

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, STRONGLY OPPOSING PROPOSED STATE LEGISLATION FILED FOR CONSIDERATION DURING THE 2021 LEGISLATIVE SESSION THAT WOULD PREEMPT LOCAL RULEMAKING AND WEAKEN LOCAL GOVERNMENTS' HOME RULE POWERS, SUCH AS SENATE BILL 266, SENATE BILL 522, HOUSE BILL 53, AND ANY OTHER BILL THAT WOULD IMPAIR THE CITY'S ABILITY TO PROTECT THE HEALTH, SAFETY, AND WELFARE OF ITS CITIZENS; AND DIRECTING THE CITY CLERK TO TRANSMIT A COPY OF THIS RESOLUTION TO THE SPEAKER OF THE FLORIDA HOUSE OF REPRESENTATIVES, AND THE PRESIDENT OF THE FLORIDA SENATE.**

**WHEREAS**, Article VIII, Section 2(b) of the Florida Constitution provides that "municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law"; and

**WHEREAS**, in 1973, the Florida Legislature enacted the Municipal Home Rule Powers Act, guaranteeing that municipalities shall have the "governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law"; and

**WHEREAS**, a number of bills have been filed for consideration during the Florida Legislature's 2021 session that seek to preempt municipal home rule through various means, many of which would adversely impact the City of Miami Beach and other local governments; and

**WHEREAS**, Senate Bill 266 ("SB 266") and its related House Bill 403 ("HB 403") have been filed for consideration during the Florida Legislature's 2021 session by Senator Keith Perry and House Representative Mike Giallombardo, respectively; and

**WHEREAS**, SB 266 seeks to prohibit local governments from enacting or enforcing any ordinance, regulation or policy or take any action to license or otherwise regulate a home-based business in a manner that is different from other businesses in a local government's jurisdiction; and

**WHEREAS**, if enacted, the proposed bill will preempt local governments from licensing home-based businesses, and supersede local zoning, significantly curtailing the authority of counties and municipalities and limiting local authority to regulations pertaining to noise, parking and increased waste; and



**WHEREAS**, SB 266 would preempt local planning, as State law requires local governments to adopt comprehensive land use plans that designate what businesses are permitted in different areas of each municipality; and

**WHEREAS**, businesses such as funeral homes, boat repair shops, car stereo installation shops, and others would be able to operate in residential neighborhoods, which would lead to increased customers, traffic, deliveries, and nuisances in residential areas, leading to health and safety issues, and degradation of the quality of life for neighboring residents; and

**WHEREAS**, it is a local governing body's jurisdiction to determine the appropriate zoning regulations and locations of uses within the local government jurisdiction for the safety and benefit of all of its property owners and citizens; and

**WHEREAS**, zoning is an important land use tool utilized by local governments to regulate current and future growth and maintain community character in a manner consistent with their adopted comprehensive plan, and such power must remain with the local governments; and

**WHEREAS**, in addition, Senate Bill 522, and its related House Bill 219, introduced by Senator Manny Diaz Jr., and House Representative Jason Fischer, respectively, would preempt to the State the regulation of short-term rentals, undo any local registration, inspection or licensing requirements specific to short-term rentals adopted since 2014, and require any local regulatory ordinances, such as registration, noise, parking, and waste, to apply to all residential properties, regardless of how the property is being used; and

**WHEREAS**, such uniform state regulations for vacation-rental properties will fail to capture the unique characteristics and needs of local Florida municipalities; and

**WHEREAS**, opposition to state regulation of vacation rentals has been voiced not only by local officials but Florida residents as well – a 2020 St. Pete Polls survey found that 75% of Floridians want the government closest to them regulating vacation rentals in their neighborhoods; and

**WHEREAS**, this concern over uniform regulations is especially applicable to the City of Miami Beach, where the great majority of investors in short-term rental properties in the Miami Beach area are conglomerates, not private citizens seeking to supplement their income; and

**WHEREAS**, furthermore, HB 53, and its related Senate Bill 1076, introduced by House Representative Nick DiCeglie and Senator Jason Brodeur, respectively, would require local governments to utilize competitive bidding processes when contracting city, town or county public works projects, and would block a local government from training employees in designated programs with a restricted curriculum or from a single source and local ordinances that require things like apprenticeship programs; and

**WHEREAS**, the bills listed in this Resolution are just some examples of numerous bills filed for consideration during the 2021 Legislative Session that seek to preempt local rulemaking through various means; and

**WHEREAS**, there has been no demonstration that local municipalities in Florida should be deprived of their constitutional home rule powers, or their general powers to protect the health, safety and welfare of their citizens; and

**WHEREAS**, given the unique characteristics and demographics of each municipality, local elected officials are best-suited to determine what laws and regulations are necessary for their respective communities need and want; and

**WHEREAS**, based on the foregoing, the Mayor and City Commission strongly oppose the enactment of SB 266, SB 522, HB 53, and any other proposed legislation that would preempt the authority of local municipalities to protect their citizens, regulate nuisances, and plan for growth.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby strongly oppose proposed State legislation filed for consideration during the 2021 legislative session that would preempt local rulemaking and weaken local governments' home rule powers, such as Senate Bill 266, Senate Bill 522, House Bill 53, and any other bill that would impair the City's ability to protect the health, safety, and welfare of its citizens; and direct the City Clerk to transmit a copy of this Resolution to the Speaker of the Florida House of Representatives, and the President of the Florida Senate.

**PASSED AND ADOPTED** this \_\_\_\_day of February 2021.

**ATTEST:**

\_\_\_\_\_  
Mayor Dan Gelber

\_\_\_\_\_  
Rafael E. Granado, City Clerk

(Sponsored by Commissioner Micky Steinberg)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

2-19-21  
\_\_\_\_\_  
Date