eviction moratorium directive from the Centers for Disease Control and Prevention (CDC) expired on July 31, 2021, the CDC extended the moratorium until October 3, 2021, in counties experiencing substantial and high levels of community transmission of the coronavirus. However, court challenges to this moratorium threaten its continuation. The Santa Fe and New Mexico eviction moratoria are both dependent on court orders. How or when these local moratoria may be lifted is unclear, creating further uncertainty for renters, service providers, and policymakers.
- **Existing moratoria allow landlords to continue to evict.** As detailed in [the second report](#) in this series, intentional design choices in the local, state, and federal eviction moratoria have allowed landlords to still pursue some types of evictions during the pandemic, including nonrenewal of leases and evictions for reasons other than nonpayment of rent.¹⁰
- **Some landlords are still trying to evict tenants by evading or violating the moratoria.** Many tenants are still facing eviction from their landlords, even if they are protected by the moratoria. Tenants may be unaware of the emergency moratoria or be afraid to enforce their rights through criminal proceedings. Evidence via the Chainbreaker Eviction Prevention Hotline indicates that some landlords are engaging in self-help evictions and locking tenants out of their buildings. Alarmingly, tenants are also reporting that landlords are delaying necessary repairs in an effort to force tenants out of their residences.
- **Good policy and planning is inhibited by lack of data on housing challenges and evictions.** Timely data and information are essential during times of crisis to understand the challenges and measure the effectiveness of interventions. While court eviction data can be used to understand trends in evictions, outdated and incomplete data can give an inaccurate picture of trends and challenges.

In response to these challenges, the city of Santa Fe can take immediate steps outlined below to stop evictions during and after the coronavirus pandemic.

Continue and adapt the emergency order and moratoria on evictions to protect public health

Continuing the moratoria on evictions for as long as possible will save lives, keep people housed, and allow time for deliberate and thoughtful transitions to recovery and beyond, including distribution of rental assistance. In the face of the July 31, 2021, expiration of the federal eviction moratorium, California, [Seattle](#), and [San Francisco](#) extended their moratoria at least through September 30, 2021.¹¹

The Biden Administration has indicated that the reason for extending the CDC moratorium to July 31, 2021, was to allow for distribution of the nearly \$47 billion allocated by the US Congress for emergency rental assistance, [very little of which has been distributed](#).¹² In New Mexico, the governor's office has allocated \$284 million toward rental and utility assistance, but the state has [faced distribution and logistical challenges](#) to disbursing the funds.¹³ The emergency orders and moratoria at the state and local levels must be maintained at least until all federal and state money has been distributed.

Adaptation of the moratorium could allow for a phased lifting based on data directly related to not only Covid-19, such as infection and vaccination rates, but also risk of eviction, demographic information, and social determinants of health, such as economic insecurity and housing cost burden. Data should be disaggregated to the census tract level to keep protections in place for as long as possible for high-risk areas while new affordable housing is being created and to allow earlier transitions for low-risk census tracts. Some census tracts in Santa Fe, including the Hopewell/Mann neighborhood and portions of the Airport Road corridor, have continued to see high eviction rates in 2020 even with the moratoria in place, [according to research detailed in the second report in this series](#).¹⁴ These neighborhoods are disproportionately populated by Latinx residents and have been some of the areas hardest hit by Covid-19. The city should adapt the eviction moratoria to keep emergency protections in these places for as long as possible and should pass a tenant protection ordinance to make some of these protections permanent, as described below.

Strengthen the existing Santa Fe eviction moratorium

In addition to extending the eviction moratorium, Santa Fe should strengthen it to protect more families. Like the federal moratorium, the state and local moratoria only protected against evictions for failure to pay rent. Eviction for causes other than failure to pay rent continued under the moratoria.

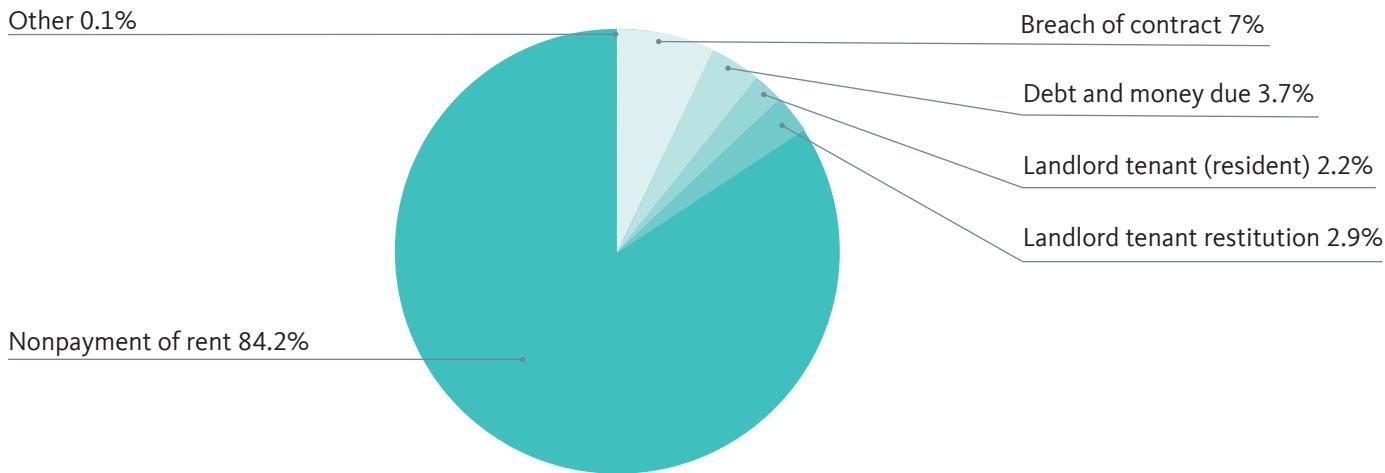
New Mexico allows a “no-fault” eviction process, and this type of filing—known as “landlord tenant restitution”—increased seven-fold during the pandemic compared to previous years. Moreover,

tenants could still be evicted for failing to pay for services other than rent (such as utilities or maintenance fees)—eviction filings for debt and money due tripled in 2020. Similar to past years, in 2020, the single most common reason for eviction was failure to pay rent, even with moratoria on evictions for inability to pay in effect for most of the year (see charts).¹⁵

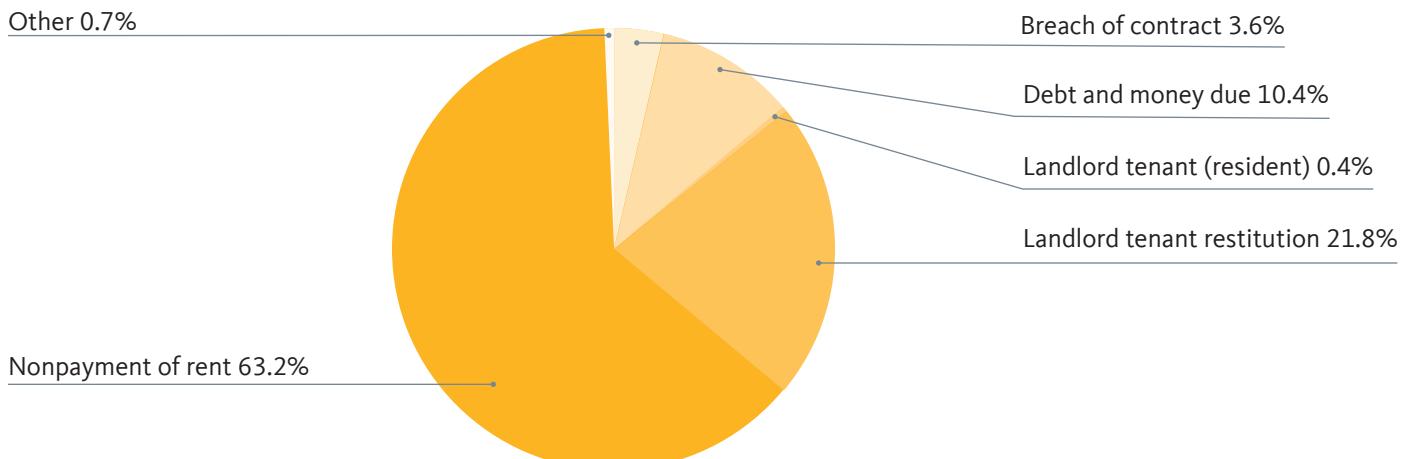
The city’s moratorium can and should be expanded to cover no-fault evictions; lease nonrenewals; informal rental agreements; failure to pay for services; and some violations of lease agreements that do not threaten personal life or safety, such as violations of occupancy or pet agreements or nuisance complaints that do not pose a health or safety risk.

