

**VILLAGE PRESIDENT**

Ray Danford

**VILLAGE CLERK**

Jerry Menard

**VILLAGE TRUSTEES**

Rita Baker  
Charlie Mattern  
Kevin Groth  
Corby Valentine  
Steve Smith  
Tony Miller

# VILLAGE OF FREEBURG

## FREEBURG MUNICIPAL CENTER

14 SOUTHGATE CENTER, FREEBURG, IL 62243  
PHONE: (618) 539-5545 • FAX: (618) 539-5590  
Web Site: www.freeburg.com

**VILLAGE ADMINISTRATOR**

Dennis Herzing

**VILLAGE TREASURER**

Bryan A. Vogel

**PUBLIC WORKS DIRECTOR**

Ronald Dintelmann

**POLICE CHIEF**

Melvin E. Woodruff, Jr.

**VILLAGE ATTORNEY**

Stephen R. Wigginton

March 3, 2008

### NOTICE

#### MEETING OF LEGAL AND ORDINANCE COMMITTEES (Annexation; Building; Zoning; Subdivision) Groth/Baker/Mattern

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, March 5, 2008, at 5:00 p.m.**

#### LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items To Be Discussed

A. Old Business

1. Approval of 2/6/08 Minutes
2. Material Requirements on Commercial Buildings
3. Status of Public Hazard Homes
4. Nuisance Abatement Code
5. Countryside Lane annexations
6. TIF Litigation
7. Stumpf lawnmower repair business
8. Rogers' home
9. William Starnes

B. New Business

C. General Concerns

D. Public Participation

E. Adjourn

At said Legal and Ordinance Meeting, the Village Trustees may vote on whether or not to hold an Executive Session to discuss the selection of a person to fill a public office [5 ILCS, 120/2 - (c)(3)], litigation [5 ILCS, 120/2 - (c)(11)] personnel [5 ILCS, 120/2 - (c) (1) a.]; or real estate transactions [5 ILCS, 120/2 - (c)(5)].



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Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Groth/Baker/Mattern)  
Wednesday, March 5, 2008 at 5:00 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:00 p.m. by Chairman Kevin Groth on Wednesday, March 5, 2008, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Mayor Ray Danford, Village Clerk Jerry Menard, Administrator Dennis Herzing and Office Manager Julie Polson.

## A. OLD BUSINESS:

1. Approval of 2/6/08 Minutes: *Trustee Rita Baker motioned to approve the February 6, 2008 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, motion carried.*

2. Material Requirements on Commercial Buildings: Dennis just started to work on revising Fairview Height's code. He questioned what body should review the requests on exterior building materials. Dennis stated the Board of Appeals is a ruling body and the Plan Commission would make a recommendation that would come back to the Village Board for consideration. Trustee Mattern stated he would like to see the Plan Commission handle it as they look at requests while keeping the overall direction of Freeburg in mind. After discussion, the committee agreed to have the Plan Commission review the cases. Dennis then questioned if we were only talking about highway business district or industrial also. The committee decided it would apply to the B2 highway business district or industrial district excluding the Industrial Park.

3. Status of Public Hazard Homes: Nothing new.

4. Nuisance Abatement Code: Trustee Mattern stated he would like to share this with the other trustees before anything is passed. Trustee Groth agreed and said he wants the public input before a code is implemented. The committee discussed several sections of the sample code, namely:

- a) 151.031: This is under the definition of an unlawful structure: *1. One found in whole or in part to be occupied by more persons than is permitted by the village code.* Kevin questioned if we currently have in our code a limit on the number of persons occupying a structure. Dennis will have to research this, he is not sure. Mayor Danford said we might want to check with Attorney Wigginton to see if there is a state statute or ruling that addresses this.
- b) 151.032: *The cost for closing up the structure shall be charged against the real estate upon which the structure is located and shall constitute a lien on such real*

Legal and Ordinance Committee Meeting  
Wednesday, March 5, 2008



*estate.* Kevin asked if this fit under the special assessment ordinance and Dennis will have to check on that as it is very specific on what can be included in that.

- c) 151.048(B). Under exterior premises, *B. Storage of material must, at all times, be enclosed or screened from adjoining property and from public view so as not to be visible from adjoining property or from a public street.* Kevin asked if we really want to enforce this. Dennis said in our current code, there is a requirement to screen an area if it adjoins a residential property. Dennis also said “material” encompasses a lot of things. We need to make sure when we set up these restrictions that we a mechanism in place providing for due process for the residents.
- d) 151.135: Occupancy Permit Required. We only issue occupancy permits for new homes. Charlie asked if we want to have something in place to address landlords that rent unsafe, dilapidated properties, do we want to control that? Ray reminded the committee that Attorney Wigginton feels strongly that we need to enact a nuisance abatement code and that we need to decide what we want to enforce.
- e) 151.055(A). *Enclosure of storage yards. All open storage yards and areas shall be completely obscured from view by surrounding property by a solid fence (such as wood or slatted chain link) not less than six feet in height. This section shall not apply to areas where licensed, registered motor vehicles that are in good, safe and operable condition are operated on a regular basis. In those areas, a fence of not less than six feet in height is required.* The committee thought this item might be more than what we are looking for. The committee liked paragraph B, “Nuisances.” The committee agreed to invite Attorney Wigginton to the next meeting to cover over specific areas of this code.

5. Countryside Lane Annexations: Dennis has talked to both David Gass and Mark Luechtefeld. He needs to start working on the annexation agreement. He will incorporate the wording in the agreement they will be allowed their personal tap-ons. The committee agreed to move forward with the agreement and they can address the future tap on fees later.

6. TIF Litigation: Nothing new.

7. Stumpf lawnmower repair: Nothing new.

8. Rogers’ home: No response from letter sent. Item can be taken off the agenda.

9. William Starnes: Based on Attorney Wigginton’s letter, Dennis is not going to furnish any names to Mr. Starnes. Item can be taken off the agenda.

A copy of the proposed ordinance vacating Temple Street was addressed. At the last status hearing, the judge was displeased the matter was taking so long. Attorney Keck filed a Motion to Enforce Settlement. This ordinance will take care of any outstanding issues and settle the matter.



*Trustee Charlie Mattern motioned to recommend to the full Board the Ordinance Vacating a portion of Temple Street be approved and Trustee Rita Baker seconded the motion. All voting aye, the motion carried.*

**B. NEW BUSINESS:** Mayor Danford brought up the franchise fee. Kevin wanted to know if the 1996 action had been repealed and Dennis advised it was included in his packet of information. Ordinance 943 repealed the utility tax and Ordinance 944 established the franchise fee.

**C. GENERAL CONCERNS:** Charlie asked the status of Julie getting the code book together and she stated she is on section 91. The emergency notification system was discussed. Jean Schaefer is working on setting up the email notification. The committee agreed that this should not be the only way to notify residents of emergencies. It makes sense to have something in place if there is a true disaster. The school's system was discussed and Dennis will contact Dr. Hawkins and Mr. Lehman to see if we might be able to share in the use of their system.

**D. PUBLIC PARTICIPATION:** None.

**E. ADJOURN:** *Trustee Rita Baker motioned to adjourn the meeting at 6:36 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson  
Office Manager



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Legal and Ordinance Committee Meeting  
(Annexation; Building; Zoning; Subdivision)  
(Groth/Baker/Mattern)  
Wednesday, February 6, 2008 at 5:00 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:03 p.m. by Chairman Kevin Groth on Wednesday, February 6, 2008, in the Freeburg Municipal Center. Members attending were Chairman Kevin Groth, Trustee Charlie Mattern, Trustee Rita Baker, Mayor Ray Danford, Village Clerk Jerry Menard, Attorney Steve Wigginton, Administrator Dennis Herzing and Office Manager Julie Polson. Guests present: Charlotte Vielweber and Janet Baechle.

**D. PUBLIC PARTICIPATION:** Chairperson Groth asked for public participation to be held first. Charlotte Vielweber stated she there is an issue that has developed in her subdivision. There is a satellite dish installed on the front of the home directly across the street from her. She stated when the satellite dish was being installed, her husband talked to the installer about the placement of the dish. She said the installer told her husband the dish could have been placed in the rear of the home but the homeowner wanted it on the east side of the home. She provided pictures of the dish placement on the Underwood's home. She also reviewed the FCC Information Sheet and also wanted to know the rationale on the permit being issued. Trustee Baker stated she misspoke when she said the permit had been issued - it had not. She summarized by saying the antenna didn't have to be placed where it is, there are no other homes that have dishes in that area installed on the front of their homes and it is an aesthetic concern of hers. Administrator Herzing said he was not aware of the FCC Ruling when this issue first came up. He believes the intent of the FCC Ruling to overrule ordinances like ours with respect to the small satellite dish antennas. He believes the ruling says the Village can't have an ordinance that requires a permit or controls where it is put unless it is for very specific public safety reasons or to preserve a historical district. In other words, our ordinance is pre-empted by the FCC Ruling.

