

CHAPTER 32

PROPERTY MAINTENANCE ORDINANCE

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Chapter 32 - PROPERTY MAINTENANCE ORDINANCE

32.01 PURPOSE.

The Village Board has found that maintenance of buildings, structures and premises in the Village of Deerfield affects the health, safety, and general welfare of the residents of the community. The general purpose of this Ordinance is to protect and enhance the public health, safety, and general welfare of the residents of the Village by establishing minimum standards for maintenance of buildings, structures and premises.

To further its general overall purpose, this Ordinance has the following specific objectives:

- (1) To protect the character and stability of all areas within the Village.
- (2) To provide minimum standards of maintenance necessary to protect the health, safety and general welfare of persons occupying or using land, buildings and structures in the Village.
- (3) To provide minimum standards for the exterior maintenance of all land, buildings and structures, and to thus prohibit the spread of slums and blight.
- (4) To declare that land, buildings, structures and adjacent property that have become or are becoming deteriorated, dilapidated, neglected, fire hazards, a vermin or rodent harborage, or unsanitary may constitute public nuisances, fail to meet the standards of this Ordinance and are detrimental to the health, safety and general welfare of the residents of this community.
- (5) To preserve the value of land, buildings and structures throughout the Village.

32.02 APPLICABILITY.

This Ordinance shall be known as the “Property Maintenance Ordinance for the Village of Deerfield.”

This Ordinance shall apply to all land, buildings and structures in the Village, without regard to its class or its date of construction, alteration, or repair. The Owner and Operator of same shall be responsible for insuring that the land, buildings and structures conform to the requirements of this Ordinance. Unlicensed vehicles used for extrication practice by the Deerfield Volunteer Fire Department shall be excluded.

32.03 INTERPRETATION.

This Ordinance is not intended to replace or modify standards otherwise established for the construction, replacement or repair of buildings and structures. However, in the event of any inconsistency or conflict between the provisions of this Ordinance and any other existing Ordinance, the more restrictive provisions shall apply.

32.04 DEFINITIONS.

For the purpose of this Ordinance, the following words and phrases will be defined as follows:

- (1) Accessory Structure. A structure, the use of which is incidental to that of the main building and which is attached thereto or located on the same premises.
- (2) Basement. That portion of a building, the floor line of which is below the surface of the ground immediately adjoining it and its ceiling not more than four feet above lot grade.
- (3) Building. A combination of materials to form a construction adapted to permanent or temporary use for residence, business or storage.
- (4) Deterioration. The condition or appearance of a building or structure or part thereof, characterized by breaks, holes, rot, crumbling, cracking, peeling, rusting, inadequate paint or other evidence of decay or neglect.
- (5) Dwelling. Any structure designed for use by human occupants for sleeping and living purposes, whether occupied or vacant.
- (6) Extermination. The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination methods approved by the Health Commissioner or County Health Department.
- (7) Fence. An independent structure forming a barrier at grade or between lots, between a lot and a street or an alley, or between portions of a lot or lots and includes a wall or lattice work screen but excludes a hedge or natural growth, or a barrier of less than eighteen inches in height that is used to protect plant growth.
- (8) Garbage. Garbage is all waste, animal, fish, fowl or vegetable matter incident to and resulting from the use, preparation and storage of food for human consumption.
- (9) Infestation. The presence of insects, rodents, vermin or other pests on the premises that constitutes a health hazard.
- (10) Inoperable Appliance. Any stove, washer, refrigerator or other appliance that is no longer operable for the purpose for which it was manufactured.
- (11) Junk. Any old or scrap metal, metal alloy, synthetic or organic material or waste.
- (12) Junked Vehicle. Motor vehicles, recreational vehicles, truck bodies, tractors, farm machinery or trailers in such state of physical or mechanical ruin as to be incapable of propulsion, being operated upon the public streets or highways or that is otherwise not in safe or legal condition for operation on public streets or highways due to missing or inoperative parts, flat or removed tires, expired or missing license plates or other defects.