Although the annual number of evictions was cut in half in 2020 compared to the average for previous years, nonpayment of rent was still the most common cause for evictions in 2020, despite the moratoria in place.

Major causes of eviction filings, 2017–2019 (average)



Major causes of eviction filings, 2020



Source: Human Impact Partners’ analysis based on data provided by the New Mexico Administrative Office of the Courts.

Shift to civil enforcement for the existing eviction moratorium

The local moratorium finally gave tenants in the city an enforcement mechanism—albeit an imperfect one—against landlords who try to evict illegally. The current city moratorium is an emergency mayoral order and must be enforced by local law enforcement, with tenants initiating the process by filing a police report. Many tenants do not know their rights under the moratorium or do not want to involve the police out of concern for their personal health and safety and that of their families and neighbors. The city should create a permanent civil enforcement mechanism that shifts the enforcement burden from police onto more appropriate city staff, such as building and health inspectors. These positions should be resourced through current budget allocations. This change should include protections for renters against retaliation for reporting violations of moratoria. For this shift to occur, action is needed by the governing body via an ordinance or resolution. See Appendix 1 for a sample ordinance to prohibit owner retaliation.

Fund eviction prevention/tenants' rights hotline and outreach

The need for ongoing outreach and organizing around renters' rights and eviction prevention will last long after the Covid-19 emergency subsides. The mayor and city council took a critical first step this year in approving \$75,000 for an eviction hotline and mediation services for tenants and an additional \$75,000 for Spanish-language translation services in the recently approved [budget](#) for 2021–2022.¹⁶ These allocations should become regular items in future budgets and be expanded further. Funding for outreach should include funding for community-based organizations to conduct direct community engagement with the people most vulnerable to eviction.

Provide regularly updated court eviction data

Current information on when, where, and why evictions are still proceeding during this pandemic is essential for targeting outreach and assessing and strengthening efforts to prevent evictions. Under the city moratorium, landlords were prohibited from threatening eviction, orally or in writing. Thus, any filing in state court by a Santa Fe landlord is a violation of the city order. The city should formalize and strengthen its communication with state courts to ensure local landlords abide by local requirements.

Additionally, the city should collaborate with state courts to create an eviction data portal to provide up-to-date information about local evictions. Many evictions occur even before a formal eviction record is created with the court, making it important to also conduct community-based and participatory research.

Anti-Eviction Mapping Project

The [Anti-Eviction Mapping Project](#) provides eviction data in the San Francisco Bay Area and throughout California based on a wide range of data sources, including court filings, legal aid records, oral histories, and more.¹⁷

Prevent a flood of evictions when the moratoria lift

While the road to full post-Covid recovery is still long, the local, state, and federal eviction moratoria inevitably will be lifted at some point. This section describes how to prevent a flood of evictions when the moratoria are eventually lifted.

Forgive city water utility debt

Utility arrears and difficulty paying rates are strong signals of precariousness when evaluating a tenant's risk of eviction. The city-owned water utility can and should forgive water debt and reduce rates for low-income households using new federal funding sources. The US Congress has approved nearly [\\$50 billion in emergency rental assistance](#), to pay for both back and forward rent and utility payments; furthermore, it approved \$1.1 billion for a new Low-Income Household Water Assistance Program, modeled off of the [Low-Income Household Energy Assistance Program](#), to help low-income residents with their water and wastewater bills.¹⁸ The program provides grants to states, territories, and eligible Native American tribes, which then provide funds to public water utilities to reduce debt and rates for low-income households. This is an emergency program and is not permanently authorized; the funds must be spent by the end of 2023.

The City of Santa Fe should ensure that the state engages with community-based organizations to develop an implementation plan targeting these funds for communities that have the highest water debt and have been most impacted by Covid-19. In particular, the funds must be made available to all low-income residents, regardless of immigration status or enrollment in other programs.

The city has currently instituted [a moratorium](#) on water shutoff for nonpayment of water bills.¹⁹ Like the city's eviction moratorium, the water utility shutoff moratorium has no clear end, and residents continue accumulating debt. The city should keep the moratorium on water shutoffs in place while the funds are being distributed.

Philadelphia Water Utilities Tiered Assistance Program

Santa Fe can look to other cities such as [Philadelphia](#), which created a permanent tiered assistance program in 2017 that caps monthly water bills at a fixed percentage of monthly household income for low-income households.²⁰ All debt is forgiven after 24 complete monthly payments, even if the payer falls behind for a period or cannot pay the full amount. Roughly 22,000 low-income Philadelphians have enrolled in the program [as of 2020](#).²¹ Philadelphia also extended a [moratorium](#) on water shutoffs through April 2022 and restored service for roughly 15,000 residents who had lost service.²²

Address the accumulation of back rent and fees

As of June 2021, Santa Fe County residents [owe an average of \\$3,400](#) in back rent due to Covid-19, according to the National Equity Atlas estimates based on US Census Household Pulse Data.²³ This debt is greater than any other county in New Mexico. Nationally, renters, who are predominantly people of color, hold [\\$20 billion in debt](#). In contrast, homeowners, who are predominantly White, saw a [\\$1.9 trillion increase](#) in their home equity between the first quarter of 2020 and the first quarter of 2021.²⁴ In New Mexico, the average homeowner gained [\\$26,000 in home equity](#) in the last year.²⁵ While Congress has approved more than \$46 billion in rent relief in the last year, only [a tiny fraction has actually reached tenants](#).²⁶

Before the eviction moratoria lift, the city should plan to address back rent and fees. First, any unpaid rent and fees should be converted permanently to consumer debt so that it cannot be the cause for eviction; [California](#) has done this for all rent debt accrued between March and August 2020 and for 75 percent of the rent debt accrued from September 2020 through September 2021 (the other 25 percent of the rent must be paid to avoid eviction).²⁷ A payback period of at least 12 months should also be implemented to allow tenants enough time to apply for and receive rental assistance or otherwise pay rent debt. Any rental assistance provided to the landlord should be conditioned on not allowing the landlord to evict the tenant for a minimum of 12 months after receiving funds. [Philadelphia](#) requires landlords to apply for rental assistance before issuing an eviction notice²⁸; Santa Fe should pass a similar requirement.

New York State Emergency Rental Assistance Program

In April 2021, New York State approved a budget with \$2.4 billion dedicated to its Covid-19 [Emergency Rental Assistance Program](#), using both federal and state sources.²⁹ The funds can be used to pay for up to 12 months of rent arrears plus up to three months of future rent for rent-burdened tenants who earn up to 80 percent of the area median income. Undocumented people are eligible, and landlords cannot begin an eviction until the tenant's eligibility for the program has been determined. If the tenant is eligible, rent payments are made directly to the landlord, who must waive late fees, freeze rents for one year, and offer a lease renewal to the tenant. If the landlord does not accept the payment within 12 months, the rent debt is considered waived and the funds are reallocated.

