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ORDINANCE 44.00  
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**VILLAGE OF MONTGOMERY  
KANE AND KENDALL COUNTIES, ILLINOIS**

**ORDINANCE NO. 1268**

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**An Ordinance Establishing a  
Backup Special Service Area No. 31A for  
Blackberry Creek Retail in  
the Village of Montgomery, Illinois**

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Adopted by the  
Board of Trustees and President  
of the Village of Montgomery  
this 16 day of January, 2007.

Published in Pamphlet Form  
by authority of the Board of Trustees  
of the Village of Montgomery, Kane and Kendall Counties,  
Illinois, this 16 day of January, 2007.

**ORDINANCE NO. 1268**

**AN ORDINANCE ESTABLISHING A  
BACKUP SPECIAL SERVICE AREA NO. 31A FOR  
BLACKBERRY CREEK RETAIL IN  
THE VILLAGE OF MONTGOMERY, ILLINOIS**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows;

**WHEREAS**, the Village of Montgomery is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

**WHEREAS**, pursuant to the provisions of the 1970 Constitution of the State of Illinois (the "Constitution"), the Village of Montgomery, Kane and Kendall Counties, Illinois (the "Village"), is authorized to create special service areas in and for the Village; and

**WHEREAS**, special service areas are established by non-home rule units pursuant to Section 7(6) of Article VII of the Constitution, which provides that—

[M]unicipalities...which are not home rule units shall have...powers...to levy or impose additional taxes upon areas within their boundaries in the manner provided by law for the provision of special services to those areas and for the payment of debt incurred in order to provide those special services;

and are established "in the manner provided by law" pursuant to the provisions of "AN ACT to provide the manner of levying or imposing taxes for the provision of special services to areas within the boundaries of home rule units and non-home rule municipalities and counties," approved September 21, 1973, as amended, and pursuant to the Revenue Act of 1939 of the State of Illinois, as amended; and

**WHEREAS**, it is in the public interest that the area hereinafter described as a special service area for the purposes set forth herein and to be designated as the Blackberry Creek Retail Backup Special Service Area No. 31A., of the Village (the "Area"), be established; and

**WHEREAS**, the Area is compact and contiguous, totally within the corporate limits of the Village; and

**WHEREAS**, the Area will benefit specially from the municipal services to be provided by the Village (the "Services"), and the Services are unique and in addition to the services provided to the Village as a whole, and it is, therefore, in the best interests of the Village that the establishment of the area be considered; and

**WHEREAS**, it is in the public interest that the levy of a direct annual *ad valorem* tax upon all taxable property within the Area be considered for the purpose of paying the cost of providing the Services; and

**WHEREAS**, the revenue from such tax shall be used solely and only for Services for which the Village is authorized under the provisions of the Illinois Municipal Code, as amended, to levy taxes or special assessments or to appropriate the funds of the Village, all of the Services to be in and for the Area and all of the necessary construction and maintenance to be on property now owned or to be acquired by the Village, or property in which the Village will obtain an interest sufficient for the provision of the services; and

**WHEREAS**, a public hearing was held at 7:00 p.m., on the 13<sup>th</sup> day of November, 2006, at 10 Civic Center Avenue, Montgomery, Illinois in the Meeting Room of the Village Police Department for the Village of Montgomery, Kane and Kendall Counties, Illinois (the "Hearing"), to consider the establishment of the Area for the purpose of providing the Services and the levy of an additional direct annual *ad valorem* tax for the purpose of paying the cost thereof, all as described in the Notice of Public Hearing attached hereto as Exhibit "B" (the "Notice"); and

**WHEREAS**, the Notice has been given by publication and mailing. Notice by publication was given by publication on a date, such date being not less than 15 days prior to the Hearing, in a newspaper of general circulation within the Village, there being no newspaper published therein. Notice by mailing was given by depositing the Notice in the United States Mail addressed to the person or persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Area. The Notice was mailed not less than 10 days prior to the time set for the Hearing. In the event taxes for the last preceding year not paid, the Notice was sent to the person last listed on the tax rolls prior to that year as the owner of said property.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, as follows:

### **SECTION ONE: INCORPORATION OF PREAMBLES**

The preambles of this ordinance are hereby incorporated into this text as if set out herein in full.

