

INTRODUCED BY: Trustees Slama, Fortune, Graves, Whitmore and Eisenhauer

**AN ORDINANCE AMENDING CHAPTER 215 RELATING TO
NUISANCES AND ADDING AN ADMINISTRATIVE REVIEW
PROCEDURE**

WHEREAS, The Village is empowered to regulate, prevent and remove nuisances under, *inter alia*, Sections 67.398, 71.285, 71.780 and 80.090 of the Revised Statutes of Missouri; and

WHEREAS, Sections 67.398, 71.285 and 71.780 of the Revised Statutes of Missouri, as amended, provide that the costs incurred by a municipality in removing or abating such nuisance conditions may be recovered from the owner of the offending property by including such costs in a special tax bill; and

WHEREAS, it is the intent and desire of the Board of Trustees of the Village of Twin Oaks to enhance and protect the public health, safety and general welfare by demanding its process for the declaration of such public nuisances and recover of the costs of removal or abatement of the same; and

WHEREAS, the Village further desires to adopt a process for disputes relating to claims against the Village to ensure that a full and fair opportunity to be heard has been granted to person disputing obligations of the Village;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF TWIN OAKS, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Board of Trustees hereby amends Chapter 215 pertaining to nuisances by repealing the entire Chapter 215 and in its place adopting a new Chapter 215 to read as follows:

Chapter 215: Nuisances

Article I. Generally

Section 215.010. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings as set forth below.

ABATEMENT

Putting an end to, or terminating the nuisance, whether through repair, remediation or removal.

HEARING OFFICER

Shall mean the Chair of the Board of Trustees or his or her designee.

NUISANCE

An action or inaction that is (1) an offense against the public order and economy of the Village, (2) a violation of the public's right to life, health, and the use of property, and/or (3) annoying, injurious, endangering, rendering insecure, interfering with, or obstructing the rights or property of the whole community, or neighborhood, or of any considerable number of persons.

PRIVY VAULT

A toilet facility wherein the waste is deposited without flushing into a permanently-installed receptacle. Shall also include septic systems.

Section 215.020. Nuisances Prohibited.

No person shall cause, permit, keep or maintain any nuisance, as defined by the laws of this State or provisions of the Village's ordinances, nor shall any person contribute to the causing, committing, keeping or maintaining of any such nuisance within the Village of Twin Oaks or within one-half (1/2) mile thereof as prescribed by Section 71.780, RSMo. No person shall fail or refuse to abate or remove a nuisance within the time required by the Village as specified in this Article. Each day that a nuisance shall be maintained constitutes a separate offense.

Section 215.030. Nuisances, Generally.

- A. In addition to any other act declared by state statute, common law or ordinance to be a nuisance, and although not an exhaustive list, the following are declared to be nuisances affecting health:
1. All decayed or unwholesome food offered for sale or at no charge to the public.
 2. All diseased animals running at large.
 3. All ponds or pools of stagnant water.
 4. Carcasses of dead animals not buried or destroyed within twelve (12) hours after death.
 5. Accumulations, wheresoever they may occur, of debris of any kind including, but not limited to, weed cuttings, cut, fallen, or hazardous trees and shrubs, lumber not piled or stacked twelve (12) inches off the ground, rocks or bricks, tin, steel, parts of derelict cars or trucks, broken furniture, appliances, manure, rubbish, garbage, refuse, any flammable material

which may endanger public safety or any material or condition which is unhealthy or unsafe.