Extend emergency rental support with direct cash assistance and fund community partnerships

In contrast to state rental assistance programs, the City of Santa Fe's Direct Cash Assistance program reduced the amount of paperwork needed to prove eligibility for rental or utilities support and paid funds directly to impacted tenants who applied. Through a close partnership between the city and community-based organizations, the first round of city eviction prevention and economic relief funds helped thousands of families pay their rent and utilities. However, renters are still in need of more assistance. The city should provide additional funding to distribute as cash transfers to renters at risk of eviction.

[New Mexico's Department of Finance and Administration](#) is responsible for distributing \$284 million in state rental assistance through the [RentHelpNM.org application portal](#).³⁰

Major obstacles have limited the effectiveness of the distribution of this badly needed support. Many undocumented immigrants and renters with criminal records or low credit scores have informal rental agreements and cannot provide the necessary documentation to qualify. Additionally, the requirement that renters submit documentation to online portals that are difficult to navigate limits many renters' ability to apply for assistance. Not only is the application process onerous for the tenant, but also state rental assistance is paid directly to landlords, who must complete the application to receive funds.

These additional hurdles have resulted in [slow distribution](#) of rental assistance funds.³¹ The City of Santa Fe has proved it can be more responsive to the needs of tenants through the distribution of direct cash assistance. The city should not only expand these programs during the Covid-19 recovery period but also make tenant funding support permanent.

Cash transfer programs have received increased attention recently because of the rise of guaranteed basic income pilot programs around the country as a means of improving social, health, and educational outcomes for low-income families with no strings attached. The City of Santa Fe, along with the Santa Fe Community College, [recently launched](#) its own guaranteed basic income program for low-income students.³² This program should be expanded and adapted as a method for protecting renters from Covid-19-related evictions and as a long-term anti-displacement strategy.

Improve existing mediation programs to avert evictions

Mediation programs help avoid evictions by resolving a dispute through a mediator rather than going to court or filing for eviction. These programs are available through New Mexico courts, but these voluntary programs are available only for complaints of money owed and only if a legal filing has already taken place. The City of Santa Fe could institute a similar mediation program before a legal filing occurs and for other types of landlord-tenant disputes, such as health and safety violations and minor lease issues, which have increased during the pandemic and under the eviction moratoria focused on rent debt. The City of Albuquerque and Bernalillo County have such programs in their courts and can be looked at as models. The City of Philadelphia created an eviction diversion program amid the Covid-19 lockdown in which [91 percent of participants](#) were able to reach an agreement and avoid eviction.³³

Improved state eviction policies could increase the likelihood of successful local mediation programs. In 2021, the state legislature considered [House Bill 111](#), which would lengthen the timeline for eviction proceedings, and thereby give mediators more time to resolve disputes.³⁴ City leaders should urge state-level lawmakers to push forward the tenant protections proposed in HB 111.

Codify tenant protections for long-term stability

Even before the Covid-19 pandemic, [more than half](#) of all renters in Santa Fe were paying more than they could afford on rent.³⁵ In 2019, 57 percent of Latinx women in New Mexico were paying too much for rent, and the situation has only gotten worse.³⁶

The pandemic has clarified the importance of having strong renter protections like just cause eviction protections, right to counsel, rental registries, and more. However, many tenant and community groups, as well as local policymakers, have been overwhelmed with meeting urgent needs to stop evictions and provide immediate relief. As the City of Santa Fe transitions from emergency response to a recovery framework, long-term tenant protections are emerging as a top priority to address many of the structural problems in the housing market.

The Need for Long-Term Tenant Protection in Santa Fe

Daniel, a tenant in Santa Fe, knows all too well how challenging it can be to access supports to help weather economic hardships from Covid-19. In the early months of the pandemic, Daniel contracted Covid-19 and, although he did lose income during his recuperation, he was eventually able to pay past-due rent by using his savings. At the start of 2021, however, he suffered another medical emergency requiring a lengthy hospital stay, during which time he lost work and was evicted from his apartment. Now in a new residence, Daniel is struggling to recuperate from his condition and has not been able to return to work. The new landlord filed an eviction action against Daniel in court, and Daniel was able to stay in his home as a result of the state moratorium. Daniel's Covid-19-positive status is what allowed the moratorium to protect him. Without such proof, it is possible that the emergency protections would not have applied to his situation, as the moratoria are a direct response to the Covid-19 public health emergency.

Create a landlord licensing and rental registry program for better data, outreach, and enforcement

[Rental registries and landlord licensing programs](#) can help cities collect better data, conduct outreach, and enforce regulations.³⁷ The City of Santa Fe currently lacks information on rental properties in the city, making it difficult to assess needs, share information with landlords and tenants, and enforce health and safety standards. Rental registries collect landlord contact information and basic information about the rental units. The primary purpose is to collect contact information for landlords, inform landlords of their legal requirements and obligations, and collect data to inform policymaking. Cities with rental registries are able to better track challenges renters face during crises and target outreach and assistance efforts. Landlord licensing programs combine the data from registries with inspection and enforcement. Licensing often requires regular inspections of the health and safety conditions of rental housing and can be used to ensure landlord compliance with city and state laws.

While larger cities have established rental registry and licensing programs, a growing number of mid-size and smaller cities are also doing so, including Concord, California; Boulder, Colorado; and Ithaca, New York. Santa Fe should establish a rental registry and create a licensure program for landlords to close data gaps, target outreach and program interventions, and open the door to longer term solutions that can incentivize helpful practices and disincentivize bad actors. The cost to establish and manage this program can be revenue-neutral through ongoing, low-cost fees.

Concord, California, Rental Registry Program

[Concord](#), population 130,000, approved its rental registry program in early 2021 to help inform future policymaking and provide a public portal of information, including square footage, rents over time, and evictions.³⁸ Tenant organizers and housing advocates campaigned for the registry to inform data- and equity-driven housing policy discussions in the city.

Expand access to legal counsel during eviction proceedings

For low-income renters facing eviction, access to legal counsel can mean the difference between staying in their homes and being forced out. Nationally, roughly [90 percent](#) of tenants do not have legal representation in eviction court, while up to 90 percent of landlords do.³⁹ Tenants who have access to a lawyer are twice as likely to be able to stay in their homes compared with tenants without legal representation. Importantly, legal aid providers face restrictions on their ability to use federal funding to provide services to undocumented people, making city funding essential to expand legal representation for undocumented tenants facing eviction. In accordance with the [1999 city council resolution](#) for nondiscrimination of noncitizens, the city should create a right to counsel program that ensures representation for all tenants regardless of immigration status.⁴⁰

Several cities, including New York, Philadelphia, and San Francisco, have created a right to counsel for low-income tenants facing eviction, and more than [three dozen](#) cities, counties, and states have used Covid-19 emergency funds to expand tenant representation.⁴¹ See Appendix 2 for a sample ordinance regarding provision of legal counsel during eviction proceedings.

