

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

**AN ORDINANCE AMENDING SECTION 300.010 (“DEFINITIONS”),  
SECTION 100.100 (“GENERAL PENALTY”) AND CHAPTER 215  
 (“NUISANCES”) OF THE TWIN OAKS MUNICIPAL CODE TO  
 CONFORM TO CHANGES IN STATE LAW.**

**WHEREAS**, in 2015, the State Legislature enacted a municipal court reform measure, Senate Bill 5 (“SB5”), relating to, among other things, “minor traffic violations” in terms of limiting fines and not imposing an additional charge of failure to appear on minor traffic violations, and in 2016 passed subsequent legislation known as Senate Bill 572 (“SB572”) to extend the court reforms to “minor ordinance violations” pertaining to court fines in prosecutions of nuisance violations; and

**WHEREAS**, SB572 includes amendments to Sections 479.353 and 479.360 of the Revised Statutes of Missouri that require certain changes to the Municipal Code of the Village of Twin Oaks (“Municipal Code”), specifically relating to the definition of “Minor Traffic Violation” and “Municipal Ordinance Violation,” and the Village’s general penalty provision; and

**WHEREAS**, SB572 also includes amendments to Section 67.398 of the Revised Statutes of Missouri affecting procedures for notice for certain nuisance violations; and

**WHEREAS**, the Board of Trustees desires to amend its Municipal Code to revise the definition of Minor Traffic Violation, to add the definition of Municipal Ordinance Violation and to clarify its penalties and court procedures relating thereto.

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

**Section 1.** Section 300.010 entitled “Definitions” is hereby amended by inserting the following new definitions for “Minor Traffic Violation” and “Municipal Ordinance Violation” to read as follows:

**Minor Traffic Violation.** A Municipal Traffic Code violation prosecuted that does not involve an accident or injury, that does not involve the operation of a commercial motor vehicle, and for which no points are assessed by the department of revenue or the department of revenue is authorized to assess one (1) to four (4) points to a person's driving record upon conviction. Minor Traffic Violation shall include amended charges for any Minor Traffic Violation. Minor Traffic Violation shall exclude a violation for exceeding the speed limit by more than nineteen (19) miles per hour or a violation occurring within a construction zone or school zone.

**Municipal Ordinance Violation.** A Municipal Code violation prosecuted for which penalties are authorized by statute under sections 67.398, 71.285, 89.120, and 89.490 of

the Revised Statutes of Missouri. Municipal Ordinance Violation shall include amended charges for municipal ordinance violations.

**Section 2.** Section 100.100 entitled “General Penalty” is hereby repealed in its entirety and replaced with a new Section 100.100 to read as follows:

A. *General Penalty.* Whenever in this Code or any other ordinance of the Village, or in any rule, regulation, notice or order promulgated by any officer or agency of the Village under authority duly vested in him/her or it, any act is prohibited or is declared to be unlawful or an offense or misdemeanor or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, upon conviction of a violation of any such provision of this Code or of any such ordinance, rule, regulation, notice or order, the violator shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment in the Village or County Jail not exceeding ninety (90) days, or by both such fine and imprisonment; provided, that in any case wherein the penalty for an offense is fixed by a Statute of the State the statutory penalty, and no other, shall be imposed for such offense, except that imprisonments may be in the Village prison or workhouse instead of the County Jail.

B. *Every Day a Violation.* Every day any violation of this Code or any other ordinance or any such rule, regulation, notice or order shall continue shall constitute a separate offense.

C. *Responsibility.* Whenever any act is prohibited by this Code, by an amendment thereof, or by any rule or regulation adopted thereunder, such prohibition shall extend to and include the causing, securing, aiding, or abetting of another person to do said act. Whenever any act is prohibited by this Code, an attempt to do the act is likewise prohibited.

