

ORDINANCE NO.	<u>2023- 14</u>	FIRST READING	<u>February 13, 2023</u>
		SECOND READING	<u>WAIVED</u>
INTRODUCED BY:	<u>CHRIS BELL</u>	THIRD READING	<u>WAIVED</u>

**AN ORDINANCE AMENDING SECTION 1440.06(f) OF THE CODIFIED ORDINANCES OF THE VILLAGE OF SOUTH RUSSELL AND DECLARING AN EMERGENCY.**

**WHEREAS**, Council desires to amend Section 1440.06(f) of the Codified Ordinances to further clarify the appeal process upon a notice of forfeiture of construction deposits and to address the timing of such appeal in the event that there is no return receipt of the notice sent by certified mail or where the return receipt of the notice sent by certified mail is not dated by the mail carrier.

**NOW, THEREFORE**, be it ordained by the Council of the Village of South Russell that:

**SECTION 1.** Section 1440.06(f) of the Codified Ordinances of the Village of South Russell currently reads as follows:

“1440.06 CONSTRUCTION DEPOSITS AND CERTIFICATES.

“(f) Whether or not the deposit was made prior to the effective date of this subsection, when more than twelve months have passed since the making of any initial deposit required under this Chapter 1440, and further, where no significant activity is occurring with regard to the construction activities associated with such deposit, then the Building Inspector shall cause a notice to be sent to the depositor and owner setting forth any Village requirements then outstanding, and allowing said depositor and/or owner 30 days to remedy such deficiencies. After the expiration of such 30 days, if the deficiencies have not been remedied, the Building Inspector shall cause a notice of forfeiture to be sent by certified mail to the depositor and/or owner, which forfeiture may be appealed by the depositor and/or owner by submitting an appeal in writing and emailing, hand-delivering, or mailing such appeal to the Village within ten (10) business days not including weekend days or holidays from the date of the certified mail return receipt of the notice of forfeiture. If no such appeal is timely received by the Village, said deposit shall be forfeited to the Village. At Council’s discretion, all or a portion of such deposit may be refunded to said depositor and/or owner. In such event, Council may also determine to retain a portion of such deposit in order to defray any reasonable cost to the Village associated with the forfeiture procedure, including, but not limited to, office overhead, postage, labor, and legal expenses.”

**SECTION 2.** Section 1440.06(f) of the Codified Ordinances is hereby deleted in its entirety and amended to read as follows:

“1440.06 CONSTRUCTION DEPOSITS AND CERTIFICATES.

“(f) Whether or not the deposit was made prior to the effective date of this subsection, when more than twelve months have passed since the making of any initial deposit required

under this Chapter 1440, and further, where no significant activity is occurring with regard to the construction activities associated with such deposit, then the Building Inspector shall cause a notice to be sent to the depositor and owner setting forth any Village requirements then outstanding, and allowing said depositor and/or owner 30 days to remedy such deficiencies. After the expiration of such 30 days, if the deficiencies have not been remedied, the Building Inspector shall cause a notice of forfeiture to be sent by certified mail and regular mail to the depositor and/or owner, which forfeiture may be appealed by the depositor and/or owner by submitting an appeal in writing and emailing, hand-delivering, or mailing such appeal to the Village: (i) within ten (10) business days not including weekend days or holidays from the date that the certified mail return receipt of the notice of forfeiture was signed, or if such signature date is not evident from the certified mail return receipt, then the date the certified mail return receipt of the notice of forfeiture was received by the Village; or (ii) in the event that no certified return receipt of the notice of forfeiture is received by the Village and the notice of forfeiture sent by regular mail was not returned to the Village for failure to forward or other reason, within twenty (20) business days not including weekend days or holidays from the date that the Village mailed the notice of forfeiture by regular mail. If no such appeal is timely received by the Village, said deposit shall be forfeited to the Village. At Council's discretion, all or a portion of such deposit may be refunded to said depositor and/or owner. In such event, Council may also determine to retain a portion of such deposit in order to defray any reasonable cost to the Village associated with the forfeiture procedure, including, but not limited to, office overhead, postage, labor, and legal expenses."

**SECTION 3.** It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

**SECTION 4** This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare and for the further reason that this Ordinance must be immediately effective to allow for the forfeiture and appeal process to commence; wherefore, provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect immediately upon its passage.



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Mayor - President of Council

ATTEST:



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Fiscal Officer

I certify that Ordinance No. 2023 - 14 was duly enacted on the 13<sup>TH</sup> day of FEBRUARY, 2023, by the Council of the Village of South Russell, and posted in accordance with the Codified Ordinances of the Village.

Danush Romowski  
Fiscal Officer