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(13) Motor Vehicle. As defined in Section 340.01(35), Wis. Stats.

(14) Nuisance.

(a) Any public nuisance known at common law or in equity jurisprudence, or as provided by the Statutes of the State of Wisconsin, or in the Ordinances of the Village of Deerfield.

(b) Any attractive nuisance that may prove detrimental to the health or safety of children in a building, on the premises of a building, or upon an unoccupied lot. This includes, but is not limited to: open and unprotected basements and excavations, inoperable appliances, junked vehicles, any structurally unsound fences or structures, lumber, trash, fences, debris, or vegetation such as poison ivy, or oak sumac. Without limitation the above are hereby declared to be public nuisances, pursuant to chapter 19 of the Village Code, wherever they may be found in the Village.

(15) Occupant. Any person occupying or having use of a building, structure or premise or any part thereof.

(16) Operator. Operators shall mean any person who has charge, care or control of a building, structure or premise or a part thereof.

(17) Owner. Any person who alone, jointly, or severally with others, shall hold title to a building, structure or premise, or who shall be in actual possession of, or have charge, care or control of a building, structure or premises as an employee or agent of the title holder, or who shall be trustee or guardian of the estate or person of the title holder. For purposes of providing notice under this Ordinance, the Village may rely on the presumption that the owner is the person or persons designated on the tax roll with respect to the premises.

(18) Person. The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals, including a personal representative, receiver or other representative appointed according to law. Whenever the word "person" is used in any section of this Ordinance prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members hereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of such section.

(19) Premises. When used herein, the word "premises" shall include land, buildings, structures or any part thereof.

(20) Refuse. All solid waste (except body waste) including but not limited to: garbage, rubbish, ashes, street cleanings and solid market and industrial wastes.

(21) Repair. To restore to a state of operation, serviceability or appearance in conformity with this Ordinance.

(22) Replace. To remove an existing item or portion of a building or structure and to construct or install a new item of similar or improved quality as the existing item when it was new.

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Replacement will ordinarily take place when the item is incapable of repair.

(23) **Rubbish.** Rubbish is the miscellaneous waste material, combustible and non-combustible, resulting from housekeeping and ordinary mercantile enterprises, and includes but it not limited to boxes, cartons, excelsior, paper ashes, cinders, tin cans, bottles and broken glass, rubber, grass clippings, brush, leaves and garden plants.

(24) **Structure.** Anything constructed or erected that requires location on the ground or is attached to something having location on the ground, including a building, fence free standing wall, sign or other advertising medium, whether detached or projecting.

(25) **Substandard.** All buildings that do not conform to the minimum standards established by this chapter and by any other provisions of this Code of Ordinances or by the State of Wisconsin Administrative Code.

(26) **Unlicensed Vehicle.** Motor vehicles, truck bodies, tractors, recreational vehicles or trailers that do not bear lawful current license plates.

(27) **Weathering.** Deterioration, decay, or damage by exposure to the elements.

(28) **Yard.** An open space at grade on the same lot as a building or structure located between such building or structure and the adjoining lot line, and/or street line.

32.05 COMPLIANCE IS RESPONSIBILITY OF OWNERS AND OPERATORS.

(1) Each owner of land, buildings and structures (collectively, "premises") shall have an independent responsibility for compliance. All owners shall be jointly and severally responsible for performance of the duties and obligations prescribed in this Ordinance. No owner shall be relieved from any such duty or obligation because another person is also responsible for performance of such duty or obligation. No owner shall be relieved from liability under this Ordinance because said person has contracted said responsibility to an operator or other person.

(2) Operator(s) of land, buildings and structures (collectively, "premises") in the Village shall also have responsibility for compliance. Operator(s) shall be jointly and severally responsible with owner(s) for performance of the duties and obligations prescribed in this Ordinance.

32.06 DUTIES AND RESPONSIBILITIES OF OWNERS AND OPERATORS.

(1) **Maintenance and Appearance of Exterior of Buildings and Structures.**

(a) The exterior of buildings and structures shall be free of all nuisances, unsanitary conditions, and hazards to the safety of occupants, pedestrians and other persons utilizing the premises.

