

RESOLUTION NO. 2076-11

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER PARK, FLORIDA, DECLARING THAT THE FLORIDA LEGISLATURE AMEND THE FLORIDA CLEAN INDOOR AIR ACT TO EXPRESSLY ALLOW LOCAL REGULATION OF SMOKING AND THE POSSESSION OF TOBACCO PRODUCTS IN MUNICIPAL AND COUNTY PARKS AND RECREATION AREAS.

WHEREAS, the City Commission of the City of Winter Park, Florida, has home rule authority to take any action in the furtherance of the interests of the City of Winter Park and its citizens so long as such action is not expressly prohibited by the Constitution or Florida Statutes; and

WHEREAS, it is an important policy in Florida to promote the health and well-being of the citizens of the State; and

WHEREAS, this policy is expressed in part through the Florida Clean Indoor Air Act, Chapter 386, Part II, Florida Statutes; and

WHEREAS, Section 386.209, Florida Statutes, provides that the Florida Clean Indoor Air Act "expressly preempts regulation of smoking to the State and supercedes any municipal or county ordinance on the subject"; and

WHEREAS, the City of Winter Park believes that it has the right under its home rule authority to regulate the use of tobacco products in its parks and recreational areas, and the existing language in Section 386.209, Florida Statutes is unclear as to whether or not a regulation of the possession or lighting of tobacco products in a city park or recreational area is preempted to the State; and

WHEREAS, some local governments have considered Section 386.209, Florida Statutes, as not preempting regulations against possession of tobacco products in parks and recreational areas and have enacted ordinances prohibiting the same in such areas; and

WHEREAS, the City has proclaimed and adheres to the principle that it is in the interest of the citizens that parks and recreational areas of the City be free from smoking of tobacco products so that the citizens are able to enjoy such parks and recreational areas without the problems associated with secondhand smoke; and

WHEREAS, some jurisdictions may feel constrained in their ability to enact local regulations in the interest of their residents' health and safety because of the existing language in Section 386.209.

NOW, THEREFORE, be it resolved by the City Commission of the City of Winter Park, Florida as follows:

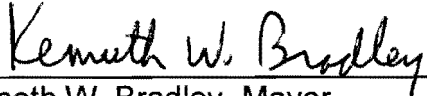
Section 1. The City strongly urges the Florida Legislature to amend Section 386.209, Florida Statutes, or to enact such other amendments in Florida law that will expressly provide that municipalities and counties have the local authority to enact regulations concerning the use, possession, lighting or smoking of tobacco products in parks and recreational areas.

Section 2. The recitals set forth above are hereby adopted and incorporated herein by reference.

Section 3. This Resolution shall be published once in a newspaper of general circulation published in the City of Winter Park, Florida.

Section 4. This Resolution shall become effectively immediately upon its passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held at City Hall, Winter Park, Florida on the 14th day of February, 2011.



Kenneth W. Bradley, Mayor

Attest: 

Cynthia S. Bonham, City Clerk