6. Privy vaults, garbage cans or other waste containers that do not prevent the entry of flies, insects and rodents.
7. The pollution of any well, cistern, spring, underground water stream, lake, canal, or body of water by sewage or industrial wastes, siltation or other substances harmful to human beings or other property.
8. Dense smoke, noxious fumes, gas and soot, or cinders in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises, occupant, or to any other person.
9. Common drinking cups, roller towels, combs, brushes or eating utensils in public or semipublic places where not properly sanitized after use.
10. Any vehicle used for garbage or rubbish disposal which is not equipped with a watertight metal body and provided with a tight metal cover or covers and so constructed as to prevent any of the contents from leaking, spilling, falling or blowing out of such vehicle at any time, except while being loaded or not completely secured and covered so as to prevent offensive odors from escaping therefrom or exposing any part of the contents at any time.
11. Any and all infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.
12. Unlicensed dumps, and licensed dumps not operated or maintained in compliance with the ordinances of the Village of Twin Oaks and the laws and regulations of St. Louis County or of the State of Missouri.
13. Any and all discharges, either directly or indirectly, into a storm water system of any waste materials, liquids, vapor, fat, gasoline, benzene, naphtha, oil or petroleum product, mud, straw, lawn clippings, tree limbs or branches, metal or plastic objects, rags, garbage or any other substance which is capable of causing an obstruction to the flow of the storm system or interfere with the proper operation of the system, or which will pollute the natural creeks or waterways.
14. Above ground storage tanks or other containers for gasoline or other volatile fluid.
15. The open burning of leaves and residential brush as prohibited pursuant to Missouri 10 CSR 10-6.045.

16. Anything gathered in the cleaning of yards, waste from industrial or business establishments, or any rags, damaged merchandise, wet, broken or leaking barrels, casks or boxes, or any materials which are offensive, or tend by decay, to become putrid or to render the atmosphere impure or unwholesome.
17. Perforated, punctured, ruptured, broken, cracked or leaking sanitary sewer or water lateral lines.
18. Perforated, punctured, ruptured, broken, cracked, downed or leaking private or public utility lines, including, but not limited to electricity, sewage, water and natural gas.
19. The removal or destruction of vegetation or the failure to establish or maintain such vegetation on property within the Village of Twin Oaks so as to cause or be likely to cause damage to, or otherwise adversely affect, adjoining private or public streets, storm sewers or properties due to soil erosion or siltation.
20. The keeping or allowing to remain on any premises any trees, shrubs, or other vegetation infected with fungus or any other disease that will or might spread to other non-infected trees, shrubs or other vegetation.
21. All substances which emit or cause foul, obnoxious, unhealthy or disagreeable odors or effluvia in the neighborhood where they exist.
22. Abandoned, discarded, or unused objects or equipment including, but not limited to automobiles, furniture, and household appliances.
23. The failure to properly maintain the exterior of buildings, structures and surrounding premises in compliance with the Village of Twin Oaks' Property Maintenance Code, Section 500.200, as amended.
24. All other acts, practices, conduct, businesses, occupations, callings, trades, uses of property and all other things detrimental or certain to be detrimental to the health of the inhabitants of the Village of Twin Oaks.

Section 215.040. Authority to Abate, Generally.

The Village Administrator/Clerk is authorized to provide for the abatement of a condition on any lot or land on which a nuisance exists as provided in this Article, including, but not limited to, any nuisance which may endanger public safety or which is unhealthy or unsafe and declared to be a public nuisance.

Section 215.050. Authority to Abate Emergency Cases.

In cases where it reasonably appears that there is an immediate danger to the health, safety or welfare of the public due to the existence of a nuisance, the Village Administrator/Clerk shall have the authority to order the immediate abatement of the nuisance in an appropriate manner or the immediate vacation of the vicinity.

Section 215.060. Abatement Procedure; Notice, Hearing, Generally.

