AN ORDINANCE OF THE COUNTY COMMISSION OF CAPE GIRARDEAU COUNTY, MISSOURI ACCEPTING THE FINAL REPORT OF THE TRUSTEE APPOINTED TO WIND UP THE AFFAIRS OF THE VILLAGE OF DUTCHTOWN, DISINCORPORATING THE VILLAGE OF DUTCHTOWN AND MATTERS RELATED THERETO

WHEREAS, the Village of Dutchtown, Missouri ("Dutchtown" or the "Village") was properly incorporated pursuant to Missouri law and a vote by the Cape Girardeau County ("Cape County") Commission on or about February 2, 1998; and

WHEREAS, within the past several years and primarily due to serious flooding within Dutchtown, residents have either abandoned the Village or have been bought out by the Federal Emergency Management Agency; and

WHEREAS, The last members of Village Board of Trustees ("Board") either have moved out of Dutchtown, or their terms have expired or they no longer serve, or both; and

WHEREAS, no remaining member of the Board has made any appointment as authorized by Mo.Rev.Stat. § 80.230; and

WHEREAS, for more than 30 months, the Board has failed to meet or conduct any activity related to the governance of the Village; and

WHEREAS, since the general municipal election date of April 5, 2016, no one has filed to run for office, run for office or made any other attempt to become a Trustee of Dutchtown, *see* the certified election documents attached hereto as **Exhibit 1**; and

WHEREAS, no one has made any attempt to file for office to become a Trustee of Dutchtown as of the closing of election filing on January 16, 2018 for the upcoming general municipal election on April 3, 2018, see the certified election documents attached as **Exhibit 2**; and

WHEREAS, There are approximately 22 occupied homes in Dutchtown with an estimated population of about 63 people; and

WHEREAS, the Cape County Commission caused a written notice of a town hall meeting to be mailed to all 45 property owners in the Village on June 29, 2017; and

WHEREAS, 18 persons attended the meeting on July 18, 2017 at 118 County Road 216 Dutchtown; and

WHEREAS, the persons in attendance confirmed that no resident had run for office for the Village Board in 2016 or 2017 and there were no elected officials to conduct business for the Village; and

WHEREAS, six current residents, two of whom are registered voters, signed a petition in the presence of Kenneth J. Eftink, the circulator of the petition that requested the County Commission to disincorporate and dissolve the Village, see the Residents Petition attached hereto as **Exhibit 3**; and

WHEREAS, six non-residents who own property within the Village of Dutchtown corporate limits also signed a petition in the presence of Kenneth J. Eftink, the circulator of the petition supporting the request made by the residents to dissolve the Village, see the Landowners Petition attached hereto as **Exhibit 4**; and

WHEREAS, both petitions were presented to the County Commission on September 14, 2017; and

WHEREAS, the County Commission determined that the further operation of the Village is inimical to the best interests of the inhabitants of the Village and the Village should, in the interest of the public welfare and safety, be dissolved; and

WHEREAS, Section 80.570.3 of the Revised Statutes of Missouri allow the County Commission to disincorporate a Village when at least a single resident signs a Petition when no Village Trustee any longer holds office and no person had been elected to fill any vacancy on the Board for more than 12 months preceding the filing of the petition, which is the case here; and

WHEREAS, The County Clerk reports that there were 18 registered voters in the Village in 2017 and has certified that the Petitions were properly signed by six residents and two registered voters of Dutchtown; and

WHEREAS, the County Commission appointed Kenneth J. Eftink as Trustee for the Village on October 19, 2017, and Mr. Eftink was sworn in Judge Gary Kamp on October 26, 2017; and

WHEREAS, the Trustee obtained a surety bond for the faithful performance of his obligations that was approved by Judge Ben Lewis as required by Section 80.620 RSMo.; and

WHEREAS, pursuant to § 80.580 RS Mo., the County Commission advertised in the local newspaper that the February 1, 2018 public hearing regarding the disincorporation of the Village of Dutchtown and the notice was published more than two (2) weeks before the hearing and on

two (2) separate days, and written notice was mailed to all 45 owners of real property within the corporate limits of the Village of Dutchtown (true and accurate copies of the Affidavits of Publication and written letters are attached hereto as **Exhibit 5**); and