### **SECTION TWO: ESTABLISHMENT OF SSA**

- (a) That it is in the public interest that the territory hereinafter described in the Notice referred to in Section One hereof be established as Special Service Area No. 31A for the purposes set forth herein. An accurate map of said territory is attached hereto as Exhibit "A-1".
- (b) That said Area is compact and contiguous.
- (c) That said Area is zoned for commercial purposes and will benefit specially from the municipal services which may be provided and that said proposed municipal services are unique and in addition to municipal services provided by the Village of Montgomery as a whole; and it is, therefore, in the best interest of said Area and the Village of Montgomery as a whole that special taxes be levied against said Area for the services to be provided.
- (d) That the Village of Montgomery Special Service Area No. 31A be and is hereby established for and with regard to the aforesaid territory.

### **SECTION THREE: PURPOSE OF SSA AND MAXIMUM LEVY**

The purpose of the formation of Special Service Area No. 31A in general is to authorize the maintenance, repair and replacement of storm water detention basins, storm sewers and related areas and appurtenances, landscape buffers, maintenance, common areas, subdivision monumentation, private roads, signage and any common areas of the Area of the Subdivision in the Special Service Area, any maintenance or upkeep for Lot 15 as depicted on the final plat of subdivision for the Area, as well as to authorize the implementation and continuation of a mosquito abatement program in the Special Service Area all in accordance with the final engineering plan and final plat of subdivision for the Area, and the proposed municipal services are unique and are in addition to the improvements provided and/or maintained by the Village generally.

Annual taxes shall be assessed and levied for said special municipal services in said Area, on property in said Area in addition to all other municipal taxes; provided that the special annual tax shall be levied upon the equalized assessed value of the property in said Area in an amount not to exceed annual rate of one-hundred and ten one-hundredths percent (1.1%, being 110¢ per \$100) of the equalized assessed valuation thereof. This tax shall be levied for an indefinite period of time commencing during and in the years subsequent to the date of this Ordinance, as hereinafter provided. Said taxes shall be in addition to all other taxes provided by law and shall be levied pursuant to the provisions of the Property Tax Code. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be "dormant", and shall take effect only if the applicable required owners association or property owner fails to maintain, repair or replace the aforesaid required items and the Village chooses to assume some or all of said responsibilities. The Village may annually levy hereunder up to the maximum rate specified herein for the cost for the said services, as said services become necessary and are provided for.

**SECTION FOUR:**

That this ordinance shall be in full force and effect, and shall be controlling, upon its passage and approval.

**SECTION FIVE:**

That all ordinances or parts of ordinances thereof in conflict therewith are hereby repealed to the extent of any such conflict.

**SECTION SIX:**

That any section or provision of this ordinance that is construed to be invalid or void shall not affect the remaining sections or provisions which shall remain in full force and effect thereafter.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, on the 22 day of January, 2007.

Marilyn Michelini  
Marilyn Michelini,  
President of the Board of Trustees of the Village of Montgomery



ATTEST: Barbara Argo  
Barbara Argo, Clerk of the Village of Montgomery

|                                     | Aye | Nay          | Absent | Abstain |
|-------------------------------------|-----|--------------|--------|---------|
| Trustee Jeanne Felten               | ✓   | —            | —      | —       |
| Trustee Peter Heinz                 | ✓   | —            | —      | —       |
| Trustee William Keck                | ✓   | —            | —      | —       |
| Trustee Dennis Lee                  | ✓   | —            | —      | —       |
| Trustee Lloyd Mattingly             | —   | —            | ✓      | —       |
| Trustee Robert Watermann            | ✓   | —            | —      | —       |
| Village President Marilyn Michelini | —   | NO VOTE CAST |        |         |