(b) The exterior appearance of all buildings and structures shall reflect a level of maintenance in keeping with the standards of the neighborhood, and shall not constitute a blighting factor or an element leading to the progressive deterioration of the neighborhood.

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(c) Exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of fallings, and the same shall be kept structurally sound, in good repair and free of defects.

(d) The exterior of every building and structure, including fences, shall be maintained in good repair and all surfaces thereof shall be kept painted as necessary for purposes of preservation and appearance. Buildings and structures shall be maintained free of broken, loose shingles, crumbling stone or brick, excessive peeling paint or other conditions reflective of deterioration or inadequate maintenance.

(e) Every dwelling and accessory structure, exterior walls, siding and roofs shall be kept structurally sound and in a state of good repair to avoid safety, health or fire hazards and shall be so maintained as to be weather- and watertight.

(f) Every building and structure on the premises shall be adequately protected against rats, mice, termites, and other vermin infestation, and shall not permit the entrance of such rats, mice, termites and other vermin. Owners and operators shall be responsible for the extermination of such vermin from that part of the premises under their exclusive control.

(g) Every building shall have adequate refuse, garbage or rubbish storage facilities. No owner or operator shall allow occupants to accumulate rubbish, boxes, lumber, metal refuse or other materials that may provide a harborage for rodents or vermin.

(2) Maintenance and Appearance of Land.

(a) The land surrounding the buildings and structures shall be kept free of all nuisances and hazards, and clear of debris including, but not limited to, brush, weeds, broken glass, stumps, roots, obnoxious growths, filth, garbage, trash, refuse, old tires, junk, inoperable appliances, and junked and unlicensed vehicles. The sole exception is where said nuisance, hazard or debris has been properly placed for pick up by the Village's waste disposal contractor.

(b) Except with prior application and approval of a land management plan by the Planning Commission, yards shall be provided with adequate lawn, ground cover or other acceptable decorative lawn treatments common in the Dane County area. Yards shall be trimmed to maintain a neat appearance. Lawns allowed to grow 8" or taller shall be considered overgrown and in violation of this Ordinance. Any temporarily-exposed areas shall be treated to prevent dust or the blowing or scattering of dust particles.

(c) Except with prior application to and approval of a land management plan from the Planning Commission, and in addition to acceptable lawn and ground cover, landscaping, plantings and other acceptable decorative treatments common in the Dane County area shall be installed in the yard and shall be maintained in accordance with generally-accepted landscaping practices in the Dane County area. Hedges, bushes and plantings shall be kept trimmed and shall not be allowed to become overgrown and unsightly or allowed to obstruct pedestrians' or vehicles' view.

(d) Every yard, court, driveway or other portion of the land shall be graded or drained

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so as to prevent the accumulation of stagnant water on any such surface. Driveways shall be maintained in good condition and repair.

(e) Application for Natural Lawn. Any owner operator of land in the Village of Deerfield may apply for approval of a land management plan for a natural lawn, one where the grasses exceed eight (8) inches in height, with the Village Clerk. Approvals, conditional approvals or denials of the land management plan shall be by majority vote of the Planning Commission.

(i) "Land Management Plan" means a written plan relating to management of the lawn that contains a description of the area of the lawn upon which the grass or ground covering will exceed eight (8) inches in height, a statement of intent and purpose for said area, a general description of the vegetational types, plants, and plant succession involved, and the specific management and maintenance techniques to be employed. The Land Management Plan must include provisions for cutting at a length not greater than eight (8) inches the terrace area (which is defined as that portion between the sidewalk and the street or a strip not less than four (4) feet adjacent to the street where there is no sidewalk) and at least a three (3) foot strip adjacent to neighboring property lines unless waived by the abutting property owner on the side so affected.

