



Via email and USPS

April 20, 2023

The Honorable Tan Parker  
Texas Senate  
P.O. Box 12068  
Austin, Texas 78711-2068  
[Trish.Robinson@senate.texas.gov](mailto:Trish.Robinson@senate.texas.gov)

The Honorable Kronda Thimesch  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910  
[Alujandro.coronel@house.texas.gov](mailto:Alujandro.coronel@house.texas.gov)

The Honorable Benjamin Bumgarner  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910  
[Kalon.melton@house.texas.gov](mailto:Kalon.melton@house.texas.gov)

The Honorable Giovanni Capriglione  
Texas House of Representatives  
P.O. Box 2910  
Austin, Texas 78768-2910  
[Alex.gantt@house.texas.gov](mailto:Alex.gantt@house.texas.gov)

**Re: Preemption of Local Control & the Texas Regulatory Consistency Act**

A number of bills before the House and Senate this session – once again – strip town, cities, and counties of their authority, ultimately taking away citizens' ability to enact change.

Not only are we concerned with another legislative session that continues to strip control from local government. But, more importantly, we are concerned with the outright dissolution, and in some cases, elimination, of the voice of local citizens by the continued centralization of local power to the State and away from the thousands of town and city halls and county commissioners' courts across Texas. Much like the State has struggled throughout history to maintain States' rights to be responsible to its citizens against federal overreach, towns, cities, and counties in Texas feel this same struggle with the State itself, as it continues to contradict its own actions on the federal level and puts into action the very policies it seeks to defend itself against. Gov. Greg Abbott has on many occasions lamented the federal government's continued involvement in matters that threatens Texans' ability to represent its own best interests. Likewise, numerous proposed bills would enact similar overreach, eroding the ability of towns, cities, and counties to create smart regulations that reflect our citizens and businesses and bolster what makes our communities unique.

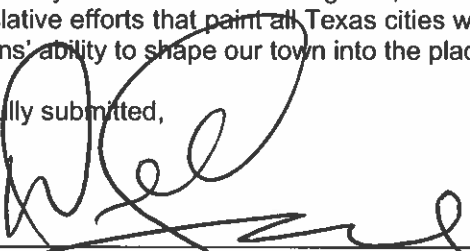
When towns, cities, and counties are unable to self-govern, the citizens lose the ability to work through established processes to achieve their wishes. If and when the citizens of these towns, cities, and counties do not agree with local ordinances, there are ample mechanisms through which they can enact change, the primary of these to be exercised in the ballot booth. Ultimately, when citizens of a community oppose a policy, they have immediate ways in which to voice those concerns and see results – and they don't have to wait two years to do so. For example, in Flower Mound this month, there are ten meetings with public comment opportunities, among the myriad of other ways citizens can contact both staff and elected local officials daily. These engagement opportunities are in stark contrast with Flower Mound citizens or staff having to drive over 200 miles every two years in hopes of a chance to speak in front of the House or Senate.

Flower Mound's primary concern at this point is HB 2127, which seeks to preempt local regulation of all matters covered in the State's Agriculture Code, Business & Commerce Code, Finance Code, Insurance Code, Labor Code, Natural Resources Code, Occupations Code, and Property Code. Those codes constitute 17,490 pages of regulations and the bill provides no clarity on which of these regulations will be affected. Towns, cities, and counties around the state are scrambling to figure out the impacts of this bill, and our request is to have the bill specifically outline which regulations the State wants to preempt and how they will be preempted. We understand that from supporters' point of view, the legislation is intended to make it easier for the private sector to operate, but when we as elected local officials read the bill, we see an almost never-ending list of authorities that will be stripped away.

We must add that many of the authorities the bill could impact are regulations that our business community wants in place in order to protect their local investments. As currently written, the confusing nature of the bill will subject towns, cities, and counties to the uncertainty and expense of litigation and will unquestionably have a chilling effect on future local regulation and development, leaving citizens, taxpayers and property owners with no local forum within which to address their concerns or grievances. At the end of the day, due to the ambiguous nature of the bill, the justice system will undoubtedly be unnecessarily involved, at extreme cost to taxpayers. We respectfully request that the Texas Regulatory Consistency Act is amended to include unmistakable clarity on which specific provisions of the listed codes are preempted and what local governments – town, cities, and/or counties -are subject to these specific provisions. Additionally, to ensure the success of these changes without the necessity of future litigation we ask that State senators and representatives work collaboratively with officials from towns, cities, and counties on the drafting of these amended provisions to the Texas Regulatory Consistency Act and any legislative efforts that curtail local regulatory authority.