Attorney Wigginton stated he has dealt with many other municipalities on this issue. He advised the Telecommunications Act of 1996 did pre-empt all local ordinances in their efforts to regulate the delivery of satellite signals. Attorney Wigginton told Mrs. Vielweber that he understands her frustration but he would have to advise the Village that this is not a battle they want to engage in nor would it win or a wise use of taxpayer money. It was agreed there is nothing that can be done in this situation. The committee agreed that our ordinance needs to be revised.

## A. OLD BUSINESS:

1. Approval of 1/9/08 Minutes: Trustee Rita Baker motioned to approve the January 9, 2008 minutes and Trustee Charlie Mattern seconded the motion. All voting aye, motion carried.

Legal and Ordinance Committee Meeting  
Wednesday, February 6, 2008  
Page 1 of 4



2. Material Requirements on Commercial Buildings: Dennis will work on revising Fairview Height's code and have a proposal published in the paper for public comment.
3. Status of Public Hazard Homes: Attorney Wigginton stated the Koesterer property is done. We are still negotiating on the engineering and legal fees on the W. Washington Street property. Sheets has hired another attorney on this case and had a conference call last week with both attorneys fighting over the fees in this case. Attorney Wigginton advised on 2 S. Monroe, we had proposed a deadline on the redevelopment of the lot and Sheets wants to wait until the weather improves. He received a letter from Sheets' attorney asking us to sell Sheets' our fence. Attorney Wigginton advised there has been no court precedence set for cases like this one (recovering costs before winning an order of demolition). Sheets' lawyers feel we shouldn't get the costs reimbursed because the Court never had to rule in our favor. Our position on this case is they would have never voluntarily demolished the building if we hadn't taken them to Court. We are looking at spending approximately an additional \$1,000 in legal fees. He expects a Motion to Dismiss to be filed and he will have to answer that. After discussion, the committee decided to continue trying to recoup the attorney fees, engineering and related costs on this case.
4. Nuisance Abatement Code: Copies of the updated nuisance abatement code were provided. The committee will review and talk about it at the next meeting.
5. Countryside Lane Annexations: Dennis has not heard from David Gass. Trustee Mattern stated he did not want to miss out on this opportunity. After discussion, the committee agreed to contact Gass, advise him that we will pay to run the line to the end of his lane. Dennis stated an annexation agreement should be signed before we lay any water pipe. We will need an annexation agreement for both Gass and Luechtefeld and have it stated in the annexation agreement that the water line installed within a reasonable time frame. Dennis has not talked to the U.S. Dept. of Agriculture. See discussion later on in meeting.
7. TIF Litigation: Attorney Wigginton advised we should have the amended development agreement by the end of the month and that we will need to go into Executive Session with the entire board once the committee has reviewed the agreement.
8. Stumpf lawnmower repair: Nothing new.

Trustee Mattern asked if Dennis had sent the letter to Rogers expressing the Village's interest in that property and he advised he had not.

Attorney Wigginton advised the only outstanding issue on the Dickerson case is a portion of the road needs to be vacated. He advised St. Clair County has not gotten back to them regarding the Special Assessment Ordinance. He said St. Clair County has sent a request to the State's Attorney's office on how to handle this issue. Steve advised the Kaiser issue is closed. The Emge suit was dismissed with prejudice which means that case can never be reopened again against us. Steve stated a letter was sent to the attorney regarding the unpaid utilities at 312 White Street. He filed a lien against the property and advised the attorney her client had foreclosed on the property and is the owner of the property and responsible for payment of the lien. Steve advised he talked to Attorney Jay Dowling about the sewer line being hit by the utility pole and that it needs to be directed to IDOT.



Steve talked to Watts' attorney regarding the 100% pay reimbursement issue. He pointed out the Public Employee's Disability Act to the attorney and believes that issue to be resolved.

Kevin brought up the information handed out about the appointment of the zoning administrator. It was agreed this should be an appointed position and the ordinance/code will be cleaned up.

Kevin stated he was happy to see the Estate of Ed Wilson come to a close. Pat Wilson accepted the insurance company's offer on the life insurance policy payout.

## **B. NEW BUSINESS:**

1. Subdivision Code: Dennis provided a proposed ordinance to change all new streets to concrete. He advised that this had been recommended by the Plan Commission and discussed in a previous meeting but was just now getting the ordinance to the committee. *Trustee Rita Baker motioned to recommend to the full Board the ordinance changing the subdivision street requirement from asphalt to concrete and Trustee Charlie Mattern seconded the motion.* All voting aye, the motion carried.

2. Underwood Direct TV Antenna: See public participation.

3. William Starnes: A copy of Starnes' response to Dennis' letter was attached. Dennis stated we do have complaints about the dogs and wanted Steve's advice on whether those can be released. Steve will check into this and get back to Dennis.

Trustee Mattern wanted to revisit the Gass water line topic. He said we need a way to recoup that value. The taps that we are allowing with the water line going in are for individual residents not for developers. He asked if there was a way to establish a tap fee based on the number of homes to be served. Steve said that can be handled through a reimbursement plan put into the annexation agreement. Steve said statute 65 ILCS 5/9 requires the property to be defined that is going to be the recapture area. The annexation agreement will be recorded and show up on the title insurance. Recapture agreements are only applicable to newly annexed property. Charlie wants to know if we can put the limits within a reasonable distance. Steve said we will just put in the annexation agreement that Gass will receive 1 free tap and Luechtefeld will receive 2 free taps and then put in there in the event the property is subdivided, then all lots that result from that subdivision shall be subject to an additional tap-on fee of \$\_\_\_\_\_ to recapture or reimburse the Village the funds they spent in extending the line. Steve will look into the limits issue.

Kevin brought up an issue mentioned to him by a couple of the other trustees, limiting how much time the attorney is at the regular board meeting. Kevin does not feel comfortable with the attorney not at the meetings. Dennis said the original discussion was to invite Steve to the meeting if we felt we were going to need him there but it is hard to predict that. Charlie questioned the status report and Steve advised he will start doing that and said he would like to get out here once in a while, but doesn't want to come here and say he doesn't have a report.



**C. GENERAL CONCERNS:** None.

**D. PUBLIC PARTICIPATION:** Janet asked if the attorney could be available by conference call during board meetings and Steve replied it would be hard to answer questions as he probably wouldn't have the files/information readily available.

**E. ADJOURN:** *Trustee Rita Baker motioned to adjourn the meeting at 6:43 p.m. and Trustee Charlie Mattern seconded the motion. All voting aye, the motion carried.*



Julie Polson  
Office Manager



**From Fairview Heights  
Building Code Revisions**

**EXTERIOR BUILDING MATERIAL AND DESIGN; BUSINESS AND INDUSTRIAL DISTRICTS.** Any building as defined in the Building Code, as adopted by **Article III**, which is located in a business or industrial district, shall have exterior finished walls and architectural design in accordance with the requirements of this Section.

(A)

**Design Guidelines.**

- (1) Building scale should reflect the particular use of the building with its size and massing compatible with existing, adjacent buildings.
- (2) Buildings should be sensitive to the style, period and scale and architectural style of neighboring properties.
- (3) Architectural design should create visual interest through textures, complimentary colors and attractive facades.
- (4) Where large structures are required, mass should be broken up through setbacks, building effects, varied heights and other design techniques.
- (5) Monotony of design in single and multiple building projects should be avoided.
- (6) Architectural treatments (e.g. building materials, colors, façade design, roof lines and screening) shall be consistent and compatible on all sides. The design of walls in a single color with little detailing or completely blank is discouraged.
- (7) Exterior mechanical, electrical, rooftop equipment, generators and other exterior equipment shall be screened.

(B)

**Construction Materials and Exterior.**

- (1) All exterior walls shall consist of a minimum of **sixty percent (60%)** glass and/or masonry materials (brick, natural clay, natural stone and architectural concrete units, excluding smooth-faced block except when used as an accent) on all sides. All concrete masonry units shall be integrally colored.
- (2) Other materials allowed include synthetic or cast stone, glass (may not exceed **fifty percent (50%)** of any façade area) metal for detailing, copper slate and E.F.I.S.
- (3) Other materials may be allowed upon review.
- (4) Visible exterior construction materials not allowed are: Plaster stucco; Synthetic materials (i.e. vinyl siding, vinyl wrapped details, vinyl gutters and downspouts); Plastics; Corrugated metal and aluminum siding; Unfinished concrete; Wood shingles; Rough sawn or treated lumber.

Exceptions:

- (1) Accessory buildings if otherwise permitted by Ordinance and approved by the Planning Commission;
- (2) Buildings specifically exempt from such requirement under provisions of a special permit as granted by the Council;
- (3) Any buildings legally existing on or for which building permits have been legally issued prior to the effective date of this Ordinance, or any reconstruction thereof or any alterations and expansion thereof, if reviewed by the Planning Commission and approved by City Council.

