

VILLAGE PRESIDENT
Seth Speiser

VILLAGE CLERK
Jerry Menard

VILLAGE TRUSTEES
Ray Matchett, Jr.
Lisa Meehling
Mike Blaies
Tom Carpenter
Dana Miller
Robert Kaiser

VILLAGE TREASURER
Bryan A. Vogel

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
Matt Trout

PUBLIC WORKS DIRECTOR
John Tolan

POLICE CHIEF
Michael J. Schutzenhofer

ESDA COORDINATOR
Eugene Kramer

VILLAGE ENGINEER
Tim Pruett, P.E.

VILLAGE ATTORNEY
Weilmuenster Keck Brown, P.C.

THE PUBLIC CAN PARTICIPATE THROUGH THE ZOOM CLOUD MEETING APPLICATION AND CLICKING ON THE FOLLOWING LINK:

Join URL: <https://us02web.zoom.us/j/4478727673>

Meeting ID: 447 872 7673

We ask the public to mute their phone or mic until Public Participation
If you have any questions, please contact Matt Trout at mtrout@freeburg.com
Village Hall will be open to the public for this meeting

August 26, 2024

NOTICE

MEETING OF LEGAL AND ORDINANCE COMMITTEE

**Annexation; Building; Zoning; Subdivision
(Miller/Carpenter/Matchett/Meehling)**

A Legal and Ordinance Committee Meeting of the Village of Freeburg will be held at the Municipal Center, Executive Board Room, **Wednesday, August 28, 2024, at 5:45 p.m.**

LEGAL AND ORDINANCE COMMITTEE MEETING AGENDA

I. Items to be Discussed:

- A. Old Business
 - 1. Approval of July 24, 2024 Minutes
 - 2. Zoning Report/Nuisance Properties
 - 3. Development Update
 - 4. Despain Property
- B. New Business
 - 1. FOIA Requests
 - 2. Public Camping
- 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)]; collective negotiating matters between the public body and its employees or their representatives [5 ILCS, 120/2- (c)(2), real estate transactions [5 ILCS, 120/2 - (c)(5)]; discussion of executive session minutes, [5 ILCS-120/2-(c)(21)]; discussion of purchase or lease of real property for the use of the public body, [5 ILCS-120/2-(c)(5)]; or discussion of the setting of a price for sale or lease of property owned by the public body, [5 ILCS-120/2-c)(6)].

VILLAGE BOARD OF TRUSTEES MEETINGS ARE HELD ON THE FIRST AND THIRD MONDAY OF EVERY MONTH

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Legal and Ordinance Committee Meeting
(Annexation; Building; Zoning; Subdivision)
(Miller/Carpenter/Matchett/Meehling)
Wednesday, July 24, 2024 at 5:45 p.m.

The meeting of the Legal and Ordinance Committee was called to order at 5:55 p.m., by Chairperson Dana Miller on Wednesday, July 24, 2024. Members present were Chairperson Dana Miller, Trustee Tom Carpenter, Trustee Ray Matchett, Trustee Lisa Meehling (absent), Mayor Seth Speiser, Village Clerk Jerry Menard (absent), Trustee Mike Blaies, Trustee Bob Kaiser, Village Administrator Matt Trout, Village Engineer Tim Pruett, Police Chief Mike Schutzenhofer, Public Works Director John Tolan, Village Attorney Fred Keck (absent), and Office Manager Mary Downen. Guest present: Janet Baechle. There were no guests present via Zoom.

A. OLD BUSINESS:

1. Approval of May 29, 2024 Minutes: Trustee Tom Carpenter motioned to approve the May 29, 2024 minutes, and Trustee Ray Matchett seconded the motion. All voting yea, the motion carried.
2. Zoning Report/Nuisance Properties: Village Engineer Tim Pruett stated he receives calls daily regarding high weeds and grass.
3. Development Update: Tim said we are still waiting on the building permit for Scooters. He and Matt had a meeting with Covered Bridge. He said Covered Bridge is scheduling a meeting next week to discuss further and they have received a couple prices from water line contractors so they have a better idea of what it is going to cost them. Village Administrator Matt Trout added as they start progressing, we are going to need to have some serious conversations.
4. Despain Property: Tim stated he and Village Attorney Fred Keck are to meet with the attorney that was appointed by the insurance company.

B. NEW BUSINESS:

1. FOIA Request: Matt said these are the request for the last two months.
2. Annual Water Play Day: Matt said the fire department is having their annual water play day on August 4th. They would like to close down Main Street by the fire house for safety reasons. We have done this in the past. Need committee approval to do so.

Trustee Dana Miller motioned on August 4th the south end of South Main St. will be closed for the fire department to have their annual water day, and Trustee Ray Matchett seconded. All voting yea, the motion carried.

