

# MODEL LOCAL RESOLUTION

## *Calling For Local Authority to Adopt Housing Protections During the Covid-19 Pandemic*

As the COVID-19 pandemic spreads and states reopen, local elected officials and advocates are asking what power they have to help their communities across a range of policies, including those that respond to pressing housing and homelessness needs.

In many cases, advocates and local officials are finding that their authority to implement urgent housing solutions and support is limited, if not entirely preempted, by state law. In other cases, they are finding that their authority to adopt the housing-related policies residents need most is not clear, and taking local action could subject the local government to a legal challenge based on state preemption. In other states, local governments have found they have the authority to act.

Local advocates and officials could save crucial time as they determine what they can do locally if their state legislature or governor asserted and clarified local authority pertaining to housing solutions. This model resolution is geared towards helping local officials and advocates push their legislature and governor to do just that.

### **The model resolution below calls for the following:**

- For the state legislature to adopt legislation halting evictions during any state- or locally declared emergency, and for a period of 90 days following such declaration.
- For the governor, through the governor's emergency powers, to suspend all state laws (and any past Executive Orders) for the duration of the declared emergency preempting local governments from adopting eviction moratoria, rent regulation, and other policies designed to ensure safe, stable, and affordable housing.
- For the state legislature to repeal all state laws preempting eviction moratoria, rent regulation, and other policies designed to ensure safe, stable, and affordable housing.
- For the state legislature to repeal all state laws preempting local governments from adopting revenue-generating policies designed to ensure safe, stable, and affordable housing.
- For the state legislature to establish a hardship fund—while allowing local governments to establish the same—to assist with rental payments for all tenants, regardless of immigration status, for the duration of the declared emergency, and for a period of 90 days following any such declaration.

For information on how/whether your state expressly preempts local housing policies like eviction moratoria or rent control, [here](#) is a map and resource from LSSC. [Here](#) is a general guide for assessing local authority to adopt housing and homelessness related policies in response to COVID-19. You may also consult with an attorney in your state or contact LSSC for additional support ([lssc@supportdemocracy.org](mailto:lssc@supportdemocracy.org)).

# NECESSARY LANGUAGE FOR RESOLUTION

## Resolution of the [City/County] of \_\_\_\_\_.

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that is spread among people through respiratory transmissions;

**WHEREAS**, on January 30, 2020, the World Health Organization (WHO) declared COVID-19 a Public Health Emergency of International Concern;

**WHEREAS**, on January 31, 2020, the U.S. Secretary of Health and Human Services declared a public health emergency;

**WHEREAS**, on March 11, 2020, the WHO characterized the COVID-19 outbreak as a pandemic;

**WHEREAS**, as of [insert date], approximately [insert number] people have been infected with COVID-19 worldwide, and there have been approximately [insert number] deaths attributable to COVID-19;

**WHEREAS**, as of [insert date] approximately [insert number] people have been infected with COVID-19 in the U.S., and there have been approximately [insert number] deaths attributable to COVID-19;

**WHEREAS**, a vaccine or treatment is not currently available for COVID-19, and at present, there is no evidence that people who have recovered from COVID-19 and have antibodies are protected from a second infection;

**WHEREAS**, despite efforts to contain COVID-19, the WHO and the federal Centers for Disease Control and Prevention (CDC) indicated that the virus was expected to continue spreading and it has, in fact, continued to spread rapidly, resulting in the need for federal, state, and local governments to take significant steps to protect their populations;

**WHEREAS**, throughout the U.S., people and communities are experiencing extreme hardships caused by the unprecedented health and economic impacts of COVID-19;

**WHEREAS**, as of [insert date], the unemployment rate in the U.S. is approximately [insert number] percent, and approximately [insert number] people have filed unemployment claims over the prior [insert number] months;

**WHEREAS**, as of [insert date], the unemployment rate in [City/County] is approximately [insert number] percent, and approximately [insert number] people have filed unemployment claims over the prior [insert number] months;