**From Marine  
Motor Vehicles in Residential District  
[A very big problem]**

**UNLAWFUL PARKING OF VEHICLES.** All vehicles parked in a residential district shall be parked on a street, a clearly delineated driveway or within a garage. At no time shall a motor vehicle be parked, stored or in any manner be placed on the front, side or rear yards or otherwise allowed to create a nuisance to adjoining property owners by placing the vehicle in areas other than herein provided.

**COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICT.** No more than **one (1)** commercial vehicle shall be parked, stored or housed within residential district. The commercial vehicle parked, stored or housed within a residential district must be owned by or assigned to the owner of the premises, where the vehicle is situated and shall be located on the owner's lot in the residential district. The vehicle must not exceed **seven (7) feet** in height and shall not be a semi-tractor and/or trailer, dump truck, front loader, bus, crane, tow truck or similar vehicle. The commercial vehicle shall be parked in the side or rear of a building so as to be screened from view from the public right-of-way as much as possible. Commercial vehicles shall not be parked on Village streets or public right-of-ways in a residential district whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. For the purpose of this Section, a commercial vehicle is a vehicle having been issued a "B" or a "D" license plate by the Secretary of State. All other commercial vehicles having greater than a "D" license plate shall not be parked, stored, or housed within a residential district.

## CHAPTER 151: NUISANCE ABATEMENT

Updated by AH

### Section

#### *General Provisions*

- 151.001 Establishment
- 151.002 Code Enforcement Officer

#### *Unsafe Structures and Equipment*

- 151.015 Condemnation of structures
- 151.016 Definitions

#### *Unfit or Unlawful Structures*

- 151.030 Structures unfit for occupancy
- 151.031 Definitions
- 151.032 Vacant structures

#### *Maintenance of Exteriors*

- 151.045 Applicability
- 151.046 Maintenance by owner
- 151.047 Vacant structure conditions
- 151.048 Exterior premises
- 151.049 Garbage storage containers
- 151.050 Stagnant water
- 151.051 Loading and delivery areas
- 151.052 Responsibility for extermination of pests
- 151.053 Responsibility for exterior areas
- 151.054 Weeds and lawns
- 151.055 Storage yards and areas
- 151.056 Discharges to adjacent property
- 151.057 Accessory structures
- 151.058 Exterior of structures
- 151.059 Sanitary conditions

#### *Notices; Posting Requirements*

- 151.070 Notice of violation
- 151.071 Service of notice
- 151.072 Condemnation order; vacation of premises
- 151.073 Non-compliance
- 151.074 Issuance of condemnation notice
- 151.075 Continued use of structure
- 151.076 Lifting condemnation notice
- 151.077 Emergency actions

### *Junk Vehicles*

151.090	Definition
151.091	Declaration of nuisance
151.092	Issuance of citation; exceptions
151.093	Multiple vehicles for sale
151.094	Unlawful sale without license
151.095	Enclosure of motor vehicles
151.096	Dismantling prohibited
151.097	Unlawful parking
151.098	Commercial vehicles in residential district
151.099	Recreational vehicles
151.100	Applicability

### *Violations, Penalties and Remedies*

151.115	Code violations
151.116	Non-compliance with order
151.117	Action by Board of Trustees
151.118	Time constraints
151.119	Commencement of court proceedings
151.120	Sale of structure and materials

### *Certificate of Occupancy*

151.135	Occupancy permit required
151.136	Application
151.137	Action on application
151.138	Issuance of permit
151.139	Conditional permit
151.140	Rejection of application
151.141	Suspension of permit
151.142	Revocation of permit
151.999	Penalty

### *GENERAL PROVISIONS*

**§ 151.001 ESTABLISHMENT.** This code establishes the minimum requirements for the initial and continued occupancy and use of all structures and premises, but does not replace or modify requirements otherwise established by prior codes, ordinances, the Housing Code and Building code, which may be additional or more stringent than the requirements set forth herein for the construction, repair, alteration or use of structures, equipment or facilities.

**§ 151.002 CODE ENFORCEMENT OFFICER.**

- A. It shall be the duty and responsibility of the appointed Building and Zoning/Code Enforcement Administrator, hereinafter referred to as “Administrator,” to enforce the provisions of the Nuisance Abatement Code as provided for herein.
- B. The Administrator shall have the following powers and duties under this code:
  - 1. To enforce all the provisions of the Nuisance Abatement Code;
  - 2. To issue all necessary notices and orders to abate illegal or unsafe conditions in order to ensure compliance with the Nuisance Abatement Code for the safety, health and general welfare of the public;
  - 3. To enter any non-residential or residential structure at any reasonable time for the purpose of making inspections and performing duties as provided for under the Nuisance Abatement Code;
  - 4. To seek from a court of competent jurisdiction an order against an owner, occupant or other person in charge of a premises to cease and desist in refusing, impeding, inhibiting or obstructing the free access by the Administrator to any part of a structure wherein inspection is sought;
- C. Every occupant of a non-residential structure or a premises shall give the owner, his or her agent or employee access to any part of the structure or its premises at reasonable times for the purpose of making inspections and such repairs as are necessary to comply with the provisions of this code
- D. The Administrator or his or her authorized representative shall disclose proper credentials of his or her respective office for the purpose of entering into any structure for the purpose of inspecting any and all building and premises in the performance of his or her duties pursuant to this code.
- E. Inspection of all premises, the issuance of notices and orders resulting from inspections and the enforcement of this code shall be the responsibility of the Administrator. However, if, in the opinion of the Administrator initiating an inspection under this code, he or she deems it necessary or desirable to have inspections by other departments of the village, the Administrator shall make reasonable effort to arrange for the coordination of additional inspections so as to minimize the number of visits by inspectors. The Administrator shall confer with the other departments conducting inspections for the purpose of eliminating conflicting orders or citations before any are issued. No department conducting inspections shall delay the issuance of any emergency orders which it determines must be issued for the purpose of conducting such a conference with other departments.

## *UNSAFE STRUCTURES AND EQUIPMENT*

### § 151.015 CONDEMNATION OF STRUCTURES.

- A. When any structure or part thereof is determined by the Administrator to be unsafe, or when a structure or part thereof is found unfit for human occupancy or use, or is found to be unlawful, it may be condemned pursuant to the provisions of this code and shall be posted with appropriate notice and vacated.
- B. It shall not be reoccupied without approval of the Administrator. Unsafe equipment located within a structure shall also be posed with appropriate notice and placed out of service upon posting.

§ 151.016 DEFINITIONS. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***EQUIPMENT.*** Equipment includes any boiler, heating unit, elevator, moving stairway, electrical wiring or device, air conditioning system, flammable liquid container or other type of equipment located within a structure or premises. Such equipment is unsafe when it is in such disrepair or condition that it is determined by the Administrator to be a hazard to life, health, property or safety of the public or the occupants of the structure or premises wherein the equipment is situated. *Unsafe equipment* may contribute to or be the cause of a finding that the structure wherein it is situated is unsafe or unfit for human occupancy or use.

***UNSAFE STRUCTURE.*** One in which all or part thereof is determined by the Administrator to be dangerous to life, health, property or the safety of the public, which includes its occupants, because it is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that it may partially or completely collapse.

### *UNFIT OR UNLAWFUL STRUCTURES*

§ 151.030 STRUCTURES UNFIT FOR OCCUPANCY. A structure is unfit for human occupancy or use whenever the Administrator finds that it is unsafe, unlawful or because of the degree in which it lacks maintenance or is in disrepair, is unsanitary, vermin or rat infested, contains filth and contamination or lacks proper ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code or any other code or ordinance. Furthermore, a structure may be unfit for human occupancy if its location constitutes a hazard to its occupants or to the public.

§ 151.031 DEFINITION. For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

#### ***UNLAWFUL STRUCTURE.***

- W/H to research →
- 1. One found in whole or in part to be occupied by more persons than is permitted by the village code.
  - 2. One determined to have been erected, altered or occupied contrary to the village code.

§ 151.032 VACANT STRUCTURES. If any structure or part thereof is vacant and unfit for human habitation, occupancy or use, but is not in danger of structural collapse, the Administrator

shall post a placard of condemnation on the premises and shall order the structure closed up so it will not be an attractive nuisance to the public. Upon failure of the owner to close up the premises within the time specified in the order, the Administrator shall cause the structure to be closed through any available public agency or by contract or arrangement with private persons or contractors. [The cost for closing up the structure shall be charged against the real estate upon which the structure is located and shall constitute a lien on such real estate.] special assessment(?) does it fit?

### **MAINTENANCE OF EXTERIORS**

**§ 151.045 APPLICABILITY.** The provisions of this subchapter shall govern the minimum conditions for maintenance of the exterior of property, premises and structures. Premises shall comply with the conditions herein prescribed insofar as they are applicable.

**§ 151.046 MAINTENANCE BY OWNER.** The owner of the premises or structure shall maintain the property in compliance with the requirements set forth herein. A person shall not occupy, as owner/occupant, or lease to another for occupancy or use, premises or structures which do not comply with the requirements of this code.