We, the local elected officials of the Town of Flower Mound, know that we are in the best position to fairly judge the impact of local regulations occurring within our community and are in a unique position to regulate in a manner that best protects local property values, business interests, and the public health, safety, morals, and general welfare. Citizens move to Flower Mound for its superior quality of life, and a big reason that's true is because our engaged community members work through us, their elected officials, to tailor policies to meet their needs and demands. Legislative efforts that paint all Texas cities with one brush erode our ability to make Flower Mound unique and our citizens' ability to shape our town into the place they want it to be – the best place in Texas to live, work, and play.

Respectfully submitted,



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Derek France  
Mayor



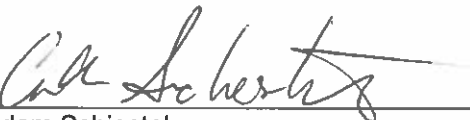
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Sandeep Sharma  
Mayor Pro Tem



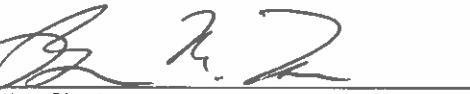
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Ann Martin  
Deputy Mayor Pro Tem




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Adam Schiestel  
Councilmember, Place 1



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Brian Taylor  
Councilmember, Place 3



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Jim Engel  
Councilmember, Place 4

**TOWN OF FLOWER MOUND**

**RESOLUTION NO. 08-23**

**A RESOLUTION OF THE TOWN OF FLOWER MOUND, TEXAS OPPOSING THE CONTINUED PREEMPTION OF MUNICIPAL REGULATION AND OPPOSING HOUSE BILL 2127 AND SENATE BILL 814 RELATING TO STATE PREEMPTION OF AND THE EFFECT OF CERTAIN STATE OR FEDERAL LAW ON CERTAIN MUNICIPAL AND COUNTY REGULATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Flower Mound is a home rule municipality acting under its charter adopted by the electorate pursuant to Article XI, Section 5, of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, the preemption of local regulation constrains the ability of the public to participate through their locally elected officials to tailor policies to meet their needs and demands; and

**WHEREAS**, the Act known as the Texas Regulatory Consistency Act (the "Act"); seeks to preempt local regulation of matters in the state's Agriculture Code (1108 pages), Business & Commerce Code (1046 pages), Finance Code (1536 pages), Insurance Code (3872 pages), Labor Code (949 pages), Local Government Code (2827 pages), Natural Resources Code (1184 pages), Occupations Code (3788 pages), or Property Code (1180 pages); and

**WHEREAS**, collectively, the aforementioned codes constitute 17,490 pages of regulations and, the absence of mutual cooperation between the state legislature and municipalities on identifying and understanding the impacts on such wide-ranging preemption, is neither transparent nor representative; and

**WHEREAS**, for decades, Texas courts have explained that for the state legislature to preempt local authority, it must do so with unmistakable clarity; and

**WHEREAS**, the Act broadly and ambiguously states that municipal ordinances and county regulations are preempted if they regulate conduct in a field of regulation occupied by one of the impacted state codes leaving the breadth and depth of the Act's impact on municipalities and counties uncertain, unclear, and unknown; and

**WHEREAS**, the application of the Act will subject cities to the uncertainty of litigation and will unquestionably have a chilling effect on future local regulation, leaving citizens, tax payers, and property owners with no local forum within which to address their concerns or grievances; and

**WHEREAS**, Texas municipalities and counties have been empowered by the Texas Constitution and the Texas Legislature to promote public health, safety, morals and general welfare through the adoption of reasonable regulations; and

**WHEREAS**, the Town Council of the Town of Flower Mound further finds and determines that local elected officials are in the best position to fairly judge the impact of local regulations occurring within their own communities and are in a unique position to regulate in a manner that best protects local property values, business interests, and the public health, safety, morals and general welfare.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THAT:**

**SECTION 1**

The Town Council of the Town of Flower Mound, Texas hereby opposes the adoption of the Texas Regulatory Consistency Act, as written, which seeks to broadly preempt local regulation of matters in the state's Agriculture Code, Business & Commerce Code, Finance Code, Insurance Code, Labor Code, Local Government Code, Natural Resources Code, Occupations Code, or Property Code.