- A. *Notice.* If the Village has reason to believe that a nuisance is being maintained within its jurisdiction, the Village shall:
- a. **First Notice (Request to Abate).** Notify the person causing, maintaining or permitting the nuisance and request the person resolve the issue within a reasonable time depending on the circumstances but in no instance, other than an emergency, less than seven (7) days of receiving such notice. This notice shall be given in writing either personally by hand-delivery or by first (1st) class United States mail to the owner or owners at their last known address, or the owner's agents, or by posting the notice on the premises and shall include a statement of the condition constituting the apparent nuisance and the actions necessary to remove, terminate or abate the nuisance as well as the option to contact the Village and set up a meeting with the Village Clerk within the allotted time. The notice shall also state that upon noncompliance, the Village will conduct a hearing.
 - b. **Second Notice (Notice of Hearing).** If necessary because of a failure to abate the nuisance, a second notice shall be sent to inform the addressee of the date, time, and place of the scheduled hearing which shall be no sooner than ten (10) days after such notice. At a minimum, the notice should explain that at the hearing the Village will present its evidence and the addressee shall be provided an opportunity to be heard and present evidence as to why the condition should not be deemed a nuisance.
 - c. The Village's failure to strictly comply with the notice requirements in this Section shall not invalidate any actions taken hereunder.
- B. *Hearing.* The hearing shall be conducted in accordance with the administrative procedure requirements under Section 536 RSMo., and shall be recorded, and all such parties shall be given an opportunity to be heard and present evidence as to whether the condition maintained on the property constituted a nuisance. Should the Hearing Officer find a nuisance pursuant to this Article, the person(s) found to have caused the nuisance shall be ordered to abate the nuisance and given a reasonable period of time to do so. The order to abate the nuisance shall be in writing specifying the grounds for the order and the date by which the nuisance must be abated. Such order shall either be provided at the hearing or shall be served

to the affected persons either personally or by first (1st) class United States mail as soon thereafter as practicable.

- C. *Failure to Abate.* In the event that the nuisance is not removed prior to the expiration of the time allotted in the order to abate, the Village may cause the nuisance to be removed. If the Village abates the nuisance it shall certify the costs of the nuisance removal to the Village Clerk,
- D. *Special Tax Bill.* The certified costs associated with the removal, termination or abatement of such nuisance shall include all expenses incurred by the Village in the removal of the nuisance including, but not limited to, the actual cost of inspecting the land or lot, the actual cost of service of notice as provided herein, the actual cost of abatement and the actual cost for drafting, issuing and recording the tax bill. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum or the statutory rate, whichever is higher.
- E. *Preservation of Rights and Remedies.* Nothing in this Section shall limit the right of the Village to seek any other remedy or enforcement process available in law or equity in addition to or in lieu of the remedy specified herein.

Section 215.070. Animal Waste Prohibited on Public and Private Property – Exception.

Any person in physical possession and control of any animal shall remove excreta or other solid waste deposited by the animal in any public or private area not designated to receive such wastes including, but not limited to, streets, parking lots, public parks or recreation areas and private property. The provisions of this Section shall not apply to a guide dog accompanying any blind person.

Section 215.080. Separate Offense for Failure to Abate.

The Village may issue a summons for any person who fails to remove or abate a nuisance after such notice to abate and such failure shall be a separate offense in violation of this Code. Each day that the conditions causing the nuisance shall continue shall be a separate offense. Jurisdiction of the case shall proceed in all respects as in other cases of ordinance violations.

Section 215.090. Civil Action to Abate Nuisance.

In addition to any other remedies or penalties established by law, the Chairman may, on behalf of the Village and after approval by the Board of Trustees, apply to a court of competent jurisdiction for such legal or equitable relief as may be necessary to require the abatement of any nuisance defined by this Chapter. In such action the court may grant such legal or equitable relief, including, but not limited to, mandatory or prohibitory

injunctive relief, as the facts may warrant. Upon the successful prosecution of any such action, the Village may be awarded by the court reasonable attorney's fees.

Article II. Weeds and Vegetation; Trees

Section 215.100. Excessive Growth of Weeds and Vegetation.

- A. No person shall cause or permit any grass, weeds or rank vegetation growth to attain a height in excess of eight (8) inches upon any property located within the Village. Any owner who shall cause or permit any weeds or rank vegetation growth to attain a height in excess of eight (8) inches shall be deemed to have committed a public nuisance.
- B. In addition to the remedial provisions set forth in this Article and in order to protect, promote and preserve the public health and safety, it is hereby declared that any person owning any lot within the Village and permitting or suffering a growth of weeds or rank vegetation thereon in excess of eight (8) inches from the soil shall be deemed to be in violation of this Article and shall be punished upon conviction as provided in Section 100.100 of this Code.

Section 215.110. Liability of Property Owner as to Weeds or Trash.