**§ 151.047 VACANT STRUCTURE CONDITIONS.** All vacant structures and vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause blight or to adversely affect the public health and safety. Penalty, see § 151.999

#### **§ 151.048 EXTERIOR PREMISES.**

- A. All exterior property areas and premises shall be maintained in a clean, safe and sanitary condition, free from any accumulation of rubbish or garbage.
- B. Storage of material must, at all times, be enclosed or screened from adjoining property and from public view so as not to be visible from adjoining property or from a public street. Penalty, see § 151.999

possible strike or replacement →

#### **Cross Reference:**

*Weeds, see 94.20 et seq.*

**§ 151.049 GARBAGE STORAGE CONTAINERS.** The owner, manager or operator of every establishment producing garbage, vegetable wastes or other putrescible materials shall provide, and at all times, cause to be used, leak-proof containers having close-fitting covers for storage of the materials until such time as they are removed from the premises for disposal. The storage containers shall be located behind or to the sides of a building. All storage containers which are greater than one yard in size located in commercial areas shall be screened from residential areas and residential streets so they are not visible. All storage containers which are greater than four yards in size located in residential areas shall be screened from view so as not to be visible from open areas.

**§ 151.050 STAGNANT WATER.** All premises shall be graded and maintained in such a manner so as to prevent the accumulation of stagnant water thereon. Penalty, see § 151.999

**§ 151.051 LOADING AND DELIVERY AREAS.** All loading and delivery areas, automobile service stations and drive-in food establishments shall be paved with bituminous, concrete or equivalent surfacing in accordance with § 155.250 and shall be free from dirt and other litter. The paved areas of the establishments shall be kept in good repair. Exterior lighting of

commercial establishments shall be installed in such a manner so as to avoid illumination of residential areas as much as possible. Penalty, see § 151.999

**§ 151.052 RESPONSIBILITY FOR EXTERMINATION OF PESTS.** An owner or manager of a structure or of property shall be responsible for extermination of insects, rats, vermin or other pests in all exterior areas of the premises, except that the occupant of a single-family dwelling shall be responsible for the extermination in the exterior areas of the premises. Whenever infestation exists in the shared or public parts of a premises or structure which is not a single-family dwelling, extermination shall be the responsibility of the owner, manager or operator of the premises or structure. Penalty, see § 151.999

**§ 151.053 RESPONSIBILITY FOR EXTERIOR AREAS.** All sidewalks, steps, driveways, parking spaces and similar paved areas privately owned, but used by the public, shall be free from mud and other debris. If any sidewalk or driveway, or portion thereof, by virtue of its state of disrepair shall constitute a danger to public health and safety, the sidewalk or driveway, or portion thereof, shall be repaired or replaced. Penalty, see § 151.999

**§ 151.054 WEEDS AND LAWNS.** All areas shall be kept free from weeds or wild plant growth. Lawns shall not exceed eight inches in height. Penalty, see § 151.999

*Cross-reference:*

*Weeds, see 94.20 et seq.*

**§ 151.055 STORAGE YARDS AND AREAS.**

- A. *Enclosure of storage yards.* All open storage yards and areas shall be completely obscured from view by surrounding property by a solid fence (such as wood or slatted chain link) not less than six feet in height. This section shall not apply to areas where licensed, registered motor vehicles that are in good, safe and operable condition are operated on a regular basis. In those areas, a fence of not less than six feet in height is required.
- B. *Nuisance.* Unsheltered storage of old, unused, stripped, junked and other motor vehicles not in good, safe and operable condition, and of any other vehicles, machinery, implement and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, which hereinafter are collectively described as "the personalty," for a period of 30 days or more, except in licensed junk yards, within the corporate limits of the village, is hereby declared to be a nuisance and dangerous to the public safety.
- C. *Abatement of nuisance by owners.* The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of the village upon which the storage is made, and also the owner, owners and/or lessees of the personalty involved in the storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate the nuisance by the prompt removal of the personalty into completely enclosed buildings authorized to be used for the storage purposes, if within the corporate limits of the village, or otherwise to remove it to a location outside the corporate limits.
- D. *Penalty for failure of owner to abate the nuisance.* If the owners allow the nuisance to exist or fail to abate the nuisance, the, and each of them, upon conviction thereof, shall be fined not less than \$50, nor more than \$500, for each offense and a separate offense shall be deemed committed on each day during or on which the nuisance is permitted to exist.

E. *Abatement by village.*

1. Whenever the owners fail to abate the nuisance, then the village shall remove the personalty to a location of its selection, the expenses therefore to be billed to the owners, jointly and severally, the bill to be recoverable in a suit at law.
2. When the personalty has been removed and placed in storage by the village, as provided for herein, the personalty shall be sold by the village after the lapse of time as is provided by law. If the proceeds of the sale are insufficient to pay the costs of abatement, the owners shall be liable to the village for the balance of the costs, jointly and severally to be recoverable in a suit at law. If the proceeds are in excess of costs, the balance shall be paid to the owners or deposited in the Village Treasury for their use. Penalty, see § 151.999

**§ 151.056 DISCHARGES TO ADJACENT PROPERTY.** No person shall construct, maintain or operate pipes, ducts, conductors, fans or blowers in a manner so as to discharge gases, steam vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property belonging to another. Penalty, see § 151.999

**§ 151.057 ACCESSORY STRUCTURES.** All accessory structures, including detached garages, fences and walls shall be maintained structurally sound and in compliance with the requirements for exterior structures set forth herein. Penalty, see § 151.999

**§ 151.058 EXTERIOR OF STRUCTURES.** The exterior of a structure or building shall be maintained structurally sound and sanitary so as not to pose a threat to the health and safety of the occupants or other members of the public and shall be maintained so as to protect the occupants from the elements

- A. *Structural members.* All supporting structural members of all structures and building shall be kept structurally sound, free of deterioration and maintained so as to be capable of safely bearing the dead and live loads located within the buildings and structures.
- B. *Maintenance of foundations.* Every foundation, exterior wall, roof and all other exterior surfaces shall be maintained in a workmanlike state of maintenance and repair.
- C. *Foundation walls.* All foundation walls shall be maintained so as to carry the safe design and support the operating dead and live loads of the building or structure. The foundations shall be maintained plumb and free from open cracks and breaks and be kept in a state of repair so as not to be detrimental to individual safety and welfare of citizens.
- D. *Exterior walls.* All exterior walls shall be free of holes, breaks, cracks, loose or rotting boards or timbers and shall be free of any other conditions of disrepair which might admit rain, dampness or wind to the interior portions of the walls or to the occupied spaces within a building. All exterior surface materials, including wood, composition or metal siding shall be maintained weatherproof and shall be properly surface coated where necessary in order to prevent deterioration.
- E. *Roofs and roof drainage.* Roofs of all buildings and other structures shall be structurally sound and shall not have defects which might admit moisture. Roof drainage shall be such so as to prevent rainwater and other types of moisture from causing dampness in the walls or the interior portion of any building or structure.
- F. *Maintenance of cornices.* All cornices entablatures, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair and shall be properly anchored to a building or structure so as to be in a safe condition.
- G. *Maintenance of overhang extensions.* All canopies, marquees, signs, metal awnings, fire escapes, standpipes, gutters and downspouts, exhaust ducts and similar overhang

extensions shall be maintained in good repair and be properly anchored so as to be kept in a safe and secure condition. They shall be protected from the elements and against decay and rust by the periodic application of a weather-coating material such as paint or by application of other protective treatment material.

- H. *Chimneys and appurtenances.* All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe, sound and in a good state of repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials such as paint or by treatment of a similar substance.
- I. *Stairway, porch and balcony.* Every stair, stairway, porch, balcony and all appurtenances attached thereto shall be so constructed and maintained so as to be safe to use and capable of supporting the loads to which it is subjected. They shall be kept in a sound condition and in good repair.
- J. *Windows and doors.* Every window, door and frame shall be constructed and maintained in relation to the adjacent wall construction so as to prevent rain and other types of moisture and wind from penetrating the interior of the dwelling or structure. Every window sash shall be treated with approved glazing materials and shall be free of cracks and holes. Penalty, see § 151.999

