

EVICTION MORATORIUM STATE VS FEDERAL

Please note: EO 20-79 currently overrides the CDC order unless 20-79 terminates

Disclaimer: This chart is for informational purposes only and should not be considered legal advice.

GOVERNOR WALZ'S EO 20-79

CURRENTLY APPLIES

U.S. CDC AGENCY ORDER 85 FR 55292

WILL APPLY ONLY IF EO 20-79 TERMINATES

<p>Which order currently applies in MN?</p>	<p>EO 20-79 provides a greater level of public-health protection than the CDC order thus, EO 20-79 would apply, and not the CDC order, until and unless EO 20-79 is rescinded or the Governor's Peacetime Emergency expires.</p>	<p>The CDC order does not apply to any state that has a moratorium on residential evictions that provide the same or greater level of public-health protection than the requirements in the CDC order. Because EO 20-79 creates a greater level of public-health protection, that would apply in place of this order.</p>
<p>How do these orders affect the suspension of evictions and writs of recovery in MN?</p>	<p>EO 20-79 suspends evictions, the execution of writs of recovery, and requests a moratorium on housing foreclosures on residential property, for the duration of the COVID-19 peacetime emergency in MN or until the Governor's order is rescinded, except in specified circumstances.</p>	<p>Prohibits a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action from evicting any covered person in any jurisdiction through June 30, 2021 subject to further extension, modification, or rescission.</p>
<p>How do these orders affect landlords and tenants?</p>	<p>RESTRICTIONS: The EO 20-79 directs the following restrictions:</p> <ol style="list-style-type: none"> Places a suspension on the ability of a person to file an eviction action who is entitled to recover residential premises when a tenant remains in the property after any of the following occurrences: <ol style="list-style-type: none"> Notice of termination of lease; After a notice of nonrenewal of a lease, After a material violation of a lease, After termination of the redemption period for a residential foreclosure; or After non-payment of rent Prohibits residential landlords from issuing notices of termination of lease or nonrenewal of lease or terminating residential leases during the pendency of the peacetime emergency unless the termination or nonrenewal is based upon one of the listed exceptions. (See the QA What are the eviction exceptions?). 	<p>RESTRICTIONS: The CDC order prohibits a landlord, owner of a residential property or other person with a legal right to pursue eviction or possessory action from evicting any covered person from any residential property in any jurisdiction to which the CDC order applies during the effective period of the order.</p> <p>RENTER OR HOMEOWNER'S DECLARATION: To invoke the CDC's order, a covered person must provide an executed copy of a Declaration form (as prescribed in the order) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live.</p> <p>If the landlord receives such Declaration, the landlord may not evict or remove these persons during the order.</p> <p>Covered persons are still required to pay rent and follow all the other terms of the lease and rules of the place where they live.</p>

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How do these orders affect landlords and tenants?

(continued)

However, residential landlords may issue a notice of termination of lease or nonrenewal of lease or terminate a residential lease due to the need to move the property owner or property owner's family member(s) into the property and where the property owner or property owner's family member(s) move into the property within 7 days after it is vacated by the tenant.

3. Officers that hold a writ of recovery of premises and order to vacate must cease executing those writs with certain exceptions. (See the QA What are the writ of recovery exceptions?)

NOTIFICATION REQUIREMENTS AND

SPECIAL REQUESTS: EO 20-79 also establishes new notification requirements and special requests by Governor Walz.

1. **NEW NOTICE REQUIREMENT:** EO 20-79 established a new requirement that all property owners, mortgage holders, or other persons seeking possession on grounds permitted by EO 20-79 to provide a written notice of intent to file an eviction action to the tenant at least 7 days prior to filing the action, or the specified notice period included in the lease, whichever is longer.
2. **REQUEST FOR AMICABLE RESOLUTIONS:** In this EO, Governor Walz has requested that:

COVERED PERSON: Any tenant, lessee, or resident of a residential property, who provides the landlord with a declaration under penalty of perjury, that indicates that:

1. The individual has used best efforts to obtain all available government assistance for rent or housing;
2. The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or ≤ \$198K filing joint), (ii) was not required to report any income in 2019 to the IRS, or (iii) received an Economic Impact Payment (stimulus check) under the CARES Act;
3. The individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary out-of-pocket medical expenses;
4. The individual is using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses; and
5. Eviction would likely render the individual homeless – or force the individual to move into and live in close quarters in a new congregate or shared living setting – because the individual has no other available housing options.

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How do these orders affect landlords and tenants?

(continued)

- a. Financial institutions holding home mortgages implement a moratorium on all pending and future foreclosures when the foreclosure arises out of a substantial decrease in income or substantial out of pocket medical expense caused by the COVID-19 pandemic, or any local, state, or federal governmental response to COVID-19;
- b. Financial institutions do not impose late fees or other penalties for late mortgage payments related to the COVID-19 pandemic;
- c. Property owners, mortgage holders, or other persons entitled to recover residential premises work with tenants to reach amicable resolutions where possible without filing eviction actions;

Tenants who are able to pay their rent must continue to do so.