**WHEREAS**, the declarations of the Governor and of the [City Council/County Board] call for [insert statement on eviction moratoria and other policies, if applicable];

**WHEREAS**, the eviction moratoria [insert other policies, if applicable] are set to expire [/expired] on [insert date];

**WHEREAS**, the eviction moratoria do not relieve tenants from continuing to pay rent;

**WHEREAS**, in [City/County], approximately [insert number] are unhoused and approximately [insert number] are rent burdened—defined as having to spend more than 30 percent of their household income on rent;

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**WHEREAS**, longstanding systemic discrimination in housing policies has resulted in severe inequities between Black people and their non-Hispanic white counterparts;<sup>1</sup>

**WHEREAS**, compared to their non-Hispanic white counterparts, Black renters are significantly more burdened by housing costs;<sup>2</sup>

**WHEREAS**, compared to their non-Hispanic white counterparts, Black households are disproportionately affected by substandard housing conditions, such as pest infestation, lead paint, faulty plumbing, and overcrowding;<sup>3</sup>

**WHEREAS**, emerging data show that COVID-19 morbidity and mortality rates are significantly higher for people of color and especially for Black people;<sup>4</sup> and

**WHEREAS**, policies that would otherwise be available to the [City Council/County Board] to respond to the pandemic are reserved to the state, outright preempted, and/or potentially preempted, thereby constraining the ability of local jurisdictions to provide their residents with safe, stable, and affordable housing.

**NOW, THEREFORE, BE IT RESOLVED**, by the [City Council/County Board] of [City/County] that the above recitations are true and correct.

**BE IT FURTHER RESOLVED** that the [City Council/County Board] of [City/County] hereby calls for the following actions:

1. For the State Legislature to adopt legislation halting evictions during any state- or locally declared emergency, and for a period of 90 days following such declaration;
2. For the Governor, through the governor's delegated emergency powers, to suspend for the duration of the declared emergency all state laws (and any past Executive Orders) preempting local governments from adopting eviction moratoria, rent regulation, and other policies designed to ensure safe, stable, and affordable housing;
3. For the State Legislature to repeal all state laws preempting eviction moratoria, rent regulation, and other policies designed to ensure safe, stable, and affordable housing;
4. For the State Legislature to repeal all state laws preempting local governments from adopting revenue-generating policies designed to ensure safe, stable, and affordable housing; and
5. For the State Legislature to establish a hardship fund—while allowing local governments to establish the same—to assist with rental payments for all tenants, regardless of immigration status, for the duration of the declared emergency, and for a period of 90 days following any such declaration.

**BE IT FURTHER RESOLVED** that the [City/County] [Manager/Executive] is hereby authorized to expend up to and including \_\_\_\_\_ Dollars (\$\_\_\_\_\_) to accomplish the intent and purpose of this Resolution.

**DULY ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

1 Danyelle Solomon and Connor Maxwell, Center for American Progress, *Systemic Inequality: Displacement, Exclusion, and Segregation* (Aug. 2019), <https://www.americanprogress.org/issues/race/reports/2019/08/07/472617/systemic-inequality-displacement-exclusion-segregation/>.

2 Joint Center for Housing Studies of Harvard University, *Renter Cost Burdens by Race and Ethnicity* (1B), [https://www.jchs.harvard.edu/ARH\\_2017\\_cost\\_burdens\\_by\\_race](https://www.jchs.harvard.edu/ARH_2017_cost_burdens_by_race) (last viewed June 15, 2020).

3 Dayna Bowen Matthew, Edward Rodrigue, and Richard V. Reeves, Brookings Institution, *Time for Justice: Tackling Race Inequalities in Health And Housing* (Oct. 2016), <https://www.brookings.edu/research/time-for-justice-tackling-race-inequalities-in-health-and-housing/>.

4 Centers for Disease Control, *Coronavirus Disease 2019 (COVID-19), Racial & Ethnic Minority Groups*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/racial-ethnic-minorities.html> (last viewed June 15, 2020).