#### **§ 151.059 SANITARY CONDITIONS.**

- A. Every occupant of a structure, building or part thereof shall keep that portion of the structure or premises which he or she occupies in a clean and sanitary condition.
- B. Every owner, manager or operator of a building containing two or more dwelling units shall maintain the shared or public areas of the building in a clean and sanitary condition.
  - 1. *Disposal of rubbish.* Every occupant of a structure or building shall dispose of all rubbish in a clean and sanitary manner by placing it in rubbish containers equipped with tight-fitting covers.
  - 2. *Garbage disposal facilities.* Every occupant of a structure or part thereof shall dispose of garbage in a clean and sanitary manner by placing it in garbage disposal facilities or, if the facilities are not available, by removing all non-burnable matter and securely wrapping the garbage and placing it in tight garbage storage containers or by disposing the garbage in a manner as may be approved by the village code or other ordinances.
  - 3. *Placement of garbage.* Rubbish and garbage shall not be placed on the front property line for pick-up by the disposal service more than 24 hours prior to the time such pick-up will occur.
  - 4. *Building requirements for garbage.* Every building shall be supplied with an approved garbage disposal facility such as a mechanical sink grinder to be located within each dwelling unit or with approved outside garbage can or cans as required by this code. The facilities shall be sufficient to meet the needs of the occupants. Outside storage shall be screened on all sides so as not to be visible to adjoining residential structures.
  - 5. *Approved containers.* Every structure shall have adequate approved containers and covers for storage of rubbish and the owner, operator, manager or agent in control of a building shall be responsible for the removal of the rubbish.
  - 6. *Non-residential structure.* The owner or occupant of a non-residential structure or part thereof shall keep the equipment and fixtures located therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in

the proper use, operation and maintenance of the equipment and fixtures. Penalty, see § 151.999

### ***NOTICES; POSTING REQUIREMENTS***

#### **§ 151.070 NOTICE OF VIOLATION.**

- A. Whenever the Administrator determines there has been a violation of this code or has reasonable grounds to believe that a violation has occurred or whenever the Administrator has condemned a structure or equipment under the provisions of this code, notice shall be given to the owner or the person or persons responsible in the manner as prescribed below.
- B. If the administrator has condemned the property or part thereof, he or she shall give notice to the owner and the occupants of his or her intent to post the property, to order equipment out of service and that the occupants vacate the premises.
- C. The notice shall:
  - 1. Be in writing;
  - 2. Include a description of the real estate sufficient for identification;
  - 3. Include a statement of the reason or reasons why it is being posted; and
  - 4. Include a correction order allowing a reasonable time for the repairs and improvements required to bring the structure into compliance with the provisions of this code and other applicable codes and ordinances.

#### **§ 151.071 SERVICE OF NOTICE.**

- A. Service of the notice required in the previous section shall be deemed to be properly served upon the owner if a copy is delivered to the owner personally or by leaving a copy of the notice at the usual place of the owner's abode with someone residing there of suitable age and discretion who shall be informed of the contents of the notice. Notice can also be served by certified or registered mail, return receipt requested, addressed to the owner at his or her last known address.
- B. In addition to the forms of service specified above, notice when the structure is condemned must also include posting a copy of the notice in a conspicuous place in or about the structure affected by the notice and at least one publication of the notice in a local newspaper of general circulation within the village.

#### **§ 151.072 CONDEMNATION ORDER; VACATION OF PREMISES.**

- A. When a condemnation order is served on an occupant other than the owner or person responsible for compliance, a reasonable time to vacate the property after non-compliance shall be allowed and stated in the order.
- B. Owners or persons responsible for compliance, however, must vacate at the time set as a deadline for correction of defects if there is a failure of compliance.

**§ 151.073 NON-COMPLIANCE.** Penalties for non-compliance of orders and notices shall be in accordance with §§ 151.115 through 151.120.

#### **§ 151.074 ISSUANCE OF CONDEMNATION NOTICE.**

- A. When the condemnation notice required under the provisions of this code has been given and time allowed for repairs has expired without compliance, the Administrator

shall post on the premises or structure or parts thereof, or on defective equipment, a placard bearing the words:

**“CONDEMNED AS UNFIT FOR HUMAN OCCUPANCY OR USE”**

- B. A statement of the penalties provided for any occupancy or use or for removing the placard shall be noted on that placard. The owner, or the person or persons responsible for the correction of violations, shall remove himself or herself from the property for his or her failure to comply with the correction order in the time specified. However, other occupants of the property shall be given a reasonable amount of time thereafter to vacate.

**§ 151.075 CONTINUED USE OF STRUCTURE.** Any person who shall occupy a posted premises or structure or part thereof or shall use posted equipment and any owner or person responsible for the premises who shall let anyone occupy a posted premises shall be subject to the penalties provided for herein. Penalty, see § 151.999

**§ 151.076 LIFTING CONDEMNATION NOTICE.** The Administrator shall remove the condemnation card whenever the defect or defects upon which the condemnation and posting action were based have been eliminated. Any person who defaces or removes a condemnation card without the approval of the Administrator shall be subject to the penalties provided for herein. Penalty, see § 151.999

**§ 151.077 EMERGENCY ACTIONS.** Whenever an Administrator finds that an emergency exists on any premises, or in any structure or part thereof, or on any defective equipment which requires immediate action to protect the public's health and safety or the health and safety of the occupants therein, the Administrator shall, with proper notice and service in accordance with the provisions stated herein, issue an order reciting the existence of an emergency and requiring the vacating of the premises or the taking of such other action as the Code Enforcement Administrator deems necessary to meet an emergency. Notwithstanding other provisions of this code to the contrary, the order shall be effective immediately and the premises or equipment involved shall be posted immediately upon service of the order. A copy of that order shall be delivered to the Mayor and members of the Village Board immediately after it is issued.

***JUNK VEHICLES***

**§ 151.090 DEFINITION.** For the purposes of this subchapter, the following definition shall apply unless the context clearly indicates or requires a different meaning.

***JUNK VEHICLE.***

1. Any vehicle which is without a current valid license plate and/or is in a rusted, wrecked, discharged, dismantled, partly dismantled, inoperative or abandoned condition. A ***JUNK VEHICLE*** is also a motor vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power.
2. A ***JUNK VEHICLE*** shall be classified as to its condition in one of the two following categories:

- a) **RESTORABLE.** A junk vehicle that is in a condition whereby repairs to it could be made to place it in operating condition without exceeding its estimated value when repaired. One restorable vehicle shall be allowed on a lot located in a residential area provided that it is enclosed within a garage structure.
- b) **WRECKED.** A junk vehicle in such a condition that it is economically unsound to restore it to operating condition considering the cost of repairs to be made, age of the vehicle, market value of the vehicle if it were restored or if, in the opinion of the Administrator, it is determined that such a classification for the vehicle is warranted. A wrecked vehicle shall not be allowed to remain or be stored on any parcel within a designated residential area.

***Cross-reference:***

*Abandoned and Inoperable Vehicles, see Chapter 92*

**§ 151.091 DECLARATION OF NUISANCE.** All junk vehicles, whether on public or private property and in view of the general public, are hereby declared a nuisance, and any person who violates any provision of this code pertaining thereto or who fails to obey a notice which states that such person is to dispose of that vehicle under his control shall be subject to the fines and penalties as provided for in §§ 151.115 through 151.120.

**§ 151.092 ISSUANCE OF CITATIONS, EXCEPTIONS.** After ten days from the issuance of a citation, members of the Police Department may enter upon public or private property and remove any junk vehicle, or parts thereof, for the purpose of disposing of same. The cost(s) for the removal shall be paid by the owner of the property. However, nothing in this section shall apply to any motor vehicle that is kept within a building, nor does this section apply to operable historic vehicles over 25 years of age, or to a motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles.

**§ 151.093 MULTIPLE VEHICLES FOR SALE.** The offering of two or more motor vehicles for sale at the same time on private property located within a residential area is prohibited. At no time and under no circumstances is the offering for sale of a junk vehicle or the sale of vehicle parts permitted in open areas on private property unless the property upon which it is situated is licensed by the village to permit such sale. For the purpose of this section, a "for sale" sign posted upon or adjacent to a motor vehicle constitutes an offering for sale and is prohibited unless specifically allowed herein. Penalty, see § 151.999

**§ 151.094 UNLAWFUL SALE WITHOUT LICENSE.** Except as permitted by this code, it shall be unlawful to offer for sale any vehicle at any location unless the location is licensed by the village to permit such a sale. The owner of the vehicle, as well as the owner of the property upon which it is located, shall be liable for any violations of this code which pertain thereto. Penalty, see § 151.999

**§ 151.095 ENCLOSURE OF MOTOR VEHICLES.** Unless otherwise provided herein, all unregistered, inoperable or junk motor vehicles shall be garaged when in a residential district.

**§ 151.096 DISMANTLING PROHIBITED.** Unless otherwise provided for herein, no motor vehicle which is in a state of major disassembly, disrepair or which is being stripped or dismantled shall be permitted on any property located within a residential or a non-residential district unless the property is licensed for the use. The major repair or demolition of motor vehicles shall not be permitted in residential areas. Penalty, see § 151.999

**§ 151.097 UNLAWFUL PARKING.**

- A. All vehicles parked in a residential district shall be parked on a street, a clearly delineated driveway or within a garage.
- B. At no time shall a motor vehicle be parked, stored or in any manner be placed on the front, side or rear yards or otherwise allowed to create a nuisance to adjoining property owners by placing the vehicle in areas other than herein provided. Penalty, see § 151.999

**§ 151.098 COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICT.**

- A.
  - 1. No more than one commercial vehicle shall be parked, stored or housed within a residential district.
  - 2. The commercial vehicle parked, stored or housed within a residential district must be owned by or assigned to the owner of the premises where the vehicle is situated and must be located on the owner's lot in the residential district.
  - 3. The vehicle must not exceed seven feet in height and shall not be a school bus, tractor, trailer, dump truck, front loader, crane, tow truck or similar vehicle.
  - 4. The commercial vehicle shall be parked to the side or rear of a building on a clearly delineated driveway so as to be screened from view from the public right-of-way as much as possible.
  - 5. For the purpose of this section, the following definition shall apply unless the context clearly indicates a different meaning.