What are the eviction exceptions?

- 1. The order lists certain exceptions to the eviction suspension above and allows a person to file for an eviction action where the tenant:
 - a. Seriously endangers the safety of other residents;
 - b. Violates Minnesota Statutes 2019, section 504B.171, Subd. 1
 - c. Remains in the property past the vacate date after receiving a notice from the property owner to vacate or nonrenewal under the circumstance where the property owner must terminate the lease or not renew the lease based upon the their need, or their family member’s need, to move into the property within 7 days after it is vacated by the tenant.;

- The CDC order allows evictions based on a tenant, lessee, or resident:
- a. Engaging in criminal activity while on the premises;
 - b. Threatening the health or safety of other residents;
 - c. Damaging or posing an immediate and significant risk of damage to the property;
 - d. Violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or
 - e. Violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

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<p>What are the eviction exceptions? (continued)</p>	<ul style="list-style-type: none"> d. Materially violates a residential lease by the following actions on the premises, including the common area and the curtilage of the premises: <ul style="list-style-type: none"> i. Seriously endangers the safety of others; or ii. Significantly damages the property. 2. Additionally, nothing in EO 20-79 modifies the relief available, including exclusion from the dwelling, in an order for protection issued under Minnesota Statutes 2019, section 518B.01, or in a domestic abuse no contact order issued under Minnesota Statutes 2019, section 629.75. 	
<p>What are the writ of recovery exceptions?</p>	<p>An officer that holds a writ of recovery of premises may execute the writ of recovery in the following circumstances:</p> <ul style="list-style-type: none"> 1. Writs designated as priority execution under Minnesota Statute 2019, section 504B.365, subdivision 2; 2. Writs issued as a result of an eviction action judgment entered prior to the enactment of EO 20-14 on March 24, 2020 at 5:00 PM; or 3. Writs issued as a result of an eviction action based on the circumstance where the tenant: <ul style="list-style-type: none"> a. Seriously endangers the safety of other residents; b. Violates Minnesota Statutes 2019, section 504B.171, Subd. 1 	<p>The CDC eviction moratorium applies to other persons with a legal right to pursue eviction or possessory action. The same exceptions that apply to evictions (above) would apply to a writ of recovery.</p>

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What are the writ of recovery exceptions?
(continued)

- c. Remains in the property past the vacate date after receiving a notice from the property owner to vacate or nonrenewal under the circumstance where the property owner must terminate the lease or not renew the lease based upon the their need, or their family member's need, to move into the property within 7 days after it is vacated by the tenant.;
- d. Materially violates a residential lease by the following actions on the premises, including the common area and the curtilage of the premises:
 - i. Seriously endangers the safety of others; or
 - ii. Significantly damages the property.

NOTE: When a judge rules in favor of a property owner in an eviction proceeding, a writ of recovery orders officers of the law to restore that property to the owner. These orders are lawful means by which landlords can physically remove tenants upon approval of an eviction by a judge.

Are tenants still required to pay rent through the duration of the order?

Yes. Executive Order 20-79 does not relieve tenants from their obligation to pay rent.

Yes. The CDC order states that covered persons are still required to pay rent and follow all the other terms of their lease and rules of the place where they live.

The CDC order has no effect on the contractual obligations of renters to pay rent and does not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis under the terms of any applicable contract.

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Are rental property owners still required to make mortgage payments?	<p>Yes. Executive Order 20-79 does not suspend a borrower's obligation to make payments on their mortgage.</p> <p>However, EO 20-79 requests financial institutions holding home mortgages to implement an immediate moratorium on all pending and future foreclosures and related evictions when the foreclosure or foreclosure-related eviction arises out of a substantial decrease in income or out-of-pocket medical expenses caused by the COVID-19 pandemic. The EO includes language strongly urging financial institutions to refrain from imposing late fees or other penalties for late mortgage payments related to the COVID-19 pandemic.</p>	<p>Yes. The CDC order does not suspend a borrower's obligation to make payments on their mortgage.</p>
What happens if a landlord or lender violates the order?	<p>Any person who willfully violates the order is guilty of a misdemeanor and upon conviction may be punished by a fine not to exceed \$1,000 or by imprisonment for not more than 90 days. The Attorney General's office may also seek relief available pursuant to Minnesota Statute. 8.31.</p>	<p>Any person who violates the CDC order may be subject to criminal penalties including a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 per event if the violation does not result in death or \$500,000 per event if the violation results in a death or as otherwise provided by law.</p>
What should I do if a tenant refuses to allow the landlord to show the property?	<p>In normal times, Minn. Stat. § 504B.211 allows a landlord to enter the property to show it with reasonable notice – not permission. However, the eviction moratorium would not allow a landlord to commence an eviction as a remedy against tenants who are in violation of their lease for excluding a landlord's rightful entry and/or tenants who continue to occupy a premises past a lease expiration during the peacetime emergency or until the governor revokes his order.</p>	<p>This eviction moratorium would not allow a landlord to commence an eviction action as a remedy against a tenant who is in violation of their lease for excluding a landlord's rightful entry.</p>

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What should I do if a tenant refuses to allow the landlord to show the property?