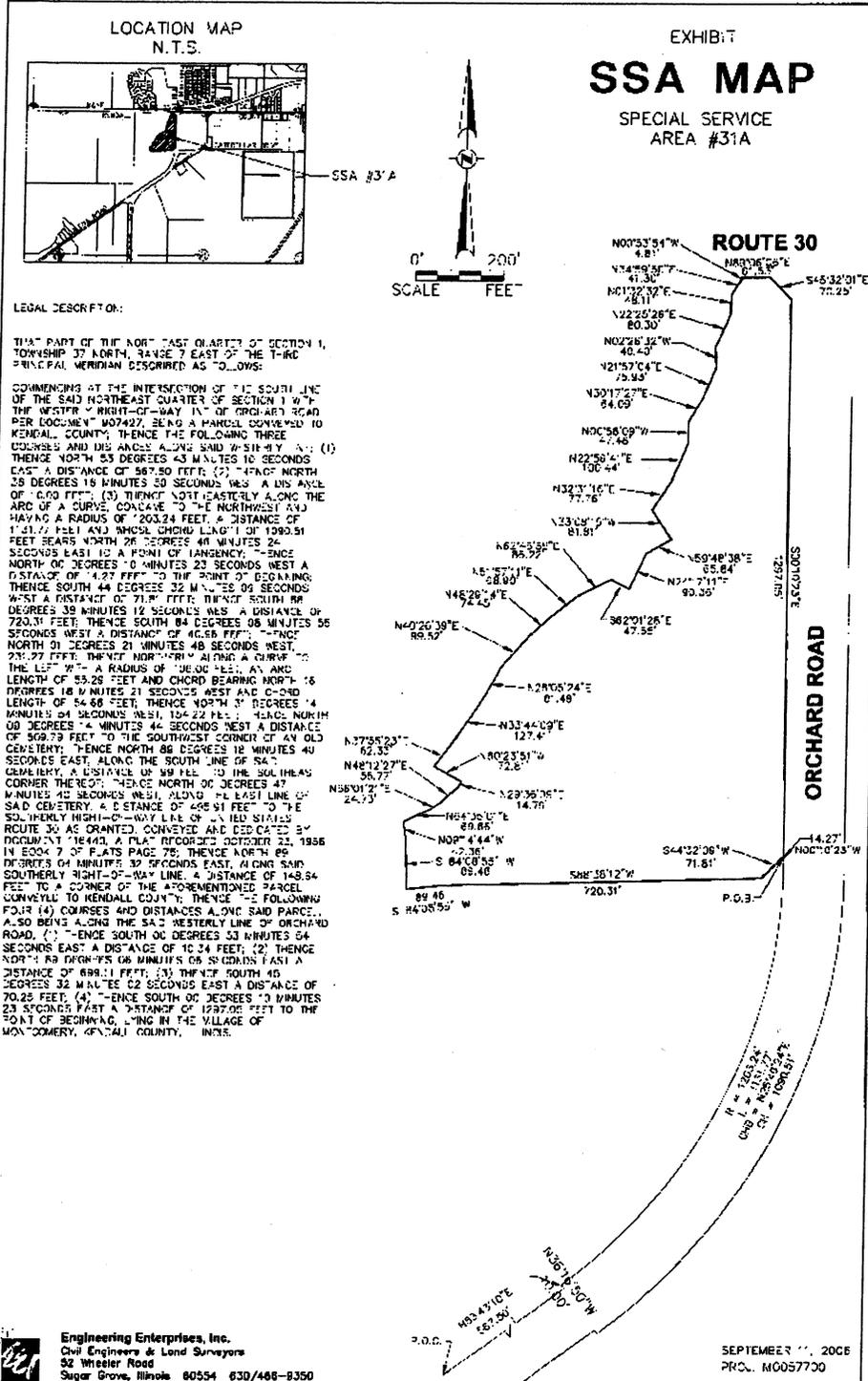
**EXHIBIT A**  
**SSA 31A**  
**BLACKBERRY CREEK RETAIL BACKUP SPECIAL SERVICE AREA**  
**LEGAL DESCRIPTION**