**COMMERCIAL VEHICLE.** A vehicle having been issued a "B" or a "D" license plate by the Secretary of State. All other commercial vehicles having greater than a "D" license plate shall not be parked, stored or housed within a residential district.

- B. No refrigerated truck or trailer shall be parked within the village between the hours of 10:00 p.m. and 6:00 a.m. with the refrigeration unit in operation, except where the units are parked in parking areas specifically designed and established for group parking of the units or where the units are parked within properly zoned business districts and where the noise from the vehicles is not audible in adjacent residentially zoned districts.
- C. No diesel powered truck or trailer shall be parked within the village between the hours of 10:00 p.m. and 6:00 a.m. with the engine running, except where the units are parked in parking areas specifically designed and established for group parking of the units or within properly zoned business districts and where the noise from the vehicles is not audible in adjacent residentially zoned districts. Penalty, see § 151.999

**§ 151.099 RECREATIONAL VEHICLES.** The provisions of this code shall not be construed to amend or alter any provisions contained in other codes or ordinances regulating the parking and/or storing of recreational vehicles.

**§ 151.100 APPLICABILITY.** All provisions of this code shall apply to trailers and towable vehicles.

## ***VIOLATIONS, PENALTIES AND REMEDIES***

**§ 151.115 CODE VIOLATIONS.** It shall be unlawful for any person to erect, construct, alter, extend, repair, remove, demolish, use or occupy any structure or equipment regulated by this code when the conduct is contrary to or in conflict with or in violation of any of the provisions stated herein.

### **§ 151.116 NON-COMPLIANCE WITH ORDER.**

- A. In case any violation order is not promptly complied with, the Administrator may request the Village Board to direct the village's legal representative to institute an appropriate action or proceeding in a court of competent jurisdiction to collect the penalties provided for in § 151.999(A)
- B. Furthermore, subject to the provisions set forth in ILCS Chapter 65, Act 5, § 11-31-1, the Administrator may ask the Village Board to authorize the village's legal representative to proceed at law or in equity against the person responsible for the violation for the purpose of ordering that person:
  - 1. To restrain, correct or remove the violation or refrain from any further work at that structure(s);
  - 2. To restrain or correct the erection, installation or alteration of the structure(s);
  - 3. To require the removal of work in violation of any provision of this code; or
  - 4. To prevent the occupation or use of the structure or part thereof erected, constructed, installed or altered in violation of or not in compliance with the provisions of this code or which is in violation of a plan or specification of which an approval, permit or certificate was issued by the village.

### **§ 151.117 ACTION BY BOARD OF TRUSTEES.**

- A. Subject to the provisions of ILCS Chapter 65, Act 5, § 11-31-1, the Administrator may recommend to the Village Board that it direct the owner of the premises upon which is located any structure or part thereof, which, in the Administrator's judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, to raze and remove a structure or part thereof.
- B. Furthermore, the Village Board may direct the owner of a premises to repair, make safe and make sanitary a structure if it can be repaired or to raze and remove the structure at the owner's option.
- C. The Village Board may also direct the owner of the premises to demolish a structure where there has been a cessation of normal construction of the structure for a period of more than two years and the unfinished structure is so deteriorated that it warrants demolition.

### **§ 151.118 TIME CONSTRAINTS.**

- A. The order from the Village Board shall specify a time in which the owner shall comply therewith and specify repairs, if any, to be made. It shall be served on the owner of record, or an agent where an agent is in charge of the building and upon the holder of any encumbrance of record in the manner provided for service of a summons by a court of record. If the owner or a holder of the encumbrance of record cannot be found, the order may be served by posting it on the main entrance of the

building and by publishing it once each week for three successive weeks in a newspaper of general circulation within the village.

- B. An extension of time to comply with an order of repair or demolition issued by the Village Board may be requested by the owner from the Village Board by filing the requests with the Village Clerk within five days of receipt by the owner of the notice of repair or demolition.

#### **§ 151.119 COMMENCEMENT OF COURT PROCEEDINGS.**

- A. In the event the owner of the premises fails or refuses to comply with the order of the Village Board, the Village Board may direct the Village Attorney to commence court proceedings in accordance with ILCS Chapter 65, Act 5, § 11-31-1 to authorize the demolition or repair of the structure.
- B. The requirements and provisions of ILCS Chapter 65, Act 5, § 11-31-1 are incorporated herein by reference, shall be strictly complied with and shall supersede and take precedence over any provisions of this code or ordinances which are in conflict therewith.

**§ 151.120 SALE OF STRUCTURE AND MATERIALS.** When any structure has been razed and removed, the Village Board, or its designated officer under a contract or arrangement for removal, may sell the salvageable and valuable materials at the highest price obtainable. The net proceeds of such a sale, after deducting the expenses of the razing and removal, shall be promptly remitted to the Village Clerk with a report of a sale transaction, including the items and the amount deducted for the benefit of any person, firm or corporation entitled to reimbursement for the expenses. The report to be submitted shall so state if there are no sale proceeds remaining to be remitted.

### *CERTIFICATE OF OCCUPANCY*

#### **→ § 151.135 OCCUPANCY PERMIT REQUIRED.**

- A. It shall be unlawful for any person, owner or agent thereof to occupy or use, or to permit the occupancy or use of any single or multi-family dwelling unit for any purpose including the movement of furniture, equipment or other personal property into the premises until a permit of occupancy has been issued by the Administrator. The certificate so issued shall state the occupancy complies with all of the provisions of this code as far as can be determined by a visual inspection of the premises and a review of the records.
- B. The fee for the occupancy permit/final inspection shall be \$15 for each dwelling unit or building, or portion thereof, occupied. If an inspection certificate has been issued, then an occupant may move in on weekends and holidays when the department, responsible for issuing occupancy permits, is closed. The occupant is required to obtain the permit written three days after the Department is open.

**§ 151.136 APPLICATION.** It shall be unlawful for any person to knowingly make any false statements on an application for an occupancy permit for a dwelling unit as to the names, relationship or number of occupants who will occupy the dwelling unit. Penalty, see § 151.999

**§ 151.137 ACTION ON APPLICATION.**

- A. The Administrator shall examine, or cause to be examined, all applications for permits within a reasonable time for filing. He or she shall cause the premises to be inspected within seven working days after filing. If the premises are not inspected within seven working days, then the permit and certificate of compliance shall be automatically issued without an inspection. If the premises are not in compliance with this code and all laws and ordinances applicable thereto, the Administrator shall provide the applicant with a list of defects that are not in compliance. The defects shall be listed with as much as specificity as possible. The owner or occupant of every dwelling unit and its premises shall give the Administrator free access thereto, at all reasonable time, for the purpose of the inspection. An inspection shall be valid for a period of one year. The dwelling unit does not have to be reinspected during the year, even if the occupancy changes. There shall be no fee for the original inspection, or the first reinspection, if necessary.
- B. A reinspection shall be made within seven working days after a written request for reinspection has been made to the Administrator. If the premises are not reinspected within the seven working days, from receipt of the written request, then the permit and certificate of compliance shall be automatically issued without a reinspection. If specific defects are found in the original inspection, the Administrator shall not require additional defects to be corrected that were discovered on a reinspection unless the new defects occurred after the original inspection.
- C. There shall be a fee of \$50 for every reinspection after that first one.
- D. No inspection shall be required under this subchapter for a dwelling unit that is less than five years of age.

**§ 151.138 ISSUANCE OF PERMIT.** If all the fees are paid and the Administrator is satisfied that the premises and its occupancy are in compliance with this code and all laws and ordinances applicable thereto, the Administrator shall issue the occupancy permit as soon as practicable.

**§ 151.139 CONDITIONAL PERMIT.**

- A. Occupancy shall be permitted on a conditional basis when in the judgment of the Administrator practical difficulties interfere with completing all repairs required to bring the premises into full compliance with this code prior to permitting occupancy.
- B. However, no conditional permit shall be issued when there is a condition on the premises which can threaten the health or safety of an occupant.
- C. No conditional permit shall be issued under the provisions of this code for which a change in use is proposed unless a certificate of use and occupancy has first been issued under the provisions of the Building Code and/or Zoning Code.