C. GENERAL CONCERNS: None.

Legal and Ordinance Committee Meeting
Wednesday, July 24, 2024

D. PUBLIC PARTICIPATION: Janet asked with Covered Bridge, would it be feasible to give an incentive for them to sign up at the beginning. Matt responded that would be up to Covered Bridge and that it doesn't really have anything to do with the Village of Freeburg.

E. ADJOURN: *Trustee Tom Carpenter motioned to adjourn at 6:19 p.m., and Trustee Mike Blaies seconded the motion. All voting yea, the motion carried.*



Mary Downen
Office Manager

	A	B	C
1	Party Requesting Information	FOIA Request	Date of Request
2	Dave Stein - FOIA Request 6	All FOIA requests from Eric Vasquez from 5/28/24 till present (7/8/24)	7/8/2024
3	Paige Seibel - Geneseo City	CBA's & Non-union wage scale documents	7/10/2024
4	Andrea Burton	Police Report/Supplemental Report	7/16/2024
5	Andrea Burton	Police Report	7/17/2024
6	Metropolitan Reporting	Police/Traffic Crash Report	7/19/2024
7	LexisNexis	Police/Traffic Crash Report	7/24/2024
8	Metropolitan Reporting Bureau	Police/Traffic Crash Report	7/26/2024
9	LexisNexis	Police/Traffic Crash Report	7/31/2024
10	LexisNexis	Police/Traffic Crash Report	7/31/2024

ORDINANCE NO. _____

**AN ORDINANCE REGULATING PUBLIC CAMPING WITHIN CORPORATE
BOUNDARIES AND OTHER ACTIONS IN CONNECTION THEREWITH**

FOR THE CITY/VILLAGE/TOWN OF _____

WHEREAS, estimates provide that, in 2020, there were approximately 10,431 Illinoisans experiencing homelessness. ILL. OFF. TO PREVENT & END HOMELESSNESS, ILL. DEP'T HUM. SERVS., HOME ILLINOIS: ILLINOIS' PLAN TO PREVENT AND END HOMELESSNESS (2022), available at <https://perma.cc/QV8K-3XGK>; and,

WHEREAS, a 2022 study by the United States (U.S.) Department of Housing and Urban Development estimated that 9,212 people were experiencing homelessness in Illinois in January 2022, with an estimated 20.6% of those homeless persons being unsheltered, meaning they have no form of shelter on which to rely. OFF. POL'Y DEV. & RSCH., U.S. DEP'T HOUS. & URB. DEV., PIT ESTIMATES OF HOMELESSNESS IN THE U.S. (2022), available at <https://www.huduser.gov/portal/sites/default/files/xls/2007-2022-PIT-Counts-by-State.xlsx>; and,

WHEREAS, the estimates provided by the U.S. Department of Housing and Urban Development “likely underestimate the size of the homeless population because identifying people experiencing homelessness is inherently difficult.” U.S. GOV'T ACCOUNTABILITY OFF., GAO-20-433, HOMELESSNESS: BETTER HUD OVERSIGHT OF DATA COLLECTION COULD IMPROVE ESTIMATES OF HOMELESS POPULATION (2020), available at <https://perma.cc/7ZUQ-U5CE>.

WHEREAS, the American Public Health Association has recognized homelessness as a public health issue, since research shows that homeless individuals (1) suffer “higher mortality rates and chronic disease loads” than non-homeless populations; (2) “overuse emergency services, leading to higher costs for treatment” for all persons; and, (3) with no form of shelter “can exacerbate conditions such as diabetes and hepatitis C” *Housing and Homelessness as a Public Health Issue*, Am. Pub. Health Ass'n (Nov. 7, 2017), <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue>; see also Bernard Beall et al., *Invasive Pneumococcal Disease Clusters Disproportionally Impact Persons Experiencing Homelessness, Injecting Drug Users, and the Western United States*, 226 J. Infectious Diseases 332 (2022), available at <https://doi.org/10.1093/infdis/jiac058>. (finding that “invasive pneumococcal disease” was “disproportionally represented” in the homeless population when compared against populations not experiencing homelessness); and,

WHEREAS, the U.S. Interagency Council on Homelessness has noted that people “who experience homelessness die nearly 30 years earlier than the average American—and often from easily treatable illnesses.” *Homelessness Data & Trends*, U.S. INTERAGENCY COUNCIL ON

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HOMELESSNESS, <https://www.usich.gov/guidance-reports-data/data-trends> (last visited July 15, 2024); and,

WHEREAS, the **City/Village/Town** of _____ (**City/Village/Town**) is a [home rule / non-home rule] Illinois municipality pursuant to the Constitution of the State of Illinois of 1970, as amended; and,

WHEREAS, pursuant to Section 1-1-4 of the Illinois Municipal Code (65 ILCS 5/1-1-4), the **City/Village/Town** has those powers conferred upon it by the Illinois Municipal Code; and,