THAT PART OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE SAID NORTHEAST QUARTER OF SECTION 1 WITH THE WESTERLY RIGHT-OF-WAY LINE OF ORCHARD ROAD PER DOCUMENT 907427, BEING A PARCEL CONVEYED TO KENDALL COUNTY; THENCE THE FOLLOWING THREE COURSES AND DISTANCES ALONG SAID WESTERLY LINE; (1) THENCE NORTH 53 DEGREES 43 MINUTES 10 SECONDS EAST A DISTANCE OF 567.50 FEET; (2) THENCE NORTH 36 DEGREES 16 MINUTES 50 SECONDS WEST A DISTANCE OF 10.00 FEET; (3) THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1203.24 FEET, A DISTANCE OF 1131.77 FEET AND WHOSE CHORD LENGTH OF 1090.51 FEET BEARS NORTH 26 DEGREES 46 MINUTES 24 SECONDS EAST TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 10 MINUTES 23 SECONDS WEST A DISTANCE OF 14.27 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 44 DEGREES 32 MINUTES 09 SECONDS WEST A DISTANCE OF 71.81 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 12 SECONDS WEST A DISTANCE OF 720.31 FEET; THENCE SOUTH 84 DEGREES 08 MINUTES 55 SECONDS WEST A DISTANCE OF 40.96 FEET; THENCE NORTH 01 DEGREES 21 MINUTES 48 SECONDS WEST, 231.27 FEET; THENCE NORTHERLY ALONG A CURVE TO THE LEFT WITH A RADIUS OF 106.00 FEET, AN ARC LENGTH OF 55.29 FEET AND CHORD BEARING NORTH 16 DEGREES 18 MINUTES 21 SECONDS WEST AND CHORD LENGTH OF 54.66 FEET; THENCE NORTH 31 DEGREES 14 MINUTES 54 SECONDS WEST, 154.22 FEET; THENCE NORTH 09 DEGREES 14 MINUTES 44 SECONDS WEST A DISTANCE OF 509.79 FEET TO THE SOUTHWEST CORNER OF AN OLD CEMETERY; THENCE NORTH 89 DEGREES 18 MINUTES 40 SECONDS EAST, ALONG THE SOUTH LINE OF SAID CEMETERY, A DISTANCE OF 99 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 00 DEGREES 47 MINUTES 40 SECONDS WEST, ALONG THE EAST LINE OF SAID CEMETERY, A DISTANCE OF 495.91 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF UNITED STATES ROUTE 30 AS GRANTED, CONVEYED AND DEDICATED BY DOCUMENT 116440, A PLAT RECORDED OCTOBER 23, 1956 IN BOOK 7 OF PLATS PAGE 75; THENCE NORTH 89 DEGREES 04 MINUTES 32 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 148.64 FEET TO A CORNER OF THE AFOREMENTIONED PARCEL CONVEYED TO KENDALL COUNTY; THENCE THE FOLLOWING FOUR (4) COURSES AND DISTANCES ALONG SAID PARCEL, ALSO BEING ALONG THE SAID WESTERLY LINE OF ORCHARD ROAD; (1) THENCE SOUTH 00 DEGREES 53 MINUTES 54 SECONDS EAST A DISTANCE OF 10.34 FEET; (2) THENCE NORTH 89 DEGREES 06 MINUTES 06 SECONDS EAST A DISTANCE OF 699.11 FEET; (3) THENCE SOUTH 45 DEGREES 32 MINUTES 02 SECONDS EAST A DISTANCE OF 70.25 FEET; (4) THENCE SOUTH 00 DEGREES 10 MINUTES 23 SECONDS EAST A DISTANCE OF 1297.05 FEET TO THE POINT OF BEGINNING, LYING IN THE VILLAGE OF MONTGOMERY, KENDALL COUNTY, ILLINOIS.