**SECTION 2**

The Town Council of the Town of Flower Mound, Texas hereby requests that the legislature amend the Texas Regulatory Consistency Act to include unmistakable clarity on which specific provisions of the listed codes are preempted and what local governments are subject to these preemptions.

**SECTION 3**

The Town Council of the Town of Flower Mound, Texas hereby opposes legislative efforts that continue to curtail all local regulatory authority and respectfully requests that State senators and representatives work collaboratively with local governments to address issues and concerns of significant state importance in order to create mutually agreeable legislation.

**SECTION 4**

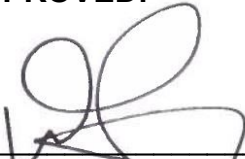
The Town Secretary is authorized and directed to furnish a certified copy of this Resolution with the attached cover letter to the elected representatives of the Town and to other members of the Texas Legislature to give notice of the Town's opposition to the Texas Regulatory Consistency Act.

**SECTION 5**

This resolution shall take effect immediately upon its adoption by the Town Council.

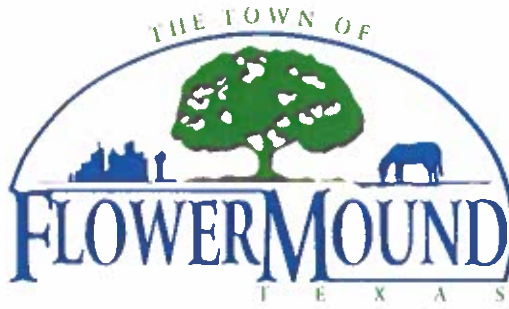
**PASSED AND APPROVED BY THE TOWN COUNCIL OF THE TOWN OF FLOWER MOUND, TEXAS, THIS 20<sup>th</sup> DAY OF APRIL 2023.**

**APPROVED:**

  
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**Derek France, MAYOR**

**ATTEST:**

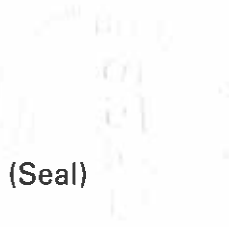
  
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**Theresa Scott, TOWN SECRETARY**



**AFFIDAVIT OF AUTHENTICITY**

THE ATTACHED DOCUMENT IS A TRUE AND CORRECT COPY OF THE TOWN OF FLOWER MOUND RESOLUTION NO. 08-23 ADOPTED APRIL 20, 2023, OF WHICH THE ORIGINAL IS IN EITHER ELECTRONIC OR PAPER FORMAT AND IS ON FILE IN THE TOWN SECRETARY'S OFFICE OF THE TOWN OF FLOWER MOUND LOCATED AT 2121 CROSS TIMBERS ROAD, FLOWER MOUND, TEXAS.

IN TESTIMONY TO WHICH I HAVE HEREIN SET MY HAND AND SEAL ON THIS THE 21<sup>st</sup> DAY OF APRIL, 2023.



(Seal)

THE TOWN OF FLOWER MOUND, TEXAS

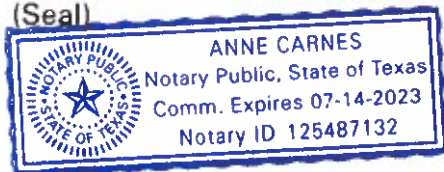
Theresa Scott  
Town Secretary

STATE OF TEXAS                   §  
  §  
COUNTY OF DENTON           §

BEFORE ME, Anne Carnes, Notary Public, on this day personally appeared Theresa Scott, known to me, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 21<sup>st</sup> day of April, 2023.

(Seal)



NOTARY PUBLIC in and for the State of Texas  
My Commission Expires: