

RESOLUTION 62-09-25

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AUTHORIZING PARTICIPATION IN A LAWSUIT SEEKING, AMONG OTHER THINGS, TO DECLARE THAT SENATE BILL 180'S IMPOSITION OF A BLANKET STATEWIDE PROHIBITION ON THE TOWN'S EXERCISE OF ITS HOME RULE AUTHORITY PERTAINING TO COMPREHENSIVE PLAN LAND USE OBJECTIVES POLICIES AND LAND DEVELOPMENT REGULATIONS, IS UNCONSTITUTIONAL; AUTHORIZING THE TOWN MANAGER TO RETAIN THE LAW FIRM OF WEISS SEROTA HELFMAN COLE + BIERMAN, PL TO PROSECUTE THE LAWSUIT ON BEHALF OF THE TOWN AND OTHER MUNICIPALITIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 2(b) of Article VIII 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 authorizes municipalities to exercise any power for municipal purposes except as otherwise provided by law; and

WHEREAS, pursuant to Section 2(b) of Article VIII of the Florida Constitution and Chapters 163 and 166, Florida Statutes, municipalities have broad home rule authority to adopt comprehensive plans, enact land development regulations, issue development permits, and impose temporary moratoria in furtherance of local public health, safety, and welfare, including, but not limited to providing for orderly growth, environmental protection, disaster recovery, and community resiliency in the Town of Lake Park (Town); and

WHEREAS, on June 26, 2025, Senate Bill 180 ("SB 180"), titled "Emergencies," was signed into law by Governor Ron DeSantis and became effective immediately as Chapter 2025-190, Florida Statutes; and

WHEREAS, among other things, Section 28 of SB 180 prohibits the Town and all municipalities and local governments from lawfully enacting ordinances that impose "more restrictive or burdensome" comprehensive plan amendments, land development regulations, or procedures concerning review, approval, or issuance of site plans, development permits, or development orders (collectively, "Land Use and Zoning Regulations") for the period commencing retroactively from August 1, 2024, through October 1, 2027, even if such amendments, regulations or procedures are in no way related to any hurricane or other emergency and regardless of whether such amendments, regulations, or procedures were duly enacted prior to the enactment of SB 180; and

WHEREAS, Section 28 of SB 180 also prohibits the Town and all municipalities and local governments regardless of circumstances that may be unique to their communities from enacting zoning in progress resolutions or ordinances imposing a moratorium on the construction, reconstruction, or redevelopment of property damaged by a hurricane during the same timeframe; and

WHEREAS, Section 18 of SB 180 further prohibits local governments that are located in counties that are entirely or partially within 100 miles of the track of any future hurricane from enacting "more restrictive or burdensome" Land Use and Policies and Zoning Regulations, zoning in progress and moratoria on construction, reconstruction, or

redevelopment of any property, damaged or not, for a period of one year after a storm makes landfall; and

WHEREAS, SB 180 is unconstitutional and invalid because, among other things, it: (a) embraces more than one subject and matter properly connected therewith in violation of Article III, Section 6 of the Florida Constitution; (b) includes a defective title in violation of Article III, Section 6 of the Florida Constitution; (c) requires municipalities and counties to spend in the aggregate an amount that exceeds an insignificant fiscal impact without including a finding that the law fulfills an important state interest as required by Article VII, Section 18 of the Florida Constitution; (d) constitutes a sweeping intrusion on home-rule authority, threatening local self-government to act in the best interests of citizens in the enactment of land use objectives and policies, zoning, land development regulations, flood-resiliency, and environmental protections, contrary to Article VIII, Section 2(b) of the Florida Constitution to a degree that renders the constitutional provision hollow; and (e) contains provisions that classify municipal corporations and political subdivisions throughout the state of Florida, on a basis that is not reasonably related to the subject of the law in violation of Art. III, Section 11 (b) of the Florida Constitution; and

WHEREAS, although SB 180 is titled "Emergencies," and its intent is to assist properties owners whose properties have been actually affected by a hurricane or other severe weather, SB 180 adversely affects local governments who were not adversely impacted by a hurricane or other severe weather and contains various matters that are not connected to and/or are unrelated to any actual emergency declaration, including Section 18 and 28's total ban on any "more restrictive or burdensome" Land Use and