Below: Chainbreaker members preparing for a Development Without Displacement rally. (*Chainbreaker Collective*)



Just Cause and Right to Counsel in Washington State

In spring 2021, the Tenant Union of Washington State (TUWS) along with a broad community coalition won two critical pieces of legislation at the state level to protect tenants from being fast-tracked through the eviction process: [just cause](#), which ensures that tenants are protected from wrongful evictions, and the [right to counsel](#), which ensures that low-income tenants have legal counsel if their evictions go to court.⁴²

TUWS organizes tenants through a hotline they run a few days a week. From their hotline, they aggregated data on issues that tenants faced. They found that more than half the tenants they spoke to were evicted without the eviction even getting to a court process, most of the time landlords were using a variety of tactics to force renters to move, and tenants had a hard time accessing legal aid. The conditions of the pandemic only made things worse. Fearing a massive wave of evictions, TUWS took action alongside its allies to develop and fight for Washington's just cause for evictions and right to counsel legislation.

In Washington State, it can take as little as 14 days to be evicted, and being evicted at the landlord's discretion has been a huge issue long before the pandemic. The coalition wanted to prevent a mass eviction wave, and knew how critical it was to both ensure that tenants would have a fair eviction process and have access to legal counsel if their evictions went to court. As they were fighting for just cause, it was logical to fight for the right to counsel.

The goals of their campaign were to 1) create a barrier to prevent landlords from quickly evicting; 2) show landlords that people are watching; 3) end the unjust ways tenants are treated; and 4) give tenants some relief, knowing that multiple policies and procedures are in place for them. Often, tenants, especially tenants from Black and Indigenous communities and communities of color, are afraid to go to court. The organizers at TUWS hope that the policies they fought for will create a safety net for these tenants, especially in situations where the landlord attempts informal evictions.

Pass permanent tenant protections

As explored in the [first report](#) in this series, tenants in Santa Fe were facing an affordability crisis even prior to the onset of the public health emergency.⁴³ The recovery has accelerated the crisis, and solutions are more urgently needed than ever before. Additionally, tenants face myriad forms of discrimination when searching for a home to rent, during the application and leasing process, and during their tenure. A set of tenant protections can help tenants secure a home and protect them from landlord harassment or evictions. [Portland](#), Oregon, and [Minneapolis](#), Minnesota, recently passed ordinances that protect tenants in the rental market.⁴⁴

Many tenant protections were recently discussed at the state level in New Mexico. In the 2021 legislative session, [House Bill 111](#) would have changed state law on housing discrimination.⁴⁵ Unfortunately, this bill was amended heavily in one committee before dying in another. In the meantime, the City of Santa Fe can protect Santa Fe renters by taking the following actions now.

- **Just cause eviction:** Prevent arbitrary, retaliatory, or discriminatory evictions by establishing a specific set of reasons ([just cause evictions](#)) that limits landlords' reasons for eviction.⁴⁶ Santa Fe can act now to create just cause protections at the local level. The [Mobile Home Park Act](#), which has just cause requirements, can serve as a model and be expanded.⁴⁷ See Appendix 3 for a sample just cause eviction ordinance.
- **Source of income nondiscrimination:** Prohibit discrimination against renters based on the [source of income](#), such as a housing choice voucher, Veterans Affairs Supportive Housing voucher, or another form of payment.⁴⁸ Source of income nondiscrimination laws can improve voucher holders' ability to find a home by as much as 11 percent, according to [research](#) conducted for the US Department of Housing and Urban Development.⁴⁹ Recent federal relief bills included funding for expanded emergency vouchers, which will increase the need for renter protections from landlord discrimination based on the source of income. Legislation was introduced at the state level in 2021 to require landlords to accept all lawful forms of income, but it failed to pass. See Appendix 4 for a sample ordinance on this issue.

- **Expunging records for Covid-19-related evictions and unpaid debt:** The state and local moratoria prevent only evictions for nonpayment of rent. Still, it is unclear how judgments issued by state courts during the pandemic will impact the credit histories and rental records of tenants. Additionally, nonrent debt is not protected by the moratoria, even as many tenants find themselves in arrears in all areas of their finances. While debt accumulated by tenants as a result of Covid-19 has a clear timeframe, the impacts of the health emergency will continue well into the future. Ensuring that evictions undertaken during the pandemic will not impact a tenants' future ability to find housing requires an expungement process that extends beyond the health emergency timeframe.

- **Affordable security deposits:** The city can limit all security deposits to no more than one month's rent to help reduce move-in costs for tenants and create flexible installment payments so that renters can pay security deposits over time. Proposed amendments to state law in [House Bill 111](#) would have eliminated the burden on tenants to prove bad faith by the landlord when retaining deposits; this could be adopted through local ordinances.⁵⁰
- **Tenant relocation assistance:** If a landlord evicts tenants or forces them to move by raising rents, the landlord should pay relocation fees to cover the costs of moving and hardship. [Portland](#), Oregon, and [Berkeley](#), California, have mandatory relocation assistance programs for certain types of evictions, such as a rent increase of 10 percent or more over a 12-month period.⁵¹ Payments range from roughly \$3,000 in Portland for a studio to upward of \$16,000 in Berkeley if the unit is removed from the rental market.

Build toward a transformative housing system

Federal emergency relief and recovery dollars are crucial to stabilizing tenants through this period of economic uncertainty and instability. But as the [first report](#) in this series documents, Santa Fe renters were facing housing insecurity and instability before this pandemic.⁵² Santa Fe has seen an [influx in newcomers](#) during the pandemic, pushing housing costs up even further.⁵³ Ultimately, leading with equity means the city's relief and recovery efforts cannot simply go back to the status quo ante, in which half of Santa Feans were cost-burdened or severely cost-burdened by rent. Bolder action is needed to transform an unjust housing system. Reimagining how the housing market functions in Santa Fe requires turning away from speculative and investor-driven commodification of housing toward housing as a human right and basic necessity. While building new, affordable housing is important, it is also clear that building alone will not solve Santa Fe's housing problems for the most vulnerable residents. Santa Fe cannot simply build its way out of this crisis; the city must change policies and practices to ensure the housing system works for all.

Community-ownership strategies take vitally important, less expensive housing units out of the speculative real estate market and put them into the hands of tenants or community-based organizations. These strategies help cities preserve their existing unsubsidized low-cost housing stock, which may be vulnerable to being sold to speculative investors who may drive up prices and displace low-income people. Community-ownership strategies can also address blight and disinvestment by targeting negligent landlords and enabling investment in quality maintenance and management without threatening the stability of existing tenants.

Community land trusts are a common form of tenant ownership strategies in which a nonprofit owns the land and sells the building to a resident. By maintaining ownership of the land, the land trust can provide the home at a low cost and ensure the long-term affordability of the house. Residents are able to have the security and stability of owning their own homes and participate in the land trust's governance structure. At the height of the foreclosure crisis in 2009, low-income homeowners who were a part of a land trust experienced foreclosure rates of [less than 1 percent](#), compared to 15 percent for people with subprime loans.⁵⁴ For more about the role of community land trusts in Santa Fe, see the report by Human Impact Partners and Chainbreaker Collective, [Health, Healing, and Housing in Santa Fe](#).⁵⁵

Achieve community ownership

Successful community-ownership strategies require developing three types of tools: capacity-building, policy, and funding tools.

- **Capacity-building tools:** Purchasing buildings and converting them to community ownership and permanent affordability takes a lot of time and skills. This includes advocacy and mobilization to pass policies and secure dedicated funding sources; tenant organizing and leadership development to undergo the oftentimes risky and contentious process of purchasing a building and becoming resident owners; and staffing support to identify properties, secure financing, negotiate the sale, oversee renovations, and ultimately own, manage, and maintain the buildings over the long term.
- **Policy tools:** Tenants and nonprofits seeking to purchase homes on the open market compete at a disadvantage compared to investors with ready access to capital to purchase buildings quickly and at scale. Policies such as tenant or community opportunity to purchase give tenants or community groups the first opportunity to purchase residential rental properties before they can be sold on the open market. Similarly, anti-speculator policies such as anti-flipping taxes, vacancy taxes, and land-value taxes can help level the playing field by reducing the potential profits of outside speculators. In particular, Santa Fe's housing market is impacted by outside investors and speculators and driven by a strong tourism industry, which makes these anti-speculator policies important tools to protect the local housing market.
- **Funding tools:** While ultimately federal funding will be necessary to reach scale, local agencies can develop financing tools to help build local capacity and momentum, such as affordable housing bond measures, loan funds, and philanthropic partnerships.