Parcel Identification Number: 02-01-200-009

**EXHIBIT A-1  
SSA 31A  
BLACKBERRY CREEK RETAIL BACKUP SPECIAL SERVICE AREA  
LOCATION MAP**



**EXHIBIT B**  
**SSA 31A**  
**NOTICE OF HEARING**  
**VILLAGE OF MONTGOMERY, KANE AND KENDALL COUNTIES, ILLINOIS**  
**SPECIAL SERVICE AREA NO. 31A**  
**BLACKBERRY CREEK RETAIL BACKUP SPECIAL SERVICE AREA**  
**(KENDALL COUNTY)**

NOTICE IS HEREBY GIVEN that on the 13<sup>th</sup> day of November, 2006, at 7:00 p.m., at 10 Civic Center Avenue, Montgomery, Illinois in the Meeting Room of the Village Police Department for the Village of Montgomery, Kane and Kendall Counties, Illinois, a hearing will be held by the President and Board of Trustees of the Village of Montgomery, Kane and Kendall Counties, Illinois, to consider the establishment of a Special Service Area consisting of the following described territory:

THAT PART OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF THE SAID NORTHEAST QUARTER OF SECTION 1 WITH THE WESTERLY RIGHT-OF-WAY LINE OF ORCHARD ROAD PER DOCUMENT 907427, BEING A PARCEL CONVEYED TO KENDALL COUNTY; THENCE THE FOLLOWING THREE COURSES AND DISTANCES ALONG SAID WESTERLY LINE; (1) THENCE NORTH 53 DEGREES 43 MINUTES 10 SECONDS EAST A DISTANCE OF 567.50 FEET; (2) THENCE NORTH 36 DEGREES 16 MINUTES 50 SECONDS WEST A DISTANCE OF 10.00 FEET; (3) THENCE NORTHEASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTHWEST AND HAVING A RADIUS OF 1203.24 FEET, A DISTANCE OF 1131.77 FEET AND WHOSE CHORD LENGTH OF 1090.51 FEET BEARS NORTH 26 DEGREES 46 MINUTES 24 SECONDS EAST TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 10 MINUTES 23 SECONDS WEST A DISTANCE OF 14.27 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 44 DEGREES 32 MINUTES 09 SECONDS WEST A DISTANCE OF 71.81 FEET; THENCE SOUTH 88 DEGREES 38 MINUTES 12 SECONDS WEST A DISTANCE OF 720.31 FEET; THENCE SOUTH 84 DEGREES 08 MINUTES 55 SECONDS WEST A DISTANCE OF 40.96 FEET; THENCE NORTH 01 DEGREES 21 MINUTES 48 SECONDS WEST, 231.27 FEET; THENCE NORTHERLY ALONG A CURVE TO THE LEFT WITH A RADIUS OF 106.00 FEET, AN ARC LENGTH OF 55.29 FEET AND CHORD BEARING NORTH 16 DEGREES 18 MINUTES 21 SECONDS WEST AND CHORD LENGTH OF 54.66 FEET; THENCE NORTH 31 DEGREES 14 MINUTES 54 SECONDS WEST, 154.22 FEET; THENCE NORTH 09 DEGREES 14 MINUTES 44 SECONDS WEST A DISTANCE OF 509.79 FEET TO THE SOUTHWEST CORNER OF AN OLD CEMETERY; THENCE NORTH 89 DEGREES 18 MINUTES 40 SECONDS EAST, ALONG THE SOUTH LINE OF SAID CEMETERY, A DISTANCE OF 99 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE NORTH 00 DEGREES 47 MINUTES 40 SECONDS WEST, ALONG THE EAST LINE OF SAID CEMETERY, A DISTANCE OF 495.91 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE OF UNITED STATES ROUTE 30 AS GRANTED, CONVEYED AND DEDICATED BY DOCUMENT 116440, A PLAT RECORDED OCTOBER 23, 1956 IN BOOK 7 OF PLATS PAGE 75; THENCE NORTH 89 DEGREES 04 MINUTES 32 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 148.64 FEET TO A CORNER OF THE AFOREMENTIONED PARCEL CONVEYED TO KENDALL COUNTY; THENCE THE FOLLOWING FOUR (4) COURSES AND DISTANCES ALONG SAID PARCEL, ALSO BEING ALONG THE SAID WESTERLY LINE OF ORCHARD ROAD; (1) THENCE SOUTH 00 DEGREES 53 MINUTES 54 SECONDS EAST A DISTANCE OF 10.34 FEET; (2) THENCE NORTH 89 DEGREES 06 MINUTES 06 SECONDS EAST A DISTANCE OF 699.11 FEET; (3) THENCE SOUTH 45 DEGREES 32 MINUTES 02 SECONDS EAST A DISTANCE OF 70.25 FEET; (4) THENCE SOUTH 00 DEGREES 10 MINUTES 23 SECONDS EAST A DISTANCE OF 1297.05 FEET TO THE POINT OF BEGINNING, LYING IN THE VILLAGE OF MONTGOMERY, KENDALL COUNTY, ILLINOIS.

