

RESOLUTION NO. 03-2025

A RESOLUTION OPPOSING THE EROSION OF LOCAL HOME RULE AUTHORITY AND REQUESTING THE RETURN OF LOCAL CONTROL OVER PROTESTS OF ZONING CHANGES

WHEREAS, Wis. Const. art. XI, § 3 constitutes “direct and expansive delegation of power to municipalities”ⁱ; and

WHEREAS, this expansive delegation of power gives cities and villages significant control over and the ability to “determine their local affairs and government”ⁱⁱ; and

WHEREAS, Wis. Stat. § 61.34(1) is “a broad grant of home rule authority and vests [a village] with the authority to enact legislation to promote and protect the health, safety, and welfare of the public.”ⁱⁱⁱ; and

WHEREAS, unlike the constitutional home rule authority, which is limited to local affairs, the legislative home rule authority may extend to matters which are of statewide concern^{iv}; and

WHEREAS, the Supreme Court has long recognized “That many matters while of state-wide concern, affecting the people and state at large somewhat remotely and indirectly, yet at the same time affect the individual municipalities directly and intimately, can consistently be and are local affairs”^v; and

WHEREAS, the legislature has further provided municipalities vast authority under Wis. Stat. § 62.23(7) to regulate local land use through zoning;

WHEREAS, these broad grants of constitutional and legislative authority notwithstanding, the legislature has pursued a persistent campaign removing local control over land use decisions;^{vi} and

WHEREAS, the most egregious of these efforts were Act 243 and Act 16, each of which perpetrated, among numerous limitations on local authority, the removal of the power of local land owners to protest zoning changes that affected their property, including the provisions of Act 16 which expressly ties the hands of local legislative bodies by prohibiting their ability to given effect to such protests—a purely local affair; and

WHEREAS, the right to protest zoning changes dates to 1917, and such right remained largely unchanged for 100 years until its removal from Chapter 62 under 2017 Wisconsin Act 243; and

WHEREAS, these protest provisions were intended to provide landowners who were directly affected by zoning changes that would decrease “their land value and enjoyment of their property” a meaningful voice with respect to legislation that impacted their property rights^{vii}; and

WHEREAS, under the guise of statewide interest, by enacting these pieces of legislation the legislature chose to empower outside developers to exert their will to achieve their preferred profit margin over ensuring the protection of property rights for owners who are negatively impacted by zoning changes, many of whom are long-time residents on the community; and

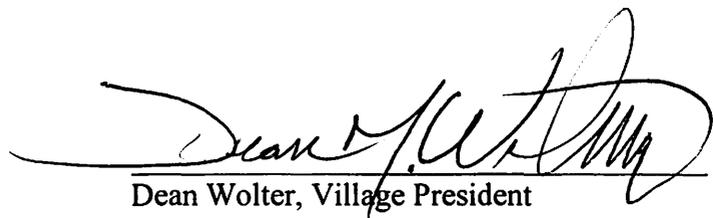
WHEREAS, “All politics is local;”

NOW, THEREFORE, BE IT RESOLVED that the Village Board of the Village of Germantown, Wisconsin, does hereby oppose any and all attempts by the State Legislature to further erode local home rule authority, and especially that home rule authority which functions to provide local control and authority over land use decisions.

BE IT FURTHER RESOLVED that the Village Board does hereby request the reversal of the provisions of 2023 Wisconsin Act 16 which eliminated the ability for local communities to elect to give effect to zoning protests to protect local property rights through the creation of Wis. Stat. § 66.10015(3)(a).

BE IT FURTHER RESOLVED that the Village Clerk shall transmit a certified copy of this Resolution to the Governor, the President of the Senate, the Speaker of the Assembly, the Majority and Minority Leaders of both Houses, and the elected Assembly and Senate members whose district includes the Village.

Adopted: March 17, 2025



Dean Wolter, Village President

ATTEST:



Donna Ott, Village Clerk

ⁱ State ex rel. Teunas v. County of Kenosha, 142 Wis.2d 498, 504, 418 N.W.2d 833 (1988)

ⁱⁱ Wis. Const. art. XI, § 3

ⁱⁱⁱ Johnston v. City of Sheboygan, 30 Wis. 2d 179, 185–86, 140 N.W.2d 247, 251 (1966)

^{iv} See Wis. Environmental Decade, Inc. v. DNR, 85 Wis.2d 518, 533, 271 N.W.2d 69 (1978)

^v State v. City of Milwaukee, 190 Wis. 633, 209 N.W. 860, 862 (1926)(holding that “the maximum height of buildings in a city is a local affair of such city”)

^{vi} See, e.g., 2013 Wisconsin Acts 20 and 74, 2015 Wisconsin Act 391, 2017 Wisconsin Acts 67, 68, and 243, 2021 Wisconsin Act 239, and 2023 Wisconsin Act 16; See also Wis. Stat. §§ 66.0403 (limiting local control over wind and solar energy projects), 66.0404 (limiting local control over cellular tower siting)

^{vii} Prescher v. City of Wauwatosa, 34 Wis. 2d 421, 431, 149 N.W.2d 541, 546 (1967)