Sample Resolution in Support of Local Control of Nonmetallic Mining Operations

WHEREAS, for over 100 years, Wisconsin has empowered town boards, when duly authorized by a vote of the town electors to exercise village powers to regulate various activities for the public health, safety, and welfare of the public (often referred to as police powers); and

WHEREAS, in February of 2012, in the case Zwiefelhofer v. Town of Cooks Valley, 338Wis. 2d 488, the Wisconsin Supreme Court ruled 6-0 to uphold the right of towns to adopt regulatory requirements based on their police powers to protect public health, safety, and welfare and thereby rely on town ordinances to regulate locally significant aspects of nonmetallic mining; and

WHEREAS, many towns have enacted regulatory ordinances as an exercise of police powers under the village powers authority in the past two years to regulate nonmetallic mines and processing plants in order to protect the public health and safety of their town; and

WHEREAS, towns have worked side by side with sand mining companies to negotiate mutually beneficial ordinances that address noise, hours of operation, reclamation, and property valuation while at the same time allowing companies to bring jobs to the area and make a profit, which would not be possible without local control; and

WHEREAS, limiting towns who do not have town zoning or towns that are under county zoning would dramatically limit the authority of a town board by taking away their ability to adopt industrial frac sand regulatory ordinances using village powers; and

WHEREAS, towns should maintain the ability to implement and amend conditional use permits, licensing ordinances, road agreements, and other nonmetallic mining regulations in order to adapt to the sand mining industry as it evolves and practices change over time; and

WHEREAS, previous proposals in the Wisconsin State Legislature have attempted but failed to significantly reduce town, village, city, and county authority to protect public health, safety, and welfare through regulating nonmetallic mining operations, including industrial frac sand mining and processing operations; and

WHEREAS, local governments have the flexibility to adapt nonmetallic mining ordinances to fit the unique features of an area including local geology, topography, and infrastructure that statewide regulation lacks; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of as follows:

The Town Board supports local control of nonmetallic mining operations, and opposes attempts to limit the ability of local governments to enact ordinances that protect the health, safety, and welfare of the public by crafting regulations to fit the unique circumstances of the local community.