WHEREAS, the Section 1-2-1 of the Illinois Municipal Code (65 ILCS 5/1-2-1), provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and,

WHEREAS, Section 1-2-1.1 of the Illinois Municipal Code (65 ILCS 5/1-2-1.1) empowers the corporate authorities of the municipality to pass ordinances to regulate any matter that is expressly within the powers granted to the municipality by making the violation a misdemeanor punishable by up to six (6) months of incarceration; and,

WHEREAS, Section 1-1-10 of the Illinois Municipal Code (65 ILCS 5/1-1-10) empowers the corporate authorities of the municipality to exercise all powers granted to it expressly, by necessity, by the Illinois Municipal Code, by Illinois statute, or by the Illinois Constitution; and,

WHEREAS, Section 11-20-5 of the Illinois Municipal Code (65 ILCS 5/11-20-5) empowers the corporate authorities of each municipality to “do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of diseases”; and,

WHEREAS, Section 11-60-2 of the Illinois Municipal Code (65 ILCS 5/11-60-2) empowers the corporate authorities of each municipality to define, prevent and abate nuisances; and,

WHEREAS, Section 3-102 of the Local Governmental and Governmental Employees Tort Immunity Act (745 ILCS 10/3-102) obligates the **City/Village/Town** to “exercise ordinary care to maintain public property in a reasonably safe condition.” *Bubb v. Springfield Sch. Dist.* 186, 167 Ill. 2d 372, 377 (1995) (citing 745 ILCS 10/3-102); and,

WHEREAS, the Local Governmental and Governmental Employees Tort Immunity Act generally immunizes municipalities from damages claims where the public property was not being used in the manner intended and permitted by the municipality. *See Wojdyla v. City of Park Ridge*, 148 Ill. 2d 417, 421–22 (1992) (*quoting* 745 ILCS 10/3-102(a)) (“Thus, for a pedestrian to be protected in the present circumstances by the statute, he must be an intended and permitted user of the property under the control of the city.”); and,

WHEREAS, in *City of Grants Pass, Oregon v. Johnson*, 603 U.S. ___, 144 S. Ct. 2202 (2024), the United States Supreme Court held that the criminalization of “public camping”, as defined in the City of Grants Pass’s ordinance, did not unconstitutionally infringe on the Eighth Amendment rights of homeless and otherwise unhoused persons within said City; and,

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WHEREAS, in *Johnson*, the United States Supreme Court acknowledged that homelessness is a “complex and serious social issue” whose “causes are many” and which “cries out for effective responses” to combat it. *Johnson*, 603 U.S. ___, slip op. at 10, 34; and,

WHEREAS, in *Johnson*, the United States Supreme Court relied heavily on the “stepwise” escalation of penalties in Grants Pass’s ordinance to uphold its constitutionality. *Id.* at 11, 16–17; and,

WHEREAS, in view of the foregoing, the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town** believe that it is appropriate, necessary and in the best interests of the **City/Village/Town** and its residents, that the **City/Village/Town** implement a Public Camping Prohibition and related enforcement mechanisms, to address the myriad public concerns that public camping creates.

NOW, THEREFORE, be it ordained, by the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town** of _____ as follows:

Section 1. Incorporation of Recitals. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

Section 2. Public Camping as a Nuisance. Public Camping, as the term is defined herein, is hereby declared to be a nuisance within the **City/Village/Town** for the reasons identified above.

Section 3. Regulation of Public Camping Necessary to Promote Public Health. In an effort to address the public health concerns identified above, the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town** hereby declare it necessary or expedient for the promotion of health or the suppression of diseases, to regulate Public Camping, as that term is defined herein, within the **City/Village/Town**’s corporate limits.

Section 4. Public Camping Not Intended Use of Public Property. Except for those parcels of property specifically designated by the **City/Village/Town** in any subsequent ordinance, the **City/Village/Town** hereby declares that none of its property is permitted nor intended to be used for Public Camping, as the term is defined herein.

Section 5. Definitions. The following definitions apply to this Ordinance:

- A. “Bedding” means a sleeping bag, or any other material, used for bedding purposes.
- B. “Campsite” means any physical space that is not within an established structure, where Bedding or any stove or fire is placed, established or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack or any other structure, or any vehicle or part thereof.

- C. “Exempt Personal Property” means items which would otherwise constitute Personal Property under the terms of this Ordinance, but which (i) has no apparent utility or monetary value; (ii) Personal Property which is unsanitary to store or otherwise maintain; (iii) any weapon possessed illegally; (iv) drug paraphernalia; (v) items appearing to be stolen or otherwise appearing to be evidence of a crime; (vi) items which the person cannot demonstrate the requisite lawful authority to possess; and, (vii) any items of food which can reasonably