- A. *Joint and Severable Responsibility.* Whenever weeds or trash, in violation of this Chapter 215, Chapter 500 (Article XIV, Property Maintenance Code) or any other Code section, are allowed to grow or accumulate, as the case may be, on any part of any lot or ground within the Village, the owner of the ground, and any tenant, lessee, or occupant thereof, shall be jointly responsible and liable. In case of joint tenancy, tenancy by entireties or tenancy in common, each owner thereof shall be jointly and severably liable.
- B. *Hearing; Notice; Order of Abatement.* The Hearing Officer shall conduct a hearing upon four (4) days' written notice. Notice shall be made in one of the following ways:
 - 1. By personal delivery to the owner or owners, or the owner's agents;
 - 2. By United States Mail, first class, to the owner or owners, or the owner's agents; or
 - 3. By posting the notice at the property line with the date of hearing and the owner listed on the sign.

After holding the hearing and receiving evidence, the Hearing Officer may declare the weeds or trash to be a nuisance and order the same to be abated within five (5) business days after the date of the hearing. If the weeds or trash are not removed

within the five (5) business days after the hearing, the Village may have the weeds or trash removed, and shall certify the costs of same to the Village Clerk.

- C. *Special Tax Bill.* Upon receiving the Village's certified cost of abatement, the Village Clerk shall cause a special tax bill against the property to be prepared and to be collected with other taxes assessed against the property. The special tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity, and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the Village Clerk and delivered to the Collector for St. Louis County on or before the first (1st) day of June of each year. Such tax bills if not paid when due shall bear interest at the rate of eight percent (8%) per annum. Costs for collecting the tax bill, including attorney fees, may be charged in the event a lawsuit is required to enforce a tax bill.
- D. *Repeat Violation in Same Growing Season/Calendar Year.* If weeds are allowed to grow, or if trash is allowed to accumulate, on the same property in violation of an ordinance more than once during the same growing season in the case of weeds, or more than once during a calendar year in the case of trash, the Village may, without further notification, have the weeds or trash removed and the cost of the same be billed in the manner described in Section 215.110.B above. The provisions of this Subsection D do not apply to lands owned by a public utility and lands, rights-of-way, and easements appurtenant or incidental to lands controlled by any railroad.

Section 215.120. Dead and Decaying Trees.

- A. All dead or decaying trees, and all trees infected by a disease that is not promptly treated or that is not remediable, and that are within the fall zone of any property line or structure, or which constitutes a danger to the health, safety, or welfare of the general public are hereby declared to be a public nuisance and shall be promptly taken down and removed from the premises by the owner or owners of any tract of land on which the same is situated. The stump shall also be removed down to ground level.
- B. It shall be the duty of the Village Clerk or his/her designee to serve notice in accordance with this Article that such tree or trees shall be removed and the reasons therefor. The Village shall perform the same duties and have the same powers and rights and shall give the same notices and conduct the same hearings as are provided pursuant to this Article II.
- C. Trees overhanging the street right-of-way which are on any property in the Village shall be the responsibility of the owner or owners of the property for the purposes of this Article.

- D. In addition to the remedial provisions set forth in this Section and in order to protect, promote and preserve the public health and safety, it is hereby declared that any person failing to comply with the provisions of this Section shall be deemed to be in violation of this Article and shall be punished upon conviction as provided in Section 100.100 of this Code.

Article III. Offenses Involving Hours of Construction

Section 215.130. Hours of Construction.

No person shall on any day of the week between the hours of 8:00 P.M. and 8:00 A.M. operate or use tools or equipment in conducting any excavation, demolition, erection, alteration, repair or other construction which makes a loud or disturbing noise disrupting to residential areas within one thousand (1,000) feet.

Section 215.140. Exceptions.

This Section does not apply in emergency situations where it is necessary to conduct excavation, demolition, erection, alteration, repair or other construction to protect public health or safety; however, hours of operation during weekends shall not begin prior to 8:00 A.M. and no earthwork-related, heavy construction shall be conducted on Sunday, unless with express written approval of the Village.

Article IV. Temporary Storage and Disposal Containers

Section 215.150. Temporary Storage and Disposal Containers.