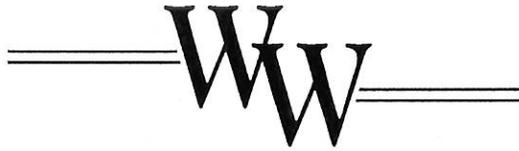
**§ 151.140 REJECTION OF APPLICATION.** If the application does not comply with the requirements of all pertinent laws, the Administrator shall reject the application in writing, stating the reasons therefore.

**§ 151.141 SUSPENSION OF PERMIT.** Any permit issued shall become invalid if the occupancy is not commenced within six months after issuance of the permit or if the occupancy is terminated.

**§ 151.142 REVOCATION OF PERMIT.** The Administrator may revoke a permit in cause of any false statement or misrepresentation of facts in the application on which a permit was based, or in the event a structure or part thereof is condemned pursuant to this code.

**§ 151.199 PENALTY.**

- A. Any person, upon conviction of violating any provisions of this code, shall be fined not less than \$50, nor more than \$750 for each violation. The Administrator is authorized to issue a citation for each day that a violation continues after due notice has been served and each citation shall be deemed a separate and distinct offense.
- B. Any person, upon conviction of violating § 151.098, shall be fined \$250 for each violation.
- C. Any owner or occupier of any premises violating §§ 151.135 through 151.142 shall, upon conviction, be fined \$100. Each day an occupancy continues without complying with this code shall be considered a separate offense and is subject to a separate fine.



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February 21, 2008

Mr. Dennis Herzing  
Village Administrator  
Village of Freeburg  
Freeburg Municipal Center  
14 Southgate Center  
Freeburg, IL 62243

RECEIVED  
FEB 26 2008

**Re: Request by William B. Starnes for Names and Addresses  
of Persons Complaining to Freeburg About Barking Problems**

Dear Dennis:

The purpose of this letter is to provide you with a legal opinion as to whether the Village is obligated to provide Mr. Starnes with names and addresses of individuals who complained to the Village about barking problems. It is my opinion that the Village is under no obligation to provide this information to Mr. Starnes since the information is expressly exempted under the Illinois Freedom of Information Act.

Section 3 of the Freedom of Information Act provides that every public body shall make available all public records to any person for inspection and copying except as otherwise provided in Section 7.

Section 7 specifies certain exemptions from inspection and copying, including the following:

- (b) Information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless such disclosure is consented to in writing by the individual subjects of such information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of privacy. Information



Mr. Dennis Herzing  
February 21, 2008  
Page Two

exempted under this subsection (b) shall include but is not limited to

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- (v) Information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies."  
5 ILCS 140/7.

Accordingly, it is my opinion that the only way the Village would be able to provide the requested information to Mr. Starnes is if the individuals who made the complaints with the Village Police Department consented to their names and addresses being disclosed to Mr. Starnes in writing.

I have enclosed a copy of the relevant section of the Freedom of Information Act for your review.

If you have any other questions or concerns, please feel free to contact me.

Sincerely,

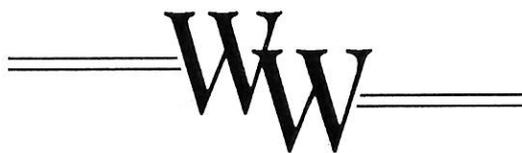
WEILMUNSTER & WIGGINTON

By: \_\_\_\_\_

STEPHEN R. WIGGINTON

SRW:kh  
Enclosure  
cc: Mayor Ray Danford





**WEILMUNSTER & WIGGINTON, P.C.**

ATTORNEYS AT LAW

wwlaw1.com

J. BRIAN MANION\*  
E-Mail: jbm@wwlaw1.com

\*Licensed in Illinois and Missouri

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February 28, 2008

Mr. Dennis Herzing  
Village of Freeburg  
Freeburg Municipal Center  
14 Southgate Center  
Freeburg, IL 62243

**Re: Dickerson v. Village of Freeburg  
SCC Case No. 05-MR-167**

Dear Dennis:

Enclosed please find an Ordinance to Vacate Temple Street. As you will see, attached to the Ordinance are two deeds. One deed conveys the northern half of the Temple Street right-of-way (25 feet wide) to Joyce Dickerson with a permanent easement reserved to the Village. The other deed vacates and conveys the southern twenty-five feet of the right-of-way to Richard Dambacher.

It is my understanding that the portion of Temple Street to be vacated lies within the corporate limits of Freeburg and therefore a public hearing is not necessary for the Board to vote on this ordinance. If I am mistaken, and this portion of Temple Street does not lie within the corporate limits, please contact me so that we can discuss the requirements of the necessary public hearing.

Please place this ordinance on the agenda at the next Village Board Meeting. Also, Julie can stamp these as being exempt under the Real Estate Transfer Tax Act.

Mr. Dennis Herzing  
February 28, 2008  
Page Two

If you have any questions, please feel free to contact me.

Sincerely,

WEILMUNSTER & WIGGINTON, P.C.

BY:   
J. BRIAN MANION

JBM:kh

Enclosures

cc: Mayor Ray Danford (w/enc.)  
Steve Wigginton (w/enc.)  
Jay Dowling (w/enc.)

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ALLOWING THE VILLAGE OF FREEBURG, ILLINOIS, TO  
VACATE A PORTION OF A PUBLIC STREET COMMONLY KNOWN AS  
TEMPLE STREET, FREEBURG, ILLINOIS**

WHEREAS, at least three-fourths of the trustees holding office in the Village of Freeburg, St. Clair County, Illinois believe that the public interest will be served by vacating an unused, unopened portion of the public street commonly known as Temple Street because the Village will be relieved from the further burden, responsibility and potential liability of maintaining the property.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD  
OF TRUSTEES OF THE VILLAGE OF FREEBURG, ILLINOIS:**

SECTION 1. The Village of Freeburg hereby vacates a portion of the public streets known as Temple Street, as more particularly described as follows:

PUBLIC RIGHT-OF-WAY BEING VACATED

That part of the Temple Street right-of-way (50' Wide) lying between the east right-of-way line of Potter Street and the east line of the vacated Walnut Street right-of-way, being part of Mill Addition to Urbanna (now the Village of Freeburg) recorded in Book of Deeds "K2", Page 256 & Book of Plats "A", Page 64 St. Clair County, Illinois.

As depicted on the plat attached hereto and incorporated herein as Exhibit "A".

PERMANENT EASEMENT BEING RESERVED

A Permanent Easement is reserved across the North twenty-five (25.0) feet of the Temple Street right-of-way being vacated, said easement extending from the easterly line of the Potter Street right-of-way to the easterly line of vacated Walnut Street right-of-way. Said Easement having been recorded in Book of Deeds 2766, Page 1528, St. Clair County, Illinois.

The Northern twenty-five (25.0) feet of the right-of-way shall be vacated to the abutting property owner, Alyce Dickerson a/k/a Joyce Dickerson, with a Permanent Easement reserved to

the Village of Freeburg, pursuant to the Vacation Deed attached hereto and incorporated herein as Exhibits "B." The Southern twenty-five (25.0) feet of the right-of-way shall be vacated to the abutting property owner, Richard Dambacher, pursuant to the vacation deed attached hereto and incorporated herein as Exhibits "C."

SECTION 2. SIGNING AND RECORDING. The Mayor is directed to execute and the Village clerk to attest all documents necessary to effectuate said vacation and the clerk shall cause this ordinance and vacation deed to be recorded with the St. Clair County Recorder of Deeds.

SECTION 3. PASSAGE. This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Those voting aye: \_\_\_\_\_  
Those voting nay: \_\_\_\_\_  
Those absent: \_\_\_\_\_

Dated: \_\_\_\_\_, 2008.

APPROVED:

By: \_\_\_\_\_  
Ray Danford., Mayor,  
Village of Freeburg, Illinois

ATTEST:

