

VILLAGE OF GRAND BEACH

COUNTY OF BERRIEN

STATE OF MICHIGAN

RESOLUTION 2021-02

A RESOLUTION BY THE GRAND BEACH VILLAGE COUNCIL TO DECLARE ITS STATUTORY RIGHTS AND SOVEREIGNTY AS AN INCORPORATED HOME RULE VILLAGE UNDER THE LAWS OF THE STATE OF MICHIGAN, TO DECLARE THE VILLAGE’S SOLE JURISDICTION AND AUTHORITY OVER CERTAIN MATTERS OF PUBLIC SAFETY WITHIN ITS CORPORATE BOUNDARIES, TO DENOUNCE NEW BUFFALO TOWNSHIP’S UNLAWFUL ATTEMPT TO SPECIALLY ASSESS VILLAGE PROPERTY BY RESOLUTION OF THE TOWNSHIP BOARD FOR THE COST OF TOWNSHIP POLICE, FIRE, AND AMBULANCE SERVICES, AND TO DEMAND THAT THE TOWNSHIP IMMEDIATELY REMOVE REAL PROPERTY IN THE INCORPORATED VILLAGE FROM THE TOWNSHIP SPECIAL ASSESSMENT ROLL.

At a Special Meeting of the Village Council of the Village of Grand Beach, County of Berrien, State of Michigan, held remotely via Zoom pursuant to the Michigan Open Meetings Act, Act 257 of 1976, as amended, and the Michigan Department of Health & Human Services Epidemic Orders, on the 12th day of February, A. D. 2021, at 1 o'clock p.m., Eastern Standard Time.

PRESENT: Council Members _____

ABSENT: Council Members _____

The following preamble and resolution was offered by Council Member _____ and supported by Council Member _____.

RESOLUTION

WHEREAS, the Village of Grand Beach (“Village”) is an incorporated Village under the Michigan Home Rule Village Act, being Act 278 of 1909 (“Home Rule Village Act”), and

WHEREAS, the Village adopted a corporate Charter on July 16, 1934, by majority vote of the Village electors, which Charter was revised and amended from time to time (“Village Charter”), which Charter gives the Village “power to exercise any and all of the powers which villages are, or may hereafter be, permitted to exercise under the constitution

and laws of the State of Michigan, as fully and completely as though the powers were specifically enumerated herein; to protect the public peace and health and provide for the safety of persons and property; and to do any act to advance the interests of the village, the good government and prosperity of the municipality and its inhabitants, except for such limitations and restrictions as are provided in this charter, and no enumeration of particular powers of the village in this charter shall be held to be exclusive”, as provided in Corporate Powers, Section 2; and

WHEREAS, the Village Charter adopted specific boundaries, such territory being the incorporated boundaries of the Village pursuant to the provisions of the Village Charter, and of Act 278 of the Public Acts of 1909, as amended, which corporate boundaries are described as follows (hereinafter “Village Land”):

The Village of Grand Beach, including all the territory described as follows:
Commencing at the north quarter post of section 17, town 8 south, range 21 west; thence south 2246.5 feet to the southeasterly line of the Michigan Central Railroad; thence south 44 degrees west along said railroad 8084.7 feet; thence north 46 degrees west 1028.7 feet; thence north 34 degrees 44 minutes west 627 feet; thence north 42 degrees 40 minutes west 180 feet to the northwesterly line of Michigan City road in the golf addition to Grand Beach Springs; thence northeasterly along said road to the intersection of the northwesterly line of the aforesaid road and the southerly line of Ravine Road; thence westerly along said Ravine Road to the westerly boundary of the said golf addition; thence north 1 deg. 30 min. east 90 feet; thence north 1 deg. 40 min. east 66 feet; thence north 15 deg. 35 min. west 133.5 feet; thence north 53 deg. east 45 feet; thence north 37 deg. west 990 feet to Lake Michigan; thence northeasterly along said lake 8245 feet to a point that is 630 feet west of beginning; thence' east 630 feet to beginning, together with any territory which may be annexed thereto as provided by state law, shall be a body politic and corporate under the name Village of Grand Beach, and