(ii) Revocation of the Land Management Plan. The Land Management Plan may be revoked for failure to comply with the general requirements of this Ordinance, solely as modified by an approved Land Management Plan. Notice of intent to revoke a Land Management Plan may be issued by majority vote of the Planning Commission. The Planning Commission's decision may be appealed to the Board of Appeals. All applications for appeal shall be submitted within fifteen (15) days of Notice of Intent to revoke a Land Management Plan, or the right of appeal shall be deemed waived.

(iii) Application Requirements. Each application for a Land Management Plan shall be on a form provided by the Village Clerk. The application fee shall be set by resolution of the Village Board. A copy of the application shall be mailed by the Village Clerk or given personally by the Village Clerk to each of the owners of record, as listed in the Office of the County Assessor, who are owners of the property situated in whole or in part within two hundred (200) feet of the boundaries of, the properties affected. The Village Clerk shall certify that such owners have been duly notified. The notified property owners shall have fifteen (15) days from the date of notice to file written objections to the application with the Village Clerk. Following said fifteen (15) day period, the Village Clerk shall refer the application materials and objections, if any, to the Planning Commission for hearing and decision at the next regularly scheduled Planning Commission meeting. The applicant and those property owners who filed written objections shall be notified of the meeting. Notice shall be by the Village Clerk mailing copies of the Agenda to said persons no less than five (5) days prior to the meeting. If there is insufficient time to mail such notice, the hearing and decision shall be set over to the next subsequent meeting unless the applicant provides written waivers of notice from the applicant and the objecting property owners.

(iv) Application for Appeal. The owner or operator of land in the Village of

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Deerfield may appeal a decision of the Board of Appeals refusing to grant a Land Management Plan. The fee for appeals shall be set by resolution of the Village Board. All appeals shall be to the Board of Appeals, which shall hear such appeals as necessary, March through September. All applications for appeal shall be submitted within fifteen (15) days of notice of denial of the Land Management Plan, or the right of appeal shall be deemed waived.

(3) Application to All Premises. This Ordinance applies whether or not the premises are temporarily or continuously occupied or unoccupied, inhabited or uninhabited, commercial or noncommercial, and whether or not there is a structure, building or other improvement on the land.

32.07 INSPECTION BY BUILDING INSPECTOR OR POLICE OFFICER

The Building Inspector and Police Officers are authorized to make exterior inspections of the exterior of any premises for the sole purpose of determining whether the premises conform to the requirements of this Ordinance. Village residents may register complaints of violations of this ordinance in writing, in person, or by telephone. Such complaints should be directed to the Village Administrator. How the complaint will be handled is under the Village Administrator's discretion.

Prior to making such an inspection, the Building Inspector, Police Officer or their designated representative shall give written notice to the owner, operator or occupant of the premises. Notice may be given in person and shall be deemed to have been given within 5 days of the date notice has been deposited, postage-paid, in the U.S. mail and addressed to the name and address on the tax rolls for the premises.

Following such notice, the owner, operator and/or occupant shall give the Building Inspector and/or Police Officer full access to the land and the exterior of the buildings and structures so that the Building Inspector and/or Police Officer is able to conduct an exterior inspection of the premises. Failure of an owner, operator or occupant to permit such access shall constitute a violation of this Ordinance, and may also result in the Building Inspector obtaining a special inspection warrant from Dane County Circuit Court.

32.08 ADMINISTRATIVE PROVISIONS.

(1) The Building Inspector and Police Officers are hereby made responsible for the enforcement of this Ordinance. All inspections, enforcement, orders or matters relating to violations of this Ordinance shall be under their direction and supervision. They may request such other public officials or employees of the Village to perform duties as they deem necessary to the enforcement.

(2) The Building Inspector and Police Officers shall be supplied with official identification and shall exhibit such identification to the owner, operator or occupant upon request.