Federal funds from the American Rescue Plan can be used to [create permanently affordable, community-controlled housing](#).⁵⁶ Specifically, the City of Santa Fe is receiving \$15 million in Covid-19 relief dollars, and Santa Fe County is receiving an additional \$29 million. The city could apply for part of the state's \$19 million in HOME funds to create housing for people at risk of or experiencing homelessness, people facing domestic violence, and veterans.

Additional proposals currently in Congress would allocate as much as \$45 billion for the national Housing Trust Fund, increase funding for vouchers, and provide other housing-related funding that the city could access to create community-controlled permanently affordable housing.

Santa Fe can take the following steps today to promote community ownership:

1. Dedicate 20 percent of Covid-19 federal relief and recovery dollars to support housing acquisition and community-ownership models.
2. Explore passing a [tenant opportunity to purchase policy](#).⁵⁷
3. Generate long-term revenue to fund community ownership by collecting short-term rental fees and dedicating them to tenant acquisition strategies and explore passing anti-flipping and vacancy taxes.

In the longer term, the city should also explore community-ownership models at the Midtown Campus and the creation of a development without displacement (DWOD) overlay district. When taken together, these two strategies protect underinvested neighborhoods that are ripe for speculation while also expanding a human right to housing by designating publicly owned lands for community ownership.

Community Ownership of a Mobile Home Park in Austin, Texas

In May 2020, residents of the North Lamar Mobile Home Park celebrated purchasing their mobile home park after a [five-year campaign](#) to collectively own their homes.⁵⁸

The North Lamar Mobile Home Park sits in the heart of the City of Austin. The park has 69 lots and is home to immigrant, monolingual, Spanish-speaking families who are mostly construction and domestic workers. Over the last decade, the amount of affordable housing in Austin has decreased. Mobile home owners are being displaced by high rents and wrongful evictions.

In 2015, North Lamar Mobile Home Park owners Frank Rolfe and Dave Reynolds were planning to raise rents and evict families from the park. Rolfe and Reynolds are the sixth-largest mobile home park owners in the nation, and they share their business model with other mobile home park owners in a program called [Mobile Home University](#).⁵⁹

A central part of Rolfe's and Reynolds's earning strategy shared through their program is based on the analogy of owning a restaurant. They have been quoted as saying that owning a mobile home park is like having someone chained to the booth at a waffle house, so they can't leave. In many mobile home parks, the mobile homes are too old to move, so they are no longer "mobile." Families with older mobile homes are unable to move their homes to another place, so they are stuck. Landlords like Rolfe and Reynolds take advantage of this situation, inflate rents, and threaten evictions. The model they encourage is to buy mom-and-pop mobile home parks and raise the rents without making any improvements to the space. That was what they had planned for the residents of North Lamar.

Residents at North Lamar came together to organize against the rent hikes and evictions. Residents organized as the Asociación de Residentes de North Lamar (ARNL), enacted a successful campaign, avoided the proposed evictions, and put a hold on rent increases. After this win, ARNL spent the next five years organizing to demand that the landlords address the years of neglect at the park. At the same time, they worked toward their dream of purchasing the mobile home park as a cooperative.

BASTA, a Texas Rio Grande Legal Aid project, supported the resident association and worked alongside a local city council

member, Greg Casar, and ROC (Resident-Owned Community) USA to obtain a \$7.15 million loan to purchase the property. Of that \$7.15 million, a little more than \$2 million came directly from the City of Austin. The partnership with the City of Austin was crucial for this victory. ROC worked with a local organization, Community Housing Expansion of Austin, to act as the technical assistant for ARNL to set up the cooperative.

BASTA hopes that ARNL's story will inspire other residents of mobile home parks to cooperatively purchase and own their own land. More than 15 tenant resident associations are active across Austin. Benefits of collective ownership (adapted from the [ROC website](#)) are the following:

- Control monthly lot rent
- Control maintenance, repairs, and improvements
- Provide lifetime protection against displacement
- Create a strong sense of community

This summer marks the one-year anniversary of cooperative ownership for the residents at the North Lamar Mobile Park. Residents are learning and making decisions together about their homes. And while they have increased responsibilities and challenging decisions to make, it's worth it for the more than 60 families who are now protected from displacement.

Create a model of community ownership with the Midtown Campus project

The development of the city-owned Midtown Campus presents a once-in-a-lifetime opportunity to change the trajectory of Santa Fe's inequitable housing system and contribute to community health and stability. The 64-acre campus was home to the Santa Fe University of Art and Design, which closed in 2018, and is located adjacent to neighborhoods such as Hopewell/Mann that face high rates of housing insecurity, underinvestment in parks and infrastructure, and high rates of eviction even with the eviction moratoria in place.

The City of Santa Fe entered an exclusive negotiating agreement with a master developer in 2020, but the developer [ended](#) it in early 2021, citing uncertainty due to the pandemic and the high cost of infrastructure investments and repairs needed.⁶⁰ The city has taken important steps to start again on the right track with a community-engagement process and more local approaches to development planning. Now the city has an opportunity to create a national model of equitable

development at the campus, using a phased approach to meet immediate housing needs while working with low-income communities and communities of color on a long-term vision for community ownership.

For thousands of Santa Fe renters who have been unable to keep up with rent payments during the Covid-19 pandemic, the eventual end of the local, state, and federal eviction moratoria will push them over an eviction cliff that will likely lead to greater housing instability, doubling up with friends and family, or homelessness. The Midtown Campus can and should be used by the city to create new, affordable housing for people currently facing housing instability. New federal Covid-19 relief dollars, including HOME grants, community development block grants, Covid-19 relief funds, and emergency vouchers, can be used to build or convert and rehabilitate buildings on the site to create permanent supportive housing and prioritize rehousing of evicted renters. The city should extend the local eviction moratorium until this new housing is created to avoid mass evictions.

Long-term planning for the Midtown Campus should consider models of community stewardship, equitable development, and climate resiliency. Examples such as the [Sawmill Community Land Trust](#) in Albuquerque, [Market Creek Plaza](#) in San Diego, [New Communities Land Trust](#) in Albany, Georgia, and [Thunder Valley Regenerative Community Development](#) on the Pine Ridge Reservation in South Dakota can provide direction and inspiration for what a transformed Midtown Campus could become.⁶¹ Ultimately, the process of how to develop the Midtown Campus should be led by low-income people and communities of color who have been most harmed by the city's policies and actions.

Create a development without displacement overlay district

Low-income communities of color in Santa Fe face the twin challenges of displacement from gentrification and rising housing costs and living in severely underinvested neighborhoods. Neighborhoods such as Hopewell/Mann and the Airport Road corridor are where many Latinx renter families live. Yet, for decades the city has underinvested in parks and other infrastructure in these communities. At the same time, rents and housing costs have increased significantly, forcing many to move to areas with underfunded transit services, increasing their families' transportation costs. Neighborhoods with good investments in parks, roads, and infrastructure are high cost and out of reach for most people who are not wealthy. Investments in climate-friendly transportation, such as electric scooters, car charging stations, and improved bike and pedestrian infrastructure, can help improve health and address climate, but can also be a harbinger of gentrification and displacement of low-income residents by wealthier residents and tourists. Overlay districting tied to demographics as opposed to geography solves this displacement by ensuring people who live in these neighborhoods can stay and benefit from improvements.

