

RESOLUTION NO. 36-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, URGING GOVERNOR RON DESANTIS TO RESCIND THE PROVISIONS OF EXECUTIVE ORDER 20-244, PREEMPTING LOCAL GOVERNMENTS FROM ENACTING COVID-19 LEGISLATION; DIRECTING THE CITY CLERK TO TRANSMIT A CERTIFIED COPY OF THIS RESOLUTION TO GOVERNOR DESANTIS, THE PALM BEACH COUNTY LEAGUE OF CITIES, AND THE FLORIDA LEAGUE OF CITIES; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, on March 9, 2020, Governor Ron Desantis issued Executive Order 20-52 declaring a state of emergency for the State of Florida as a result of Novel Coronavirus Disease 2019 (COVID-19); and

WHEREAS, on March 13, 2020, Palm Beach County declared a local State of Emergency due to the Coronavirus pandemic, which has been extended in accordance with applicable law; and

WHEREAS, on the same date, a state of emergency in the City of Delray Beach was proclaimed by the City Commission, which has been extended forty-three (43) times due to the continued spread of COVID-19; and

WHEREAS, numerous executive orders, resolutions, ordinances, and directives have been issued by the Governor, counties and municipalities in an effort to stop the spread of COVID-19; and

WHEREAS, on or about April 2020, Governor Desantis began a phased approach to reopening the State based, in part, on a decrease in percent positive test results since March 1, 2020; and

WHEREAS, on September 25, 2020, Governor Desantis issued Executive Order (EO) 20-244 moving all Florida counties into Phase 3 reopening, providing that no COVID-19 emergency ordinance may prevent an individual from working or from operating a business, providing that restaurants, including any establishment with a food service license not be limited by a COVID-19 order to less than fifty percent (50%) of their indoor capacity and imposing certain requirements if such an establishment is limited to less than one hundred percent (100%) of its indoor capacity; and suspending the collection of fines and penalties associated with COVID-19 enforced upon individuals; and

WHEREAS, EO 20-244 specifically preempts local governments from enacting legislation related to COVID-19 finding that the State of Florida suffered economic harm as a result of previous COVID-19-related closures thereby exacerbating the impacts of the State of Emergency; and

WHEREAS, it is the expressed will of the voters of Florida to have the right to govern themselves under municipal Home Rule powers; and

WHEREAS, Floridians have possessed this constitutional right of local self-government for nearly 50 years; and

WHEREAS, as the only form of voluntary government, Florida's municipalities are the embodiment of the Florida Constitution's right of local self-government; and

WHEREAS, municipal Home Rule powers include all governmental, corporate and proprietary powers necessary to conduct municipal government, perform municipal functions and render municipal services for the unique benefit of the people who live and work within a municipality; and

WHEREAS, Floridians exercise their Home Rule powers by voting to incorporate and be governed under a municipal form of government for a variety of reasons, including increased services, a unique business and residential environment, and greater voice in how their government is run; and

WHEREAS, municipal citizens further exercise their Home Rule powers by voting on a charter that specifies the desired form, functions and powers of their municipal government; and

WHEREAS, Floridians' constitutional right to govern themselves locally, under municipal Home Rule powers and pursuant to their adopted municipal charters, is being increasingly eroded and limited by actions of the Florida Legislature and, now, Governor Desantis through the issuance of EO 20-244; and

WHEREAS, EO 20-244 has impeded a local government's ability to enact reasonable and necessary legislation to combat the effects of COVID-19 at the local level, leading to a sharp increase in numbers as the authority to legislate and enforce local orders, such as mask directives and social distancing mandates to stop the spread, is expressly prohibited; and

WHEREAS, the City has experienced a sharp rise in the number of individuals affected by COVID-19 and recognizes that the ongoing pandemic continues to seriously affect the life, health, and safety of the citizens and public at large; and

WHEREAS, the City of Delray Beach is a unique, tourist friendly locale with a vibrant downtown that attracts visitors to its array of restaurants and nightlife located on Atlantic Avenue; and

WHEREAS, but for the issuance of Executive Order 20-244 and as part of its ongoing obligation to protect the health, safety, and welfare of the community by taking action to mitigate the spread of COVID-19 (which the City deems to be an "extraordinary circumstance"), the City would have issued reasonable, necessary and appropriate mandates during the City-declared COVID-19 public health emergency declared pursuant to Resolution 70-20 dated March 13, 2020, as extended, in order to slow the spread of COVID-19 and mitigate the impacts of this highly contagious virus; and

WHEREAS, the City Commission deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the foregoing recitals are hereby confirmed and ratified.

Section 2. That the City Commission hereby urges Governor Ron Desantis to rescind the provisions of Executive Order 20-244 preempting local governments from enacting COVID-19 legislation in order to permit local governments to enact legislation specific to their communities related to the ongoing state of emergency.

Section 3. That the City Commission directs the City's lobbyists to advocate for the rescission of Executive Order 20-244 as set forth in Section 2, supra.

Section 4. The City Clerk is hereby directed to distribute copies of this Resolution pursuant to the list attached hereto and incorporated herein as Exhibit "A."

Section 5. That this Resolution shall become effective immediately upon passage.

PASSED AND ADOPTED this 8th day of January, 2021.



Jennifer Alvarez, Interim City Manager

ATTEST:



City Clerk

Exhibit A

Governor Ron Desantis
State of Florida
The Capitol
400 S. Monroe Street
Tallahassee, FL 32399

League of Cities
301 S. Bronough Street
Suite 300
Tallahassee, FL 32302

Palm Beach County League of Cities
P.O. Box 1989, Governmental Center
West Palm Beach, FL 33402