WHEREAS, the Official Election results from Cape County for each of the last two general municipal elections were certified and presented to the County Commission at the February 1, 2018 Public Hearing (true and accurate copies of the election results are attached hereto as **Exhibit 6)**; and

WHEREAS, the Trustee has prepared a report on the assets and liabilities of the Village that was presented to the County Commission on February 1, 2018 (a true and accurate copy of the report is attached hereto as **Exhibit 7)**; and

WHEREAS, the Trustee has negotiated with and determined that real estate acquired by the Village through the FEMA flood buyout program will be transferred to the Little River Drainage District, which maintain the properties and keep them as open space; and

WHEREAS, should the County Commission dissolve the Village, the property tax rate will not change and the one (1) cent sales tax on items purchased within the former corporate limits of Dutchtown will be discontinued, the County Highway Department will continue to maintain the roads west of Highway 25 and the Cape Special Road District will continue to maintain the roads east of Highway 25, and the Gordonville Fire Protection District and the Sheriff's office will continue to provide public safety services, and floodplain management will be managed by the County Commission; and

WHEREAS, the Village is not providing any other services for the Village residents and property owners now;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF THE COUNTY OF CAPE GIRARDEAU, MISSOURI, AS FOLLOWS:

Section 1. The Village of Dutchtown in the County of Cape Girardeau, Missouri is hereby ordered disincorporated and dissolved, in accordance with § 80.580 RSMO.

Section 2. The Trustee is hereby ordered to transfer all real estate acquired by the former Village through the FEMA flood buyout program to the Little River Drainage District, with deed restrictions requiring the District to maintain the properties and keep them as open space.

Section 3. The Trustee is hereby ordered to, as soon as possible, prosecute or defend to final judgment all suits instituted by or against the corporation, if any; collect all money due the same; liquidate all lawful demands against the same, and for that purpose shall sell any property belonging to such corporation, except as set forth in Section 2 above, or so much thereof as may be necessary, and generally do all acts requisite to bring to a speedy close all the affairs of the corporation, and shall make a report of his proceedings to the County Commission at each term thereof until all affairs of the corporation have been closed.

Section 4. When the Trustee shall have closed the affairs of the corporation, he shall pay over to the County Commission all moneys remaining in his hands, and deliver to the clerk of such commission all books, papers, records and deeds belonging to the dissolved corporation that was Dutchtown.

Section 5. The trustee is an hourly employee of the County and has been reasonably compensated for his services.

Section 6. If the dissolved Dutchtown shall have an annual revenue accruing to it after the date of this Ordinance, the same shall be paid to the County Commission of the County of Cape Girardeau by the person owing the same; and all moneys thus paid, as well as all moneys paid the County Commission by the Trustee, shall be held and disposed of by the County Commission for the benefit of the inhabitants of the former Dutchtown as provided by law, see Section 80.670 RSMo.

Section 7. It is hereby declared to be the legislative intent of the County Commission, in adopting this Ordinance, that all provisions hereof be liberally construed to protect and preserve the peace, health, safety and welfare of the inhabitants of the County; that the sections, paragraphs, sentences, clauses and phrases of the Ordinance be severable and, if any section, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional by a valid judgment or decree of a competent court possessing jurisdiction, such unconstitutionality shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this Ordinance.

Section 8. All ordinances, resolutions or orders of the County in conflict with this Ordinance are hereby repealed as of the effective date of this Ordinance.

Section 9. This Ordinance shall be in full force and effect from and after its passage and approval.

PASSED, APPROVED AND ADOPTED this 15 day of MARCH, year 2018, by the County Commission of Cape Girardeau County, Missouri.

Clinton D. Tracy
Presiding Commissioner

Paul E. Koeper
1st District Commissioner

Charles J. Herbst III
2nd District Commissioner

ATTEST:

CAPE GIRARDEAU COUNTY MO
1812

Kara Clark Summers/County Clerk