WHEREAS, the Village Charter grants the Village Council full powers of governance over Village Land under the Home Rule Village Act and all other statutes of the State of Michigan, and

WHEREAS, the Home Rule Village Act expressly grants the Village the exclusive right as a unit of local government to pass ordinances and resolutions that govern and impact Village operations and Village Land; and

WHEREAS, by operation of law, no other local unit of government in the State of Michigan, which includes a township, village, or city, may pass an ordinance or resolution that is binding or authoritative over Village residents or Village Land; and

WHEREAS, the Home Rule Village Act, Section 22 et seq., and the Michigan Police and Fire Protection Act, Act 33 of 1951, expressly grant the Village the authority to create, operate, maintain, and fund a police and fire department and/or other emergency services as needed and determined by the Village Council, and

WHEREAS, the Village Charter and Home Rule Village Act provide that the Village can contract for emergency services with other municipalities, individuals, or corporations, and

WHEREAS, the Village created a Village police department over 85 years ago, with a designated Village Police Chief and certified police officers who are empowered to act under the Home Rule Village Act and other Michigan statutes governing law enforcement, and

WHEREAS, the Village Charter details in Section 47 how special assessments are to be levied on Village Land by the Village Council, in accordance with the procedures in the Charter, and

WHEREAS, the Village Charter gives exclusive authority for special assessments over incorporated Village Land to the Village Council, and

WHEREAS, the Village Council recently became aware that neighboring New Buffalo Township is seeking a 2.1 mill special assessment over Village Land for a period of twenty years in order to pay for Township emergency services, and

WHEREAS, New Buffalo Township is seeking the following annual special assessment amounts, which the Township Board is attempting to assess against Village Land by resolution of the New Buffalo Township Board:

\$600,000/year for County Sheriff Patrol in New Buffalo Township
\$110,000/year for MEDIC1 Ambulance Service
\$250,000/year for operation of the New Buffalo Township Fire Department
\$250,000/year bond payment on a new 5 million dollar Public Safety Building

With the proposed 2.1 mill assessment generating \$1,297,954.00 in its first year; and

WHEREAS, the Land within the Village is a separate, sovereign corporate entity whose electors vote for their own Village Council Members in elections, and

WHEREAS, New Buffalo Township officials, without statutory authority have held hearings and seek to pass a resolution forcing a 2.1 mill special assessment on incorporated Village Land, ignoring the Village Charter, the Village's sovereignty and the fact that the Village has the authority to create its own emergency services for the Village, and to contract

for its own services, and as such the Village Land does not derive a special benefit from the above services in New Buffalo Township; and

WHEREAS, the New Buffalo Township Board's actions in attempting to pass a resolution of special assessment against incorporated Village Land without consideration of the Village Charter or state law governing the Village's sovereignty, and against the direct will of the Village Council constitute a blatant violation of separation of powers between local units of government, and

WHEREAS, the New Buffalo Township Board is attempting to create an unconstitutional taxing and assessing authority over the Village which is not authorized by the Michigan Constitution or State Statute; and

WHEREAS, the Village hereby denounces and repudiates the attempt by New Buffalo Township to infringe on the Village's sovereignty and to attempt to tax and/or specially assess Village Land in violation of the Village's sovereign authority, without due process of law, and with the Township lacking legal authority for its actions.

NOW THEREFORE BE IT RESOLVED, The Village of Grand Beach hereby demands that New Buffalo Township immediately remove all incorporated Village Land, over which the Township Board has no legal authority for special assessment purposes, from the Township's special assessment roll.

AYES: _____

NAYS: _____

RESOLUTION DECLARED ADOPTED.

Mary Robertson, Village Clerk

CERTIFICATION

I, Mary Robertson, duly appointed Village Clerk in and for the Village of Grand Beach, County of Berrien, State of Michigan, do certify that the foregoing Resolution is a true and exact copy of a Resolution adopted by the Village Council during a Special Council Meeting, held February 12, 2021, and that public notice of said meeting was given pursuant to the Michigan Open Meetings Act, Act 267 of 1976, as amended.

Mary Robertson, Village Clerk