- A. A temporary storage or disposal container, meaning any storage or disposal container with a volume of six (6) cubic yards or larger which is used or intended for use as temporary or extended storage or disposal containers (pods and dumpsters), shall be situated outdoors on residential or commercial property for a period of no more than twenty-four (24) hours unless a permit for extended usage is applied for and granted by the Village Clerk. No more than one (1) such container may be utilized at resident addresses at any time. A temporary disposal container used for the hauling and disposal of demolition waste in the course of permitted construction may remain on the property for the duration of any permitted construction project and no longer. Applications for the extended usage of a temporary storage or disposal container on the property and the expected duration of the placement of the container on the property. No such application shall be approved for extended usage of a storage type (pod) container for more than two (2) months. In Zone "B" (Single-Family Attached Dwelling) Districts operating under a periodic maintenance plan, application for placement of disposal containers (dumpsters) may be granted for up to one (1) year, provided that every address where such containers are used shall require a permit.

- B. Application fees shall be assessed pursuant to a schedule of fees periodically approved by the Board of Trustees. Such fees shall apply to all temporary storage and disposal containers utilized in Zone "C" (Commercial) and temporary storage (pod) containers utilized in residential districts, but no fee shall be assessed on applications for extended usage permits for disposal (dumpster) containers in residential districts.

Article V. Violations; Review of Decisions

Section 215.160. Violations.

In addition to any abatement proceedings set forth herein, any person, firm or corporation violating any provisions of this Article shall be subject to the General Penalty provision of Section 100.100 of this Code.

Section 215.170. Review of Decisions; Appeal.

Any person aggrieved by a decision of the Village or any official thereof pursuant to the authority in Articles II or III herein, may file an appeal pursuant to Chapter 132 of the Village Code to the extent subject to the scope therein; provided that nothing in such appeal shall limit the authority of the Village to abate any nuisance pending such appeal.

Section 2. The Code of Ordinance of the Village of Twin Oaks is further amended by adding a new Chapter 132 to read as follows:

Chapter 132: ADMINISTRATIVE PROCEDURE FOR REVIEW OF CERTAIN ACTIONS

Section 132.010. Definitions.

For the purposes of this Chapter, the following terms shall have the meanings as set forth below.

AGGRIEVED

A person directly impacted by an action or decision of the Village such that the person would have standing in a court of law to challenge the action.

BOARD

The Board of Administrative Review established herein.

FINAL ACTION

1. Any action or decision for which no further review or amendment is

contemplated or apparent, other than through this procedure, and

2. Any temporary or interim action or failure to act for which immediate irreparable injury will occur prior to any final action being taken.

UNLAWFUL

Any act or omission in violation of any applicable law or actions that are not authorized by any applicable law.

Section 132.020. Scope and Purpose.

The administrative review procedures set forth in this Chapter shall apply to all final actions of any Village officer, employee, board, commission, or the Board of Trustees that are claimed by an aggrieved party to be unlawful or an unconstitutional taking of property without compensation; provided however, that this Chapter shall not apply to appeals of zoning decisions required to be reviewed by the Board of Adjustment pursuant to Section 89.090, RSMo. The Village shall not intentionally take any action that is unlawful nor shall it unconstitutionally deprive property owners of real property interests without just compensation. This Chapter shall be construed to provide for the objective and fair review of claims by aggrieved persons asserting unlawful actions of the Village or unconstitutional deprivation of vested real property rights or interests, without just compensation. Nothing contained herein shall be construed to limit the ability of the Village to lawfully fulfill its duties and functions.

Section 132.030. Establishment of, and Review by, Administrative Review Board Exhaustion Required.

- A. There is hereby established the Administrative Review Board to review petitions pursuant to this Code of Administrative Procedure. The Board of Trustees hereby designates the Board of Adjustment of the Village of Twin Oaks to act as the Board of Administrative Review (hereinafter referred to as the "Review Board") to hear and consider petitions within the scope of this Code. The Review Board may establish additional procedures to fulfill the purposes of this Chapter.
- B. Any aggrieved party may petition to the Review Board for a review of any final decision of any Village Officer, employee, board, commission, or the Board of Trustees. To the fullest extent permitted by law, the review procedures herein shall be exhausted before any action may be filed in any court against the Village or its officers, employees, boards, officials or commissions.