(continued)

Additionally, Realtors®, and the landlords they represent, need to balance this right to show the property with their covenant obligations under Minn. Stat. 504B.161. The law states the landlord must maintain the premises in compliance with applicable state and local health and safety laws where the premises are located during the term of the lease. Realtors® should have a Preparedness Plan in place that complies with the DEED Guidelines and recommendations of the MDH the CDC, and OSHA. Please also note that Realtors® and landlords should not forcibly enter a premise under ordinary circumstances, and so if a tenant has resisted the entry, the Realtor® or landlord should consult with legal counsel regarding alternative remedies.

In light of these unique times, you should consider working with the tenant to provide some reassurance and comfort to avoid further issues. You could discuss options like:

- Virtual showings;
- Sharing your Preparedness Plan protocols that cover health and wellness, social distancing, cleaning, sanitation and protection, and operations and communications;
- Refraining from showing the property if the tenant, prospective tenant, or anyone else intending to be at the showing is showing signs of illness; or
- Postponing showings for tenants or prospective tenants who are in a high-risk group.

COVID-19 Rental Assistance Resources

The CDC order stated that states, cities, communities, and nonprofits that received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds from HUD under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted. Additionally, funds allocated through the Coronavirus Relief Fund may be used to fund rental assistance programs to prevent eviction. For your convenience, following is a listing and links to state and county websites that may offer emergency rental assistance.

Rank	County	Population	Rank	County	Population
	Minnesota Housing		22	Itasca County	45,130
1	Hennepin County	1,265,843	23	Kandiyohi County	43,199
2	Ramsey County	550,321	24	Benton County	40,889
3	Dakota County	429,021	25	Isanti County	40,596
4	Anoka County	356,921	26	Mower County	40,062
5	Washington County	262,440	27	Douglas County	38,141
6	St. Louis County	199,070	28	Steele County	36,649
7	Stearns County	161,075	29	McLeod County	35,893
8	Olmsted County	158,293	30	Carlton County	35,871
9	Scott County	149,013	31	Becker County	34,423
10	Wright County	138,377	32	Nicollet County	34,274
11	Carver County	105,089	33	Morrison County	33,386
12	Sherburne County	97,238	34	Polk County	31,364
13	Blue Earth County	67,653	35	Freeborn County	30,281
14	Rice County	66,972	36	Cass County	29,779
15	Crow Wing County	65,055	37	Pine County	29,579
16	Clay County	64,222	38	Le Sueur County	28,887
17	Otter Tail County	58,746	39	Mille Lacs County	26,277
18	Chisago County	56,579	40	Lyon County	25,474
19	Winona County	50,484	41	Brown County	25,008
20	Beltrami County	47,188	42	Todd County	24,664
21	Goodhue County	46,340	43	Meeker County	23,222

Rank	County	Population	Rank	County	Population
44	Nobles County	21,629	73	Pipestone County	9,126
45	Wabasha County	21,627	74	Clearwater County	8,818
46	Hubbard County	21,491	75	Murray County	8,194
47	Fillmore County	21,067	76	Lac qui Parle County	6,623
48	Dodge County	20,934	77	Norman County	6,375
49	Martin County	19,683	78	Wilkin County	6,207
50	Waseca County	18,612	79	Grant County	5,972
51	Houston County	18,600	80	Lincoln County	5,639
52	Kanabec County	16,337	81	Mahnommen County	5,527
53	Aitkin County	15,886	82	Cook County	5,463
54	Redwood County	15,170	83	Big Stone County	4,991
55	Roseau County	15,165	84	Kittson County	4,298
56	Sibley County	14,865	85	Red Lake County	4,055
57	Renville County	14,548	86	Lake of the Woods County	3,740
58	Pennington County	14,119	87	Traverse County	3,259
59	Wadena County	13,682			
60	Faribault County	13,653			
61	Koochiching County	12,229			
62	Chippewa County	11,800			
63	Pope County	11,249			
64	Cottonwood County	11,196			
65	Watonwan County	10,897			
66	Lake County	10,641			
67	Jackson County	9,846			
68	Stevens County	9,805			
69	Yellow Medicine County	9,709			
70	Marshall County	9,336			
71	Rock County	9,315			
72	Swift County	9,266			