The city should create DWOD districts that prioritize city resources to neighborhoods that have faced a history of disinvestment while also protecting the people from being displaced. DWOD districts create special boundaries within the city in which special protections and regulations apply. DWOD districts receive priority for city spending and have district boards composed of residents to help direct policies within the districts and inform how resources are spent within the district. These district boards are critical to ensuring that investments and decisions made reflect the needs of the community and to preventing displacement. These boards are different from neighborhood associations because they are official city boards with actual policymaking and recommendation authority.

Unlike traditional overlay districts, DWOD district boundaries are set by demographics and can shift as demographics change. For instance, the boundaries can be established based on where a higher proportion of people live below the median income or are housing cost-burdened, or where tenants experience high rates of evictions. This flexibility allows the city to target the people who need the most support. As populations shift, district boundaries can shift with them, similar to voter districts. Similar types of overlay districts have been proposed in [Los Angeles](#) and [Boston](#), though both efforts have faced delays due to the Covid-19 pandemic.⁶² Following this model allows protections and support to be directed to people who need it the most and avoids long-term unintended consequences as circumstances improve and demographics shift.

Conclusion

Below: Chainbreaker members conducting outreach.
(Chainbreaker Collective)



As Santa Fe looks ahead to recovery from the Covid-19 pandemic and beyond, policymakers should keep a few key things in mind. First, different communities need different responses. As the first two reports in this series show, some communities face high eviction risks even during this period covered by the emergency order and need targeted responses and resources. Second, real solutions do not simply return us to the pre-pandemic status quo, but instead create a housing future that truly works for all of Santa Fe's diverse households. Communities that were already facing housing instability before the pandemic need not only protections during this public health emergency but also long-term solutions to transform the housing market. Third, to confront the magnitude of the current challenge, the city needs to deploy all of its resources and powers—this includes budgetary decisions, regulatory and executive powers, and leveraging publicly owned lands such as the Midtown Campus for long-term housing solutions and stability. Finally, any successful response and recovery depend on close partnerships with and leadership from community organizations directly connected to the people most impacted. Grassroots organizations can and should serve as trusted connectors to ensure city policies and programs are informed by local residents and to maximize impact in these communities.

Appendices: Model Ordinances

Appendix 1: Prohibition of owner retaliation

A. An owner may not retaliate against a resident who is in compliance with the rental agreement by:

1. increasing rent;
2. decreasing services;
3. commencing or threatening to commence an action for possession;
4. refusing to renew a lease or rental agreement; or
5. terminating a lease or rental agreement;

because the resident has within the previous six months engaged in any of the acts described in NMSA 47-8-39(A) (1-7)* or otherwise exercised or attempted to exercise the resident's rights as a tenant under state or federal law.

*Ch. 47, art. 8 NMSA 1978, <https://nmonesource.com/nmos/nmsa/en/item/4408/index.do#!b/a8>, retrieved on 07/27/2021.

4. **Full legal representation.** Ongoing legal representation provided by a designated organization to an income-eligible individual and all legal advice, advocacy, and assistance associated with such representation. Full legal representation includes, but is not limited to, the filing of a notice of appearance on behalf of the income-eligible individual in a covered proceeding.
5. **Income-eligible individual.** A covered individual whose annual gross household income is not in excess of [income guidelines, if any].
6. **Legal services.** The term "legal services" means brief legal assistance or full legal representation.

B. Provision of Counsel

1. There is hereby established a program to provide access to all covered individuals in covered proceedings in a magistrate court, metropolitan court, and district court.
2. No later than [January 1, 2022]:
 - a. All covered individuals shall receive access to brief legal services no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable; and
 - b. All income-eligible individuals shall receive access to full legal representation no later than their first scheduled appearance in a covered proceeding in housing court, or as soon thereafter as is practicable.

Appendix 2: Provision of legal counsel during eviction proceedings

A. Definitions

1. **Covered individual.** A tenant of a rental dwelling unit located in the [Jurisdiction], including any tenant in a unit operated by the [local housing authority], who is a respondent in a covered proceeding.
2. **Covered proceeding.** Any proceeding in a magistrate court, metropolitan court, or district court to evict a covered individual, including a proceeding to seek possession for the nonpayment of rent or a holdover.
3. **Designated organization.** A not-for-profit organization or association that has the capacity to provide legal services.

Appendix 3: Just cause eviction

- A. No owner shall remove or attempt to remove a resident from any housing accommodation except upon a court order entered in an appropriate proceeding in which the owner has established one of the following grounds as good cause for removal or eviction:
 - a. The resident has failed to pay rent due and owing as described in NMSA 47-8-33(D)*; provided that the rent due and owing is not the result of a rent increase that is unreasonable or imposed for the purpose of circumventing the intent of this section;
 - b. There is material noncompliance with the rental agreement as described in NMSA 47-8-33(B)*;
 - c. The resident has committed a substantial violation as described in NMSA 47-8-33(I)*;
 - d. The resident has unreasonably refused the owner access to the dwelling for the purpose of making necessary repairs or improvements required by law;
 - e. The owner seeks in good faith to convert the dwelling unit to personally occupy the unit as the owners' personal residence.
- B. The provisions of this Section shall apply notwithstanding that the resident has no written lease or that an existing lease or rental agreement has expired or otherwise terminated.
- C. Any agreement by a resident waiving or modifying the resident's rights under this Section shall be void as contrary to public policy.

*Ch. 47, art. 8 NMSA 1978, <https://nmonesource.com/nmos/nmsa/en/item/4408/index.do#!b/a8>, retrieved on 07/27/2021.

Appendix 4: Source of income nondiscrimination

- A It shall be an unlawful discriminatory practice for any person to refuse to sell, rent, assign, lease, or sublease, or offer for sale, rental, lease, assignment, or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment, or sublease of any housing accommodation or real property to any person based on source of income.
- B "Source of income" means any lawful source of money paid directly, indirectly, or on behalf of a renter or buyer of housing including but not limited to:
 - 1. Income derived from any lawful profession or occupation;
 - 2. Income or rental payments derived from any government or private assistance, grant, or loan program.
- C. The prohibitions in this section against discrimination based on source of income shall not limit the ability of any person to consider the sufficiency or sustainability of income of a renter or buyer, so long as sufficiency or sustainability of income are applied in a commercially reasonable manner and without regard to source of income.
- D. The prohibitions in this section against discrimination based on source of income shall not limit the ability of any housing authority or related agency having oversight over the provision of housing assistance from prohibiting such authority's employees or agents from renting housing to persons who receive such assistance, where such prohibition is intended to prevent conflicts of interest or the appearance of impropriety, nor shall this chapter prohibit such agents and employees from complying with any such prohibition on renting housing to persons receiving such assistance.
- E. The prohibitions in this section against discrimination based on source of income shall not limit the ability of a landlord participating in any government-sponsored rental assistance program, voucher, or certificate system from reserving rental units for tenants who qualify for such governmental program.

