

RESOLUTION 2021- 051

A RESOLUTION OF THE CITY COMMISSION OF LAUDERDALE LAKES, FLORIDA URGING FLORIDA GOVERNOR RON DESANTIS' VETO OF CS/HB 403 PROHIBITING AND PREEMPTING LOCAL GOVERNMENT HOME RULE AUTHORITY TO TAKE CERTAIN ACTIONS RELATING TO THE LICENSURE AND REGULATION OF HOME-BASED BUSINESSES, FURTHER SPECIFYING CONDITIONS UNDER WHICH A BUSINESS IS CONSIDERED A HOME-BASED BUSINESS, AND FURTHER AUTHORIZING HOME-BASED BUSINESSES TO OPERATE IN AREAS ZONED FOR RESIDENTIAL USE; A COPY OF WHICH IS ATTACHED HERETO AS EXHIBIT A, AND A COPY OF WHICH CAN BE INSPECTED IN THE OFFICE OF THE CITY CLERK; PROVIDING FOR THE ADOPTION OF RECITALS; PROVIDING FOR INSTRUCTIONS TO THE CITY CLERK; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 166.021, Florida Statutes and Florida Constitution Section 2(b), Art. VIII provide municipalities with governmental, corporate, and proprietary powers to enable municipalities to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for any activity or power which may be exercised by the state or its political subdivisions ("Home Rule");

WHEREAS, as provided for in Section 2(b), Article VIII of the Constitution of the State of Florida, it is the expressed will of the voters of Florida to have the right to govern themselves under municipal Home Rule powers;

WHEREAS, the City of Lauderdale Lakes ("City"), similar to other Florida cities within the State, support small businesses and entrepreneurship, however, is further obligated under its fundamental responsibility to provide for the health, safety and welfare of its citizens to balance the desire to operate a home-based business against the potential impacts on residential neighborhoods and residential property values;

1           WHEREAS, planning and zoning as an inherent function of local government, has as its  
2   primary purpose to minimize incompatible uses and balance competing property rights,  
3   particularly in the case of preventing proposed uses and development from unfairly interfering  
4   with existing uses;

5           WHEREAS, the City of Lauderdale Lakes, similar to other Florida cities, by and through its  
6   comprehensive land use plan, the Lauderdale Lakes Code, including its Land Development  
7   Regulations, has enacted commonsense requirements intended to provide for a balanced  
8   approach for permitting commercial uses on or in proximity to residentially zoned properties,  
9   which requirements account for the prospect of differing impacts of proposed commercial or  
10   business uses within residentially zoned neighborhoods;

11          WHEREAS, the City's requirements aptly consider instances in which low intensity uses,  
12   such as a professional office use may be compatible within a residentially zoned neighborhood,  
13   while conversely, a high intensity use such as a repair yard work or 24-hour gym may be entirely  
14   incompatible;

15          WHEREAS, during the closing day of the most recent Florida Legislative Session, CS/HB  
16   403 was narrowly passed in the Florida Senate by a 19-18 vote;

17          WHEREAS, unlike Senate bill CS/CS/SB 266, which served as a compromise on home-  
18   based businesses between the Florida League of Cities, legislators, and interested stakeholders,  
19   CS/HB 403 does not include critical elements intended to strike the appropriate balance of  
20   operating a home-based business with potential adverse impact on property rights of existing  
21   residential homeowners;

1 WHEREAS, CS/HB 403 is materially deficient in that it fails to include key provisions, such  
2 as:

- 3 • The ability for local government to set commonsense limitations on hours of  
4 operation for a home-based business.
- 5 • The ability for local governments to place limits on business signed, exterior  
6 storage and traffic generated by a home-based business.
- 7 • The ability for local governments to prohibit business activities from occurring  
8 within the view of a residential street;  
9

10 WHEREAS, CS/HB 403 actually prohibits local governments from regulating home-based  
11 businesses differently from other businesses in a commercial zone, but fails to recognize the  
12 inherent distinction and necessity for regulating the hours of operation for a business in a  
13 commercial district, as distinct from a business operating a residentially zoned district; and

14 WHEREAS, if allowed to become law, CS/HB 403 will be a significant preemption of Home  
15 Rule Powers and the ability of local governments to balance competing property rights, and  
16 further will avoid existing local ordinances and regulations that are currently tailored to meet  
17 unique solutions to providing for planning and zoning of uses and competing property rights of  
18 both businesses and homeowners.

19 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF  
20 LAUDERDALE LAKES, as follows:

21 SECTION 1. ADOPTION OF RECITALS: The foregoing RECITALS are hereby ratified and  
22 confirmed as being true, and the same are hereby incorporated by reference and made part of  
23 this Resolution.

24 SECTION 2. AUTHORITY: The City Commission of Lauderdale Lakes, Florida hereby  
25 urges Florida Governor Ron DeSantis to veto CS/HB 403, which in prohibiting and preempting  
26 local governments to take certain actions relating to the licensure and regulation of home-based

businesses, fails to strike the appropriate balance between competing property rights of businesses and existing residential homeowners.

SECTION 3. INSTRUCTIONS TO THE CITY CLERK: The City Clerk, as directed by the City Manager is hereby directed to forward this Resolution to the Honorable Ron DeSantis, Governor of the State of Florida; the Broward County Legislative Delegation; the Florida League of Cities; The Broward League of Cities, and take any and all action necessary to effectuate the intent of this Resolution.

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SECTION 4. This Resolution shall take effect immediately upon its final passage.

ADOPTED BY THE CITY COMMISSION OF THE CITY OF LAUDERDALE LAKES AT ITS REGULAR

MEETING HELD MAY 11, 2021.

HAZELLE ROGERS, MAYOR

ATTEST:

VENICE HOWARD, CMC, CITY CLERK

Approved as to form and legality  
for the use of and reliance by the  
City of Lauderdale Lakes only:

Sidney C. Calloway, City Attorney

Sponsored by: Phil Alleyne, City Manager

**VOTE:**

Mayor Hazelle Rogers	_____	(For)	_____	(Against)	_____	(Other)
Vice-Mayor Beverly Williams	_____	(For)	_____	(Against)	_____	(Other)
Commissioner Marilyn Davis	_____	(For)	_____	(Against)	_____	(Other)
Commissioner Veronica Edwards Phillips	_____	(For)	_____	(Against)	_____	(Other)
Commissioner Karlene Maxwell-Williams	_____	(For)	_____	(Against)	_____	(Other)