32.09 NOTICE OF VIOLATION.

If, following the initial inspection, the Building Inspector or Police Officer determines that there are grounds to believe that there has been a violation of any provisions of this Ordinance, notice of such

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the violation shall be given to the owner(s). The notice of violation shall:

- (1) Be in writing;
- (2) Indicate the nature of the alleged violation(s);
- (3) Indicate the time for the correction or abatement of the alleged violation and/or submission of a plan to correct the alleged violation, which time shall not be less than 20 days nor more than 40 days;
- (4) Be served upon the owner in the following manner:
 - (a) Given to the owner by the Building Inspector, Police Officer or their designated representative; or
 - (b) Sent by certified mail to the owner's last known address, as said address appears on the tax rolls. The certified mail receipt and an affidavit of mailing shall be sufficient evidence of service, which service shall be deemed effective within 5 business days of the date of mailing.
- (5) Advise the owner of the owner's right to request a hearing before the Planning Commission within 5 business days of the date of service and further advise the owner that the owner's failure to make such a request shall result in the notice of violation being deemed an order of violation.

32.10 PLACARD ON BUILDING

- (1) The Building Inspector or Police Officer shall cause to be placed upon a building, structure or premises a "red tag" placard, which shall provide notice of the violations, whenever all of the following occur:
 - (a) Any building, structure or premise does not substantially comply with the requirements of this Chapter; and
 - (b) The Building Inspector has given notice of the violations involved as provided for in section 32.09 herein; and
 - (c) The owner, occupant or operator has failed to timely correct, or timely provide a satisfactory plan to correct, the violations set forth in said notice; and
 - (d) The Building Inspector or Police has determined that the building, structure, or premises are so damaged, decayed, dilapidated, unsafe or vermin-infested that it creates a serious hazard to the health or safety of the occupants or of the public, and is therefore unfit for use of occupancy.
- (2) The form of the "red tag" placard shall be determined by the Building Inspector or Police Officer, with assistance from the Building Inspector, and shall substantially state the specific violations of this Ordinance.
- (3) No person shall deface or remove the "red tag" placard from any building, structure or

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premise that has been placed by the Building Inspector or Police Officer until removal of such placards is authorized by the Building Inspector or Police Officer.

(4) When the Building Inspector or Police Officer determines that a "red tag" placard should be placed on premises, and places same on the premises, then, notwithstanding other provisions herein, the occupants shall vacate the premises within 10 days of the date that the "red tag" placard has been placed on the premises.

(5) No premises that have been so vacated shall be used or reoccupied until such time as the owner obtains written approval from the Building Inspector or Police Officer. The Building Inspector or Police Officer shall grant such approval and remove the "red tag" placard when the violations have been corrected and the Building Inspector or Police Officer determines that the premises are again fit for use or occupancy.

32.11 NONCOMPLIANCE - REMEDY OF DEFECTS; ABATEMENT

(1) The owner, operator or occupant of the premises shall have the time specified in the notice of violation to remedy the violations.

(2) The Building Inspector or Police Officer shall, in his or her discretion, have the ability to extend the time for corrections if the circumstances warrant an extension and the owner, operator or occupant is making a good faith effort to correct the violations.

(3) If the owner, operator or occupant of the premises, after notice of violation and order, fails or refuses to timely remedy the violations, then the Village, at its sole option, may cause such work to be done. Junked and unlicensed vehicles shall be disposed of as prescribed in chapter 9.10 of the Village Code. Prior to commencing such work, the Building Inspector or Police Officer shall do the following:

(a) Provide notice to the owner and occupant that the Village will abate the violations along with an estimate of the approximate dates and times during which abatement will occur; and,

(b) Have the Village Clerk certify the approximate cost for any such work done, including reasonable costs for administration and inspection fees (collectively, "costs of abatement"), and provide notice of same to the owner, with a copy to the occupant.

(4) Following such notice, the owner, operator and/or occupant shall give the persons designated by the Village full access to the land and the exterior of the buildings and structures to abate the violations. Failure of an owner, operator or occupant to permit such access shall constitute a violation of this Ordinance, and may also result in the Village obtaining an injunction from Dane County Circuit Court. Reasonable costs of obtaining the injunction shall be added as administration to the costs of abatement and notice of the additional costs shall be provided to the owner.