6.0

Notes

- 1 City of Santa Fe, New Mexico. Resolution No. 2015-65 (July 29, 2015), https://www.santafenm.gov/archive_center/document/13707.
- 2 Teya Vitu, "Santa Fe area's median home price cracks \$600,000," *Santa Fe New Mexican*, July 2, 2021, [https://www.santafenewmexican.com/news/local_news/santa-fe-area-s-median-home-price-cracks-600-000/article_25d1fdf4-db4f-11eb-9d9e-a74af2ee9423.html](https://www.santafenewmexican.com/news/local_news/santa-fe-https://www.santafenewmexican.com/news/local_news/santa-fe-area-s-median-home-price-cracks-600-000/article_25d1fdf4-db4f-11eb-9d9e-a74af2ee9423.html) and Sean P. Thomas, "Santa Fe getting 5,000 new dwellings, but is it enough?" *Santa Fe New Mexican*, June 5, 2021, https://www.santafenewmexican.com/news/local_news/santa-fe-getting-5-000-new-dwellings-but-is-it-enough/article_9fdea124-b1db-11eb-af92-fba6306e1c3d.html.
- 3 National Equity Atlas, "Rent Debt in America: Dashboard View," PolicyLink and the USC Equity Research Institute, accessed July 12, 2021, <https://nationalequityatlas.org/rent-debt>.
- 4 Temporary Halt in Residential Evictions to Prevent the Further Spread of Covid-19, Centers for Disease Control and Prevention, Department of Health and Human Services, 42 USC § 264 and 42 CFR § 70.2 (2021), https://www.cdc.gov/coronavirus/2019-ncov/more/pdf/CDC_Eviction_Extension_Order_Final_06242021.pdf.
- 5 The Stay of Writs of Restitution Issued under the Uniform Owner-Resident Relations Act during the Covid-19 Public Health Emergency: Order, Supreme Court of the State of New Mexico, No. 20-8500-007 (March 24, 2020), https://www.nmcourts.gov/wp-content/uploads/2020/12/Order_No._20_8500_007_Staying_Execution_of_Writs_of_Restitution_in_Eviction_Proceedings_3_24_20_-1.pdf and The Stay of Writs of Restitution Issued under the Mobile Home Park Act during the Covid-19 Public Health Emergency: Order, Supreme Court of the State of New Mexico, No. 20-8500-008 (March 26, 2020), https://www.nmcourts.gov/wp-content/uploads/2020/12/3_26_20_Order_No._20_8500_008_Staying_Writs_of_Restitution_under_Mobile_Home_Park_Act_3_26_20_.pdf.
- 6 "Clarification to Prohibit Eviction of Tenants," City of Santa Fe webpage, March 18, 2020, https://www.santafenm.gov/news/detail/clarification_to_prohibit_eviction_of_tenants.
- 7 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria to Keep People Housed and Healthy in Santa Fe* (Oakland, CA and Santa Fe, NM: Human Impact Partners and Chainbreaker Collective, April 2021), <https://humanimpact.org/wp-content/uploads/2021/04/Final-Part-II-Evictions-in-the-COVID-19-Era-Successes-and-limitations-of-moratoria-to-keep-people-housed-and-healthy-in-Santa-Fe.pdf>.
- 8 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria*.
- 9 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria*.
- 10 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria*.
- 11 Daniel Beekman and Heidi Groover, "Seattle Mayor Jenny Durkan is extending the city's COVID-19 eviction moratorium through September," *The Seattle Times*, June 18, 2021, <https://www.seattletimes.com/seattle-news/politics/seattle-mayor-jenny-durkan-is-extending-the-citys-covid-19-eviction-moratorium-through-september/> and Emma Talley and Mallory Moench, "S.F. could protect renters against eviction even after state moratorium ends," *San Francisco Chronicle*, May 26, 2021, <https://www.sfchronicle.com/local-politics/article/S-F-poised-to-extend-eviction-moratorium-to-16202381.php>.
- 12 Michael Casey, "Race is on to get rental assistance out to avert evictions," *Santa Fe New Mexican*, July 4, 2021, https://www.santafenewmexican.com/ap/race-is-on-to-get-rental-assistance-out-to-avert-evictions/article_c239637b-ed92-5777-9a54-b6dfa4c6017f.html.
- 13 Daniel J. Chacón, "New Mexico rent assistance program's marketing budget surpasses aid so far," *Santa Fe New Mexican*, May 21, 2021, https://www.santafenewmexican.com/news/local_news/new-mexico-rent-assistance-program-s-marketing-budget-surpasses-aid-so-far/article_2e6a1076-ba3e-11eb-be47-df502a69dea5.html.
- 14 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria*.
- 15 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: Successes and Limitations of Moratoria*.
- 16 "Budget Division," City of Santa Fe webpage, accessed July 12, 2021, https://www.santafenm.gov/budget_1.
- 17 Anti-Eviction Mapping Project [webpage], accessed July 12, 2021, <https://antievictionmap.com/>.
- 18 "Emergency Rental Assistance Program," U.S. Department of the Treasury webpage, accessed July 12, 2021, <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program> and "Low Income Household Water Assistance Program (LIHWAP)," Office of Community services, U.S. Department of Health and Human Services, accessed July 12, 2021, <https://www.acf.hhs.gov/ocs/programs/lihwap>.