Section 132.040. Review Procedure.

- A. The procedures for review of a final action shall be as follows:
 1. *Final decision.* The person petitioning for review shall obtain a final decision before requesting review.

2. *Petition for review.* Within ten (10) days from the date of the final decision, the person requesting the review shall file, in the office of the Village Clerk, a written petition for review of that decision. A copy shall also be filed with the Village Attorney.
3. *Initial review of decision.* The Village Clerk, in consultation with the Village Attorney where appropriate, shall review each petition and determine whether it seeks review authorized by this Code. In the event that the petition does not allege a review authorized by this Code, the petition shall be dismissed upon direction of the Village Clerk.
4. *Stay of final action.* Upon request of the petitioner, the Review Board may stay pending its review the final action of any decision, other than a decision of the Board of Trustees, upon a showing:
 - a. The petitioner has a substantial likelihood of demonstrating that the final action to be reviewed is unlawful or an unconstitutional taking,
 - b. Irreparable harm if such stay is not issued, and
 - c. The public interest would not be harmed by issuance of such stay.

Where the final action is a decision of the Board of Trustees, the petitioner may seek such stay from the Board of Trustees, whereupon in its discretion, such stay may be granted pending review by the Review Board.
5. *Hearing date.* A time shall be set for the Review Board to review the decision that gave rise to the petition as soon as reasonably practical and public notice of such meeting shall be provided. The Review Board shall hear and consider the evidence related to and submitted by the petitioner, the Village or other interested parties in the discretion of the Review Board. The hearing shall include written submittals.
6. *Hearing requirements.* Unless a hearing or the requirements herein are waived by petitioner, each hearing shall provide a record of the proceedings (by audio, video, stenographic, or other reliable means of recording capable of transcription) and shall permit the parties to introduce evidence under oath, and shall provide for cross-examination, when requested. The formal hearing requirements herein shall be deemed waived if not affirmatively requested by petitioner in its petition.
7. *Removal.* The Board of Trustees or the Chairman may remove any matter directly to the Board of Trustees for review by filing notice with the Review Board to such effect.
8. *Exception.* Nothing herein regarding hearing requirements shall prevent

summary decision on any petition where there is no genuine dispute as to the relevant facts.

Section 132.050. Expedited Review Procedure.

In the event that the aggrieved party claims irreparable harm will occur unless immediate review is granted, the party may request expedited review, upon facts justifying such action alleged by affidavit, whereupon the Review Board, if it determines it is appropriate, shall shorten the time for submissions and review.

Section 132.060. Applicant Information – Submittal.

A. *Initial Filing Information.* With the petition for review, or within seven (7) days prior to the date of hearing, the petitioner shall submit the following by affidavit:

1. The name of the petitioner requesting review;
2. The precise final action to be reviewed, including the date, the decision maker, and copies of all documentation of the decision;
3. If injury to an interest relating to real property is claimed, the legal description of the property and the name and business address of the current owner of the property; the form of ownership, i.e. whether sole proprietorship, for-profit or not-for-profit corporation, partnership, joint venture or other; and if owned by other than a real person, the name and address of all partners or shareholders owning ten percent (10%) or more of the outstanding shares;
4. A detailed description of the factual and legal grounds for the claim that the final action is unlawful or constitutes an unconstitutional taking, without just compensation; and
5. A description of the protectable right or property interest claimed to be affected, including a statement of any claimed or threatened damages and the basis for such computation.

