

RESOLUTION NO. R-2021-03

A RESOLUTION TO OPPOSE THE IMPLEMENTATION OF S 0040 BY ALL LAWFUL MEANS

WHEREAS, S 0040 General Bill, was pre-filed in the Senate by Sen. Grooms on December 9, 2020, Amended on March 31, 2021, sent to the House on April 6, 2021, was reported on favorably by the House Committee on Education and Public Works on April 22, 2021, and on April 28, 2021 Reps. Joe Bustos, Mark Smith, and twenty other Representatives requested that the Bill be debated;

WHEREAS, S 0040 is a Bill to amend Section 57-5-840 of the 1976 Code, relating to alterations by a municipality of State Highway facilities, to provide that restrictions on the use of State Highway by a municipality are subject to prior approval by the Department of Transportation; to amend Article 5, Chapter 5, Title 57 of the 1976 Code, relating to construction of the state highway system, by adding Section 57-5-845, to provide that parking on state highway facilities located on barrier islands is free and any restrictions may only be made by the Department of Transportation, inter alia;

WHEREAS, it has long been recognized that municipalities have the statutory right to regulate parking on its streets (see: South Carolina Attorney General Opinion 77-151, page 127);

WHEREAS, the City received the enthusiastic approval of the Department of Transportation of its managed beach parking plan after a collaborative, extensive effort among City Council, the Isle of Palms community, traffic engineers, City staff, and SCDOT. In fact, in a letter to the City, dated June 12, 2015, then Secretary of Transportation, Janet P. Oakley, stated that the South Carolina Department of Transportation recognized that the regulation of on-street parking is a responsibility assigned to local governments by the South Carolina Code and the City's plan was consistent with this responsibility. Secretary Oakley applauded the City's efforts in developing a comprehensive plan that addresses the traffic issues on the island. In a letter from Christy A. Hall, who was the Deputy Secretary for Engineering at the time, she acknowledged the proposed plan as an effective strategy to manage resident and visitor parking demands into the future.

WHEREAS, a group of senators led by Sen. Grooms, seeking to pander to a vocal minority of citizens upset by the municipalities enactment of emergency COVID 19 restrictions on beach access, filed this Bill in order to improve their standing with those vocal citizens;

WHEREAS, the imposition of the aforementioned restrictions was in the interest of protecting the life, safety, and health of City residents and of visitors and, in addition was entirely consistent with directions received from the Governor of South Carolina and state and federal health officials;

WHEREAS, A plain reading of S. 40 clearly discloses that barrier island communities, including the Isle of Palms, are being singled out and treated differently from other municipal entities in this state in a politically motivated, unconstitutional response to the City's actions taken in the interest of public health and safety. S. 40, in an intended violation of equal protection rights of barrier islands, chooses to treat barrier islands in a manner differently from beach communities who are not barrier islands without any rational basis for this distinction. S.40 also irrationally treats barrier islands differently from all other communities in this state which identically differentiate between resident and non-resident in parking regulations;

WHEREAS, S. 40 violates The Home Rule Act which explicitly gives municipalities the sole power to control roads and streets within the municipality for the public health. This broad and comprehensive grant is limited alone (1) by the territorial confines of the municipality authorized to exercise it, and (2) by the proviso that legislation thereunder shall not be inconsistent with the laws of the State. Any limitation on the City's police

powers during a time of emergency would have to be explicit and clear. No such limitation exists either in state law or in the Governor's Executive Orders;

WHEREAS, the United States Supreme Court decision in *County Board of Arlington County v. Richards*, 434 U.S. 7 (1977), explained that a community may decide that restrictions on the flow of outside traffic into particular residential areas would enhance the quality of life there by reducing noise, traffic hazards, and litter;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council this ____ Day of May, 2021 that the City of Isle of Palms, South Carolina strongly opposes S. 0040 which we as prohibited special legislation, an unconstitutional denial of the City's right to equal protection, and in violation of the Home Rule Act and urges Governor Henry McMaster to veto S. 0040.

Jimmy Carroll, Mayor