Parcel Identification Number: 02-01-200-009

The approximate location is bounded by Bypass Route 30 to the North, Orchard Road to the East, Saratoga Springs to the Southwest, and Orchard Prairie North to the West in the Village of Montgomery, Kendall County, Illinois.

All interested persons, including all persons owning taxable real property located within the Special Service Area, will be given an opportunity to be heard at the hearing regarding 1) the tax levy and an opportunity to file objections to the amount of the levy, 2) formation of the boundaries of the Area and may object to the formation of the Area and 3) the levy of taxes affecting said Area.

The purpose of the formation of Special Service Area No. 31A in general is to authorize the maintenance, repair and replacement of storm water detention basins, storm sewers and related areas and appurtenances, landscape buffers, maintenance, common areas, subdivision monumentation, private roads, signage and any common areas of the Area of the Subdivision in the Special Service Area, any maintenance or upkeep for Lot 15 as depicted on the final plat of subdivision for the Area, as well as to authorize the implementation and continuation of a mosquito abatement program in the Special Service Area all in accordance with the final engineering plan and final plat of subdivision for the Area, and the proposed municipal services are unique and are in addition to the improvements provided and/or maintained by the Village generally.

At the hearing, all persons affected will be given an opportunity to be heard. At the hearing, there will be considered the levy of an annual tax of not to exceed an annual rate of one-hundred and ten one-hundredths percent (1.1%, being 110¢ per \$100) of the equalized assessed value of the property in the proposed Special Service Area No. 31A, said tax to be levied for an indefinite period of time from and after the date of the Ordinance establishing said Area. Said taxes shall be in addition to all other taxes provided by law and shall be levied pursuant to the provisions of the Property Tax Code. Notwithstanding the foregoing, taxes shall not be levied hereunder and said Area shall be "dormant", and shall take effect only if the applicable required owners association or property owner fails to maintain, repair or replace the aforesaid required items and the Village chooses to assume some or all of said responsibilities. The hearing may be adjourned by the President and Board of Trustees to another date without further notice other than a motion to be entered upon the minutes of its meeting fixing the time and place of its adjournment.

If a petition signed by at least fifty-one percent (51%) of the electors residing within the proposed Special Service Area No. 31A and by at least fifty-one (51%) of the owners of record of the land included within the boundaries of the proposed Area is filed with the Village Clerk within sixty (60) days following the final adjournment of the public hearing objecting to the establishment of the Area, the enlargement thereof, or the levy or imposition of a tax for the provision of special services to the Area, no such Area may be established or enlarged, or tax levied or imposed.

Dated: this \_\_\_<sup>th</sup> day of \_\_\_\_\_, 2006.

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Dean M. Frieders, Village Attorney  
for the Village of Montgomery