B. *Supplemental Information.* If the Review Board determines that additional information is needed, it may further require legal briefing or such other information to be submitted by affidavit as may be deemed necessary for adequate and prompt review. With regard to claims of unconstitutional takings, the petitioner shall also provide the Review Board:

1. The evidence and documentation as to the value of the property interest claimed taken, including the date and cost at the date the property was acquired. This material should include any evidence of the value of that same property before and after the alleged unconstitutional taking; the name of the party from whom purchased, including the relationship, if any,

between the person requesting a review; and the party from whom the property was acquired;

2. The terms, including sale price, of any previous purchase or sale of a full or partial interest in the property during the three (3) years prior to the date of application;
3. All appraisals of the property prepared for any purpose, including financing, offering for sale, or ad valorem taxation, within the three (3) years prior to the date of application;
4. The assessed value of, and ad valorem taxes on, the property for the previous three (3) years;
5. All information concerning current mortgages or other loans secured by the property, including the name of the mortgagee or lender; current interest rate, remaining loan balance and term of the loan and other significant provisions including, but not limited to, the right of purchasers to assume the loan;
6. All listings of the property for sale or rent, price asked and offers received, if any, within the previous three (3) years;
7. All studies commissioned by the petitioner or agents of the petitioner within the previous three (3) years concerning feasibility of development or utilization of the property;
8. For income producing property, itemized income and expense statements from the property for the previous three (3) years;
9. Information from a title policy or other source showing all recorded liens or encumbrances affecting the property; and
10. Such additional information reasonably necessary in the Board's opinion, to arrive at a conclusion concerning the nature of and the value of the alleged unconstitutional taking.

Section 132.070. Reviewing Guidelines.

The Review Board shall review the facts and information presented by the petitioner and determine if the final action is unlawful or constitutes an unconstitutional taking without just compensation. In doing so, the Village Attorney shall serve as legal counsel and shall be consulted. The Review Board shall review the facts in light of the applicable Village, State, and Federal law. An affirmative vote of four (4) of the five (5) members of the Review Board shall be required to support any decision.

Section 132.080. Time for Final Decision.

If the Review Board fails to hear and decide the petition within thirty (30) days after the filing of the petition, the final action of the Village Officer, employee, board, commission, or the Board of Trustees shall be deemed to be submitted to the Board of Trustees without recommendation pursuant to Section 132.090(A); provided however, the Review Board may extend the time to reach a decision, not exceeding an additional one hundred twenty (120) days following the receipt of the information required pursuant to this Chapter, if prior to the expiration of the thirty (30) day period, the petitioner is provided written notice of such extension.

Section 132.090. Results of Review.

- A. After completing the review, the Review Board shall make a determination regarding the petition and, if determined to be necessary and appropriate, make a recommendation to the Board of Trustees or the appropriate officer, employee, board or commission. The evidence before the Review Board shall be submitted to the Board of Trustees for its determination.
- B. The Board of Trustees shall have thirty (30) days to take action on the petition or recommendation of the Review Board, unless extended by the Board of Trustees for cause. No petition shall become final for purposes of judicial review of the action subject to review until the effective date of the Board of Trustees action on the petition, or upon expiration of the review period after the petition is submitted to the Board of Trustees.

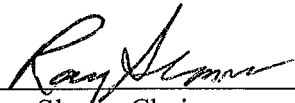
Section 132.100. Review Advisory.

The decisions of the Review Board rendered pursuant to the provisions of this Chapter are advisory, and shall not be construed to expand or limit the scope of the Village's liability for any claimed unlawful action or unconstitutional taking of a vested property interest. The decision of the Review Board rendered pursuant to the provisions of this Chapter is not admissible in court for any purpose other than to demonstrate that the petitioner has exhausted the requisite administrative remedies, and in no event shall any recommended compensation be admissible into evidence. The decision of the Board of Trustees pursuant to the preceding Section shall be deemed the final decision for purposes of judicial review.

Section 3. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Trustees would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. This ordinance having been read by title or in full two times prior to passage, shall be in full force and effect from and after its passage and after being duly signed by the Chairman of the Board of Trustees and attested by the Village Clerk.

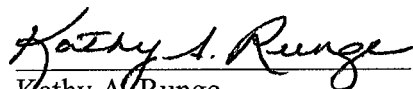
PASSED and APPROVED this 20th day of April, 2016.



Ray Slama, Chairman
Board of Trustees

ATTEST:

First Reading: 4-20-16



Kathy A. Runge
Administrator/Clerk

Second Reading: 4-20-16