(5) If the owner fails to pay the costs of abatement within 30 days of the notice from the Village Clerk, interest shall accrue against the balance due at the rate of 1% per month and the total balance due shall become a lien against real estate on the next tax roll in accordance with law.

32.12 TRANSFER OF OWNERSHIP OF NON-COMPLYING BUILDING

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It shall be unlawful for the owner of any building, structure or premises who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish to the Building Inspector a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation. To assure compliance with this provision, the Village may file a lis pendens against the real estate.

32.13 PENALTIES.

- (1) A violation of any section or subsection of this Ordinance shall be punishable by a fine or forfeiture no less than \$20.00 and no greater than \$200.00 for each violation committed hereunder, plus reasonable costs of inspection and prosecution.
- (2) Each day a violation exists after the notice of violation has been received and that becomes an order of the Building Inspector or Police Officer shall constitute a separate violation of this Ordinance.
- (3) Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this Ordinance or otherwise.

32.14 DEFERRALS FOR FINANCIAL HARDSHIP

- (1) Purpose. The purpose of this subsection is to establish a method of providing for the deferral of costs of abatement assessed against property owned by worthy, indigent, qualified individual residents of the Village Of Deerfield.
- (2) Review of Deferral Requests. Review of deferral requests shall be made by an ad hoc committee comprised of the Planning Commission plus two additional members. The additional members shall be appointed on an ad hoc basis by the Village President, subject to confirmation by the Village Board. To the extent possible, one of the appointees shall have a financial or banking background and shall either reside or be employed in the Village. The ad hoc committee shall be known as the "Property Maintenance Deferral Committee".
- (3) Authority of Property Maintenance Deferral Committee. The Property Maintenance Deferral Committee may recommend to the Village Board that the costs of abatement to be charged against the real estate of any worthy, indigent, qualified individual resident within the Village be deferred as provided herein. In order to exercise its authority, the Property Maintenance Deferral Committee may establish application deadlines and draft application and informational materials that it deems necessary. Applications shall be accepted only for those individuals who are obligated to pay costs of abatement and who reside in owner-occupied residential dwellings within the Village. The Property Maintenance Deferral Committee is authorized to review those applications and information, conduct hearings and investigations, interview applicants and witnesses. The Property Maintenance Deferral Committee may require any person to whom provisions of this section relate to submit financial or other relevant data at any time before or after the Village Board has directed the deferral of any tax.

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(4) Approval by Village Board. Following a determination and recommendation by the Property Maintenance Deferral Committee that an applicant is a worthy, indigent, qualified individual resident in the Village, the Village Board may, by resolution, defer any costs of abatement or portion thereof to be assessed against the real estate of the applicant.

(5) Lien Created - Interest Required. A lien created under this section shall have priority over all other liens except tax certificates or prior liens for special assessments or charges for the amount deferred with interest set by the Village Board at a rate no higher than the legal rate. Upon transfer of title of the property by any means or, if the Village Board finds a person no longer to be a worthy, indigent qualified resident under this section, the amount of deferred costs of abatement previously accrued hereunder, or any portion thereof, and legal interest accrued, may be extended by the Village Board upon the next available tax roll, and when extended upon the tax roll, shall be considered a tax upon the property subject to all proceedings in relation to collection, return and sale of property for delinquent real estate taxes. Should a person no longer reside in the real property for which taxes have been deferred hereunder by the Village, the amount of taxes accrued, or any portion thereof, and legal interest accrued shall be extended to the next available tax roll and be due and payable at such time.

(6) Discharge of Lien by Owner. The owner of the property, his heirs, personal representatives or assigns, may discharge the lien at any time by paying the amount of the lien with accrued interest to the Village Treasurer.

(7) Discharge of Other Lienholders. The holder of any subsequent lien may purchase the lien by payment to the Village Clerk of the amount owing plus accrued interest.

32.15 SEVERABILITY

If any section, subsection, paragraph, clause, sentence, phrase or word contained in this Ordinance is declared invalid, the remaining portions of the Ordinance shall remain in full force and effect.