D. *Minor Traffic Violations.* Notwithstanding anything to the contrary herein, no punishment for a Minor Traffic Violation as defined by Section 300.010 of this Twin Oaks Municipal Code shall:

1. Impose a fine, when combined with the amount of court costs, that exceeds two hundred twenty-five dollars (\$225.00);
2. Be punishable by imprisonment, unless the violation involved:
  - a. Alcohol or controlled substances,
  - b. Endangered the health and welfare of others, or
  - c. Involved eluding or giving false information to a law enforcement officer.
3. Place a person convicted of a minor traffic violation in confinement for failure to pay a fine unless such nonpayment violates the terms of the person’s probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court;
4. Assess Court Costs where a defendant has been found to be indigent under subsection 5 or if a case has been dismissed;

5. Assess Court Costs against a defendant who the Municipal Court finds to be indigent based on standards set by the Presiding Judge of the 21<sup>st</sup> Judicial Circuit Court of the State of Missouri; or
6. Issue an additional charge for the failure to appear on a Minor Traffic Violation.

E. *Municipal Ordinance Violations.* Notwithstanding anything to the contrary herein, no punishment for a Municipal Ordinance Violation as defined by Section 479.350 RSMo., and Section 300.010 of this Twin Oaks Municipal Code of shall impose a fine, when combined with the amount of court costs that exceeds:

1. For Municipal Ordinance Violations committed within a twelve (12) month period beginning with the first violation:
  - a. two hundred dollars (\$200.00) for the first municipal ordinance violation,
  - b. two hundred seventy-five dollars (\$275.00) for the second municipal ordinance violation,
  - c. three hundred fifty dollars (\$350.00) for the third municipal ordinance violation, and
  - d. four hundred fifty dollars (\$450.00) for the fourth and any subsequent Municipal Ordinance Violations;
2. Be punishable by imprisonment, unless the violation involved:
  - a. Alcohol or controlled substances,
  - b. Endangered the health and welfare of others, or
  - c. Involved eluding or giving false information to a law enforcement officer.
3. Place a person convicted of a minor traffic violation in confinement for failure to pay a fine unless such nonpayment violates the terms of the person’s probation or unless the due process procedures mandated by Missouri Supreme Court Rule 37.65 or its successor rule are strictly followed by the court;
4. Assess Court Costs where a defendant has been found to be indigent under subsection 5 or if a case has been dismissed; or
5. Assess Court Costs against a defendant who the Municipal Court finds to be indigent based on standards set by the Presiding Judge of the 21<sup>st</sup> Judicial Circuit Court of the State of Missouri.

**Section 3.** The Board of Trustees hereby amends Ordinance 486 amending Chapter 215 pertaining to nuisances by adding and amending definitions (Section 215.010) and clarifying the number of days permitted to abate certain nuisances (Section 215.060(A) & (D)) as follows:

**Section 215.010. Definitions.**

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

\* \* \*

**DAY**

Shall mean a calendar day, as differentiated from a “Business day” which means any day other than a Saturday, Sunday, or legal holiday.

**HEARING OFFICER**

Shall mean a qualified person appointed annually by the Chair of Board of Trustees or his or her designee.

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**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:

1. **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 ten (10) 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 of the property and, if the property is not owner-occupied, to any occupant of the property and shall specifically describe each condition of the property declared to be a public nuisance and what action will remedy the nuisance. For owner-occupied property, notice may be given 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 notice may also include 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.
2. **Second Notice (Notice of Hearing).** If necessary because of a failure to abate the nuisance, a second notice complying with the notice procedures in the previous subsection 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.
3. The Village's failure to strictly comply with the notice requirements in this Section shall not invalidate any actions taken hereunder.

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D. *Special Tax Bill.* If the Village causes such condition to be removed or abated, the cost of such removal or abatement and the proof of notice to the owner of the property shall be certified to the Village Clerk or officer in charge of finance. 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. If the certified cost is not paid, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property from the date the tax bill is delinquent until paid.

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**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.

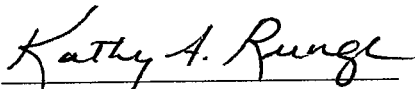
PASSED and APPROVED this 17th day of August, 2016.



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Russ Fortune, Chairman  
Board of Trustees

ATTEST:

First Reading: 8-17-16



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Kathy A. Runge  
Village Administrator/Clerk

Second Reading: 8-17-16