\_\_\_\_\_  
Jerry Menard, Clerk  
Village of Freeburg, Illinois

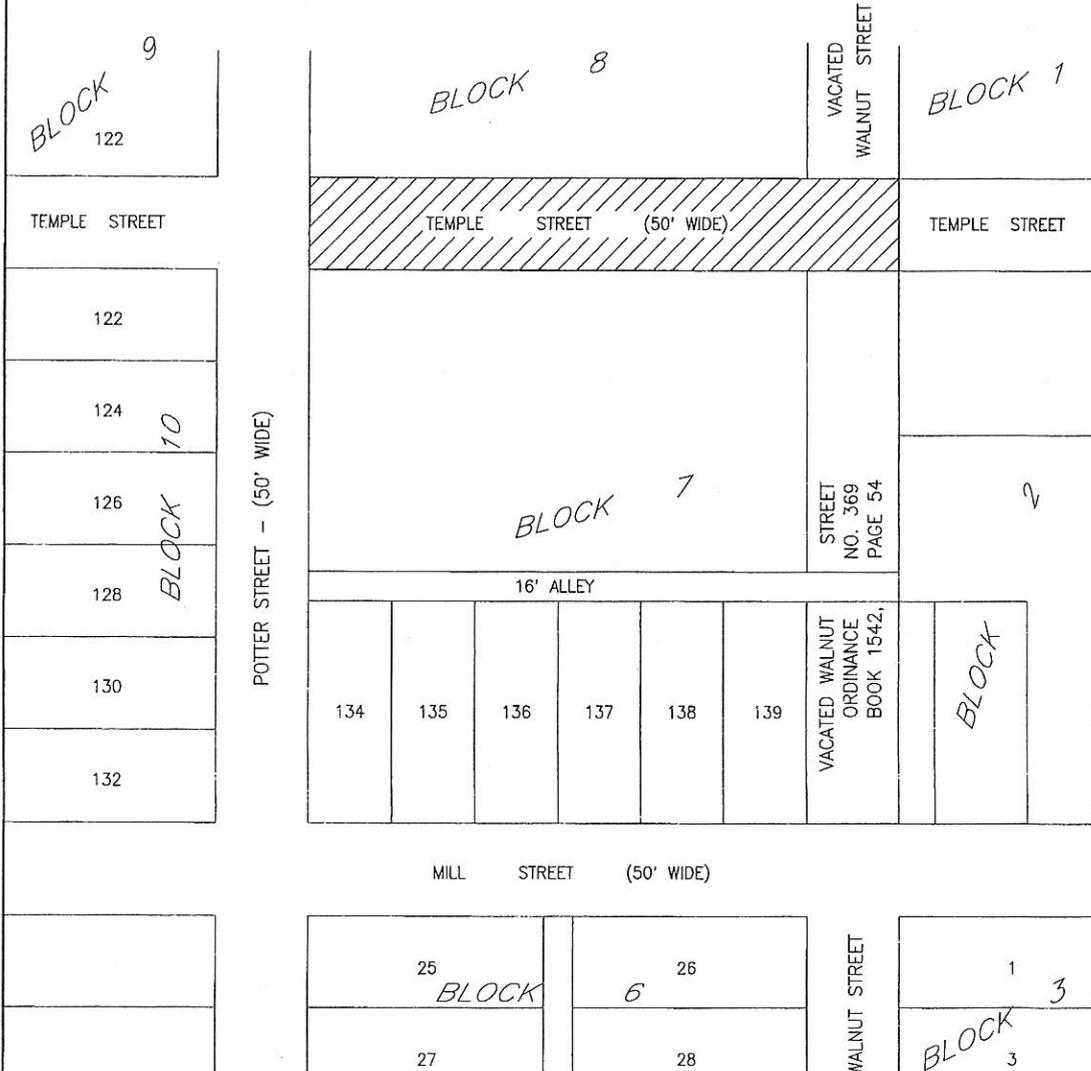
(SEAL)

# PLAT OF VACATION

ORDINANCE NO. \_\_\_\_\_

VILLAGE OF FREEBURG, ILLINOIS

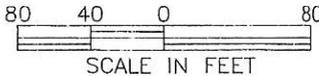
THAT PART OF THE TEMPLE STREET RIGHT-OF-WAY (50' WIDE) LYING BETWEEN THE EAST RIGHT-OF-WAY LINE OF POTTER STREET AND THE EAST LINE OF THE VACATED WALNUT STREET RIGHT-OF-WAY, BEING PART OF MILL ADDITION TO URBANNA (NOW THE VILLAGE OF FREEBURG) RECORDED IN BOOK OF DEEDS "K2", PAGE 256 & BOOK OF PLATS "A", PAGE 64 ST. CLAIR COUNTY, ILLINOIS



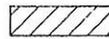
I DO HEREBY CERTIFY THAT THIS PLAT OF VACATION HAS BEEN PREPARED UNDER MY DIRECT SUPERVISION

**DRAFT**

GALE E. HAKE, I.P.L.S. NO. 2579 DATE \_\_\_\_\_  
 LICENSE EXPIRATION DATE: 11/30/2008



### LEGEND



PORTION OF TEMPLE STREET BEING VACATED

F:\30407 - Freeburg 2007 Surveys\temple street vacation.dwg, 9/25/2007 2:20:48 PM, Plotted by G.J.H.



**RHUTASEL and ASSOCIATES, INC.**  
 CONSULTING ENGINEERS • LAND SURVEYORS  
 FREEBURG, ILLINOIS CENTRALIA, ILLINOIS  
 (618) 539-3178 (618) 532-1992  
 IL LICENSE NO. 184-000287

EXHIBIT

A

# DEED OF VACATION

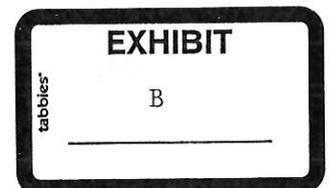
THE GRANTOR(S), Village of Freeburg, a municipal corporation, 14 Southgate Center, Freeburg, Illinois 62243, for and in consideration of Ten (\$10.00) Dollars and other good and valuable consideration in hand paid, VACATES and CONVEYS to Alyce Dickerson a/k/a Joyce Dickerson the following described Real Estate situated in the St. Clair County, Illinois, to wit:

The North twenty-five feet (25.0') of the Temple Street right-of-way (50' Wide) lying between the east right-of-way line of Potter Street and the east line of the vacated Walnut Street right-of-way, being part of Mill Addition to Urbanna (now the Village of Freeburg) recorded in Book of Deeds "K2", Page 256 & Book of Plats "A", Page 64 St. Clair County, Illinois.

A Permanent Easement is reserved across the North twenty-five (25.0) feet of the Temple Street right-of-way being vacated, said easement extending from the easterly line of the Potter Street right-of-way to the easterly line of vacated Walnut Street right-of-way, being part of Mill Addition to Urbanna (now the Village of Freeburg) recorded in Book of Deeds "K2", Page 256 & Book of Plats "A", Page 64 St. Clair County, Illinois. Said Easement having previously been recorded in Book of Deeds 2766, Page 1528, St. Clair County, Illinois.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BY: \_\_\_\_\_  
Raymond Danford, Mayor,  
Village of Freeburg, Illinois



STATE OF ILLINOIS            )  
  ) ss.  
COUNTY OF ST. CLAIR        )

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY THAT Raymond Danford, Mayor, City of Troy, Illinois, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he/she signed, seal and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
NOTARY PUBLIC

=====

**MAIL FUTURE TAX BILLS TO:**

Alyce Dickerson a/k/a Joyce Dickerson  
10152 Rieder Road  
Lebanon, IL 62254

**RETURN THIS DOCUMENT TO:**

Stephen R. Wigginton  
Weilmuenster & Wigginton, P.C.  
3201 W. Main Street  
Belleville, IL 62226

This Instrument was prepared by:

**Stephen R. Wigginton  
Weilmuenster & Wigginton, P.C,  
3201 West Main Street  
Belleville, IL 62226**

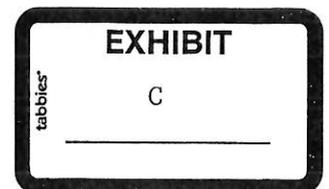
# DEED OF VACATION

THE GRANTOR(S), Village of Freeburg, a municipal corporation, 14 Southgate Center, Freeburg, Illinois 62243, for and in consideration of Ten (\$10.00) Dollars and other good and valuable consideration in hand paid, VACATES and CONVEYS to Richard Dambacher the following described Real Estate situated in the St. Clair County, Illinois, to wit:

The South twenty-five feet (25.0') of the Temple Street right-of-way (50' Wide) lying between the east right-of-way line of Potter Street and the east line of the vacated Walnut Street right-of-way, being part of Mill Addition to Urbanna (now the Village of Freeburg) recorded in Book of Deeds "K2", Page 256 & Book of Plats "A", Page 64 St. Clair County, Illinois.

DATED: This \_\_\_\_\_ day of \_\_\_\_\_, 2008.

BY: \_\_\_\_\_  
Raymond Danford, Mayor,  
Village of Freeburg, Illinois



STATE OF ILLINOIS            )  
  ) ss.  
COUNTY OF ST. CLAIR        )

I, the undersigned, a Notary Public in and for said County and State aforesaid, DO HEREBY CERTIFY THAT Raymond Danford, Mayor, City of Troy, Illinois, personally known to me to be the same person whose name is subscribed to the foregoing instrument, as having executed the same, appeared before me this day in person and acknowledged that he/she signed, seal and delivered the said instrument as his/her free and voluntary act for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
NOTARY PUBLIC

=====

**MAIL FUTURE TAX BILLS TO:**

Richard Dambacher  
609 North Main Street  
Freeburg, IL 62243

**RETURN THIS DOCUMENT TO:**

Stephen R. Wigginton  
Weilmuenster & Wigginton, P.C.  
3201 W. Main Street  
Belleville, IL 62226

This Instrument was prepared by:

**Stephen R. Wigginton**  
**Weilmuenster & Wigginton, P.C,**  
**3201 West Main Street**  
**Belleville, IL 62226**