Zoning Regulations, or the necessity of enacting zoning in progress, moratoria on construction, reconstruction, and redevelopment of properties which were not damaged by a hurricane or other severe weather emergency event; and

WHEREAS, the provisions of SB 180 also impose expenditure obligations upon municipalities and counties that, as conceded in the Florida Legislature's own staff analysis, exceed the threshold amount for an unfunded mandate, despite the lack of any finding in SB 180 that the law fulfills an important state interest; and

WHEREAS, Section 18 of SB 180 unlawfully divests municipalities of their municipal home rule authority by prohibiting them from enacting Land Use and Zoning Regulations if they are located within a county that is entirely or partially within 100 miles of the track of a hurricane for one year in a completely indiscriminate manner that disregards the size, intensity, or impact of a hurricane on the municipality, whether a proposed Land Use or Zoning Regulation has even a *de minimis* impact on hurricane recovery efforts, or even if the Land Use or Zoning Regulation is necessary to protect the public health, safety, and welfare from the effects of a hurricane; and

WHEREAS, Section 18 of SB 180 further usurps the municipal home rule authority guaranteed to Florida municipalities for the benefit of their citizens as set forth in the Florida Constitution by imposing blanket prohibitions on any zoning in progress or moratoria on construction, reconstruction, or redevelopment of property for one year whenever a future hurricane, severe weather or other event which results in a declared emergency falls within 100 miles of the county where the municipality is located, regardless of the necessity or impetus behind such moratoria; and

WHEREAS, Section 28 of SB 180 similarly prohibits municipalities from enacting Land Use and Zoning Regulations for the entire state of Florida retroactively from August 1, 2024, through October 1, 2027, without any rational justification; and

WHEREAS, SB 180's vague prohibitions on moratoria on construction, reconstruction, and redevelopment of properties and Land Use and Zoning Regulations that are "more restrictive or burdensome," and other ambiguous provisions render SB 180 incomprehensible, create uncertainty, chill local governance, and encourage preemptive, potentially frivolous, litigation to force local governments into repealing legislation, even if it might otherwise be a valid exercise of home rule authority; and

WHEREAS, the Town Council of the Town of Lake Park, Florida desires to authorize the participation of the Town in a lawsuit seeking declaratory, injunctive, and other appropriate relief from the provisions of SB 180, which impose a blanket statewide prohibition on the exercise of home rule authority relating to Land Use and Zoning Regulations, based upon the any appropriate legal theories, including, without limitation, those set forth herein, subject to the participation of at least ten local governments (the "Lawsuit"); and

WHEREAS, the Town Commission has determined that it is in the best interest of the Town to participate in the Lawsuit and to urge other municipalities and local governments to join as plaintiffs.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:

Section 1. The above-stated recitals are hereby adopted and confirmed.

Section 2. Authorization to Participate in Lawsuit. The Town Commission hereby authorizes the participation of the Town in the Lawsuit, subject to the participation of at least ten other municipalities or counties.

Section 3. Legal Representation and Fee Structure. Weiss Serota Helfman Cole+Bierman, PL (the "Firm") is hereby retained to represent the Town in the Lawsuit, at both the trial and appellate levels. The Firm will charge a flat fee, inclusive of attorneys' fees and costs, of \$10,000 to represent the Town in the Lawsuit in the trial court, which shall be payable within ten days of the effective date of this Resolution. The Town also agrees to pay \$5,000 to the Firm to represent it in any appeal filed at the District Court of Appeal within 30 days of the filing of such appeal, and an additional \$5,000 should there be an appeal filed at the Florida Supreme Court within 30 days of the filing of such appeal. The Town acknowledges that the Firm will be representing other local governments in the Lawsuit and waives any conflicts related to such representation. The Town also acknowledges that the Firm may represent other entities, private or public, at the Town and that the representation of the Town in this Lawsuit alone, because it is part of a coalition, will not constitute a conflict of interest and, to the extent it does, waives such conflict of interest.

Section 4. Urge Participation. The Town invites and urges other municipalities and local governments to join with it as plaintiffs in the Lawsuit and to coordinate their efforts with the Town.

Section 5. Transmittal. The Clerk is directed to distribute this resolution to all local governments in Palm Beach County. The Clerk is further directed to distribute this resolution to the Firm.

Section 6. Implementation. The Town Manager is authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this resolution.

Section 7. Effective Date. This resolution shall take effect immediately upon execution.