- 19 "Mayor Announces Updates to Emergency Proclamation – Effective Wednesday, March 19," City of Santa Fe webpage, March 18, 2020, https://www.santafenm.gov/news/detail/mayor announces_updates_to_emergency_proclamation - effective_we.
- 20 "Water bill customer assistance," City of Philadelphia webpage, accessed July 12, 2021, <https://www.phila.gov/services/water-gas-utilities/pay-or-dispute-a-water-bill/water-bill-customer-assistance/>.
- 21 Emily Nonko, "How Philadelphia Has Tried to Address Water Debt," *Next City*, September 1, 2020, <https://nextcity.org/daily/entry/how-philadelphia-has-tried-to-address-water-debt>.
- 22 Pat Ralph, "Philadelphia Water Department extends service shutoff ban until April 2022," *Philly Voice*, March 9, 2021, <https://www.phillyvoice.com/philadelphia-water-department-service-shutoff-moratorium-april-2022/>.
- 23 National Equity Atlas, "Rent Debt in America."
- 24 National Equity Atlas, "Rent Debt in America" and "Homeowner Equity Insights," CoreLogic website, June 10, 2021, <https://www.corelogic.com/intelligence/homeowner-equity-insights/>.
- 25 "Homeowner Equity Insights," CoreLogic.
- 26 Jason DeParle, "Federal Aid to Renters Moves Slowly, Leaving Many at Risk," *The New York Times*, April 25, 2021, <https://www.nytimes.com/2021/04/25/us/politics/rental-assistance-pandemic.html>.
- 27 "California eviction protections during the Covid-19 Pandemic," ACCE Action website, accessed July 12, 2021, <https://www.acceaction.org/covid eviction protections>.
- 28 Taylor Allen, "What landlords and tenants need to know about Philly's new eviction rules," *WHYY*, April 1, 2021, <https://whyy.org/articles/here-is-what-landlords-and-tenants-need-to-know-about-phillys-new-eviction-rules/>.
- 29 Housing Justice For All, "We Won a Strong Rent Relief Program, But More Must Be Done to Protect Tenants and Homeless New Yorkers: Housing Justice For All Responds to State Budget," News (New York: Housing Justice for All, April 7, 2021), <https://housingjusticeforall.org/we-won-a-strong-rent-relief-program-but-more-must-be-done-to-protect-tenants-and-homeless-new-yorkers-housing-justice-for-all-responds-to-state-budget/>.
- 30 New Mexico Department of Finance & Administration [website], accessed July 12, 2021, <https://www.nmdfa.state.nm.us/> and Emergency Rental Assistance Program [website], accessed July 12, 2021, <https://www.renthelpnm.org/>.
- 31 Chacón, "New Mexico rent assistance program's marketing budget surpasses aid so far."
- 32 T.S. Last, "Santa Fe signs on to a guaranteed income program," *Albuquerque Journal*, June 15, 2021, <https://www.abqjournal.com/2400456/santa-fe-signs-on-to-guaranteed-income-program.html>.
- 33 Brittany Valentine, "Eviction without mediation? Not in Philly, as Municipal Court backs diversion program," *Al Dia News*, April 2, 2021, <https://aldianews.com/articles/politics/eviction-without-mediation-not-philly-municipal-court-backs-diversion-program>.
- 34 Housing Discrimination Changes, HB 111, New Mexico Legislature, 55th Regular Session (2021), <https://www.nmlegis.gov/Legislation/Legislation?Chamber=H&LegType=B&LegNo=111&year=21>.
- 35 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: A Threat to Family and Community Health in Santa Fe* (Oakland, CA and Santa Fe, NM: Human Impact Partners and Chainbreaker Collective, December 2020), <https://humanimpact.org/wp-content/uploads/2020/12/Eviction-in-the-COVID-19-Era-A-Threat-to-Family-and-Community-Health-in-Santa-Fe-12.2020.HIP.pdf>.
- 36 Data provided by the National Equity Atlas (nationalequityatlas.org), which analyzed 2019 5-Year American Community Survey Integrated Public Use Microdata Series.
- 37 "Tool 1: Rental Registration and Licensing," Center for Community Progress webpage, accessed July 12, 2021, <https://www.communityprogress.net/tool-1--rental-registration--licensing-pages-207.php>.
- 38 City News Service, "Concord Rent Registry Program Approved to Track Rentals," *Patch*, January 16, 2021, <https://patch.com/california/concord-ca/concord-rent-registry-program-approved-track-rentals>.
- 39 Jamila Michener, *The Case for a Right to Counsel in Housing Court* (Data for Progress website, July 2020), <https://www.filesforprogress.org/memos/right-to-counsel-in-housing-court.pdf>.
- 40 "Immigration Committee," City of Santa Fe webpage, accessed July 12, 2021, https://www.santafenm.gov/immigration_committee.
- 41 Legal Services Use Fed. Funds for Tenant Rep/Right to Counsel," National Coalition for a Civil Right to Counsel webpage, May 7, 2021, http://civilrighttocounsel.org/major_developments/1463.
- 42 AP staff, "Washington governor signs bill requiring 'just cause' eviction," *OPB*, May 10, 2021, <https://www.opb.org/article/2021/05/10/wash-governor-signs-bill-requiring-just-cause-eviction/> and Sydney Brownstone and Heidi Groover, "Washington becomes first state to guarantee lawyers for low-income tenants during evictions," *The Seattle Times*, April 23, 2021, <https://www.seattletimes.com/seattle-news/homeless/washington-becomes-first-state-to-guarantee-lawyers-for-low-income-tenants-during-evictions/>.
- 43 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: A Threat to Family and Community Health in Santa Fe*.
- 44 City of Portland, "Portland Landlord-Tenant Law Training," City of Portland webpage, accessed July 12, 2021, <https://www.portland.gov/phb/rental-services/trainings> and "Renter protections," City of Minneapolis webpage, accessed July 12, 2021, <https://www2.minneapolismn.gov/government/departments/reg-services/renter-protections/>.
- 45 Housing Discrimination Changes, HB 111, New Mexico Legislature.

- 46 All-In Cities Toolkit, "Just cause," PolicyLink webpage, accessed July 12, 2021, <https://allincities.org/toolkit/just-cause>.
- 47 Mobile Home Parks, New Mexico, Ch 47, Article 10, NMSA 1978, <https://nmonesource.com>.
- 48 "State and Local Source-of-Income Nondiscrimination Laws: Protections that Expand Housing Choice and Access (PRRAC, Updated April 2021)," Poverty & Race Research Action Council webpage, April 29, 2021, <https://prrac.org/appendixb/>.
- 49 Lance Freeman, *The Impact of Source of Income Laws on Voucher Utilization and Locational Outcomes* (Washington, DC: U.S. Department of Housing and Urban Development Office of Policy Development and Research, February 2011), https://www.huduser.gov/publications/pdf/Freeman_ImpactLaws_AssistedHousingRCR06.pdf.
- 50 Housing Discrimination Changes, HB 111, New Mexico Legislature.
- 51 Mandatory Renter Relocation Assistance," City of Portland webpage, accessed July 12, 2021, <https://www.portland.gov/phb-rental-services/renter-relocation-assistance> and Rent Stabilization Board, "Process for Withdrawing Residential Rental Property from the Rental Housing Market," City of Berkeley, accessed July 12, 2021, https://www.cityofberkeley.info/Rent_Stabilization_Board/Home/Ellis_Explanation_of_Required_Conditions_and_Owner_Obligations.aspx.
- 52 Human Impact Partners and Chainbreaker Collective, *Evictions in the Covid-19 Era: A Threat to Family and Community Health in Santa Fe*.
- 53 Cody Nelson, "As a 'Zoom boom' brings the wealthy to Santa Fe, locals are getting priced out," *The Guardian*, January 29, 2021, <https://www.theguardian.com/us-news/2021/jan/29/santa-fe-new-mexico-zoom-boom-housing>.
- 54 Emily Thaden and Greg Rosenberg, "Outperforming the Market: Delinquency and Foreclosure Rates in Community Land Trusts," *Land Lines*, 22, no. 4, pp. 2-7 (October 2010), <https://www.lincolninst.edu/publications/articles/outperforming-market>.
- 55 Human Impact Partners, *Health, Healing, and Housing in Santa Fe: A research brief on community land trusts, Midtown, and a vision for post-pandemic development*, September 2020, <https://humanimpact.org/wp-content/uploads/2020/09/HIP-Health-Healing-and-Housing-in-Santa-Fe-09-2020.pdf>.
- 56 PolicyLink, *Housing Justice Opportunities in the American Rescue Plan Act* (Oakland, CA: PolicyLink, April 2021), <https://ourhomesourhealth.org/housing-justice-ops-american-rescue-plan-act>.
- 57 All-In Cities Toolkit, "Tenant/community opportunity to purchase," PolicyLink webpage, accessed July 12, 2021, <https://allincities.org/toolkit/tenant-community-opportunity-to-purchase>.
- 58 Audrey McGlinchy, "Residents of North Austin mobile home park now own the land they live on," *Austin Monitor*, June 1, 2020, <https://www.austinmonitor.com/stories/2020/06/residents-of-north-austin-mobile-home-park-now-own-the-land-they-live-on/>.
- 59 Mobile Home University [webpage], accessed July 12, 2021, <https://www.mobilehomeuniversity.com/>.
- 60 Sean P. Thomas, "What's next for Santa Fe's midtown project?" *Santa Fe New Mexican*, January 22, 2021, https://www.santafenewmexican.com/news/local_news/what-s-next-for-santa-fes-midtown-project/article_5c75637c-5ccd-11eb-8d16-3b9fdf2a0618.html.
- 61 Sawmill Community Land Trust [webpage], accessed July 12, 2021, <https://www.sawmillclt.org/>; "Market Creek Plaza," Jacobs Center for Neighborhood Innovation webpage, accessed July 12, 2021, <https://www.jacobscenter.org/shopmcp/>; New Communities, Inc. [webpage], accessed July 12, 2021, <https://www.newcommunitiesinc.com/>; and "Regenerative Community Development," Thunder Valley CDC webpage, accessed July 12, 2021, <https://thundervalley.org/program-guide/regenerative-community-development>.
- 62 TRD Staff, "City will draw up 'anti-displacement zone' ordinance," *The Real Deal*, November 14, 2019, <https://therealdeal.com/la/2019/11/14/city-will-draw-up-anti-displacement-zone-ordinance/> and "Special Protection Zones," Action for Equity webpage, accessed July 12, 2021, <https://www.action4equity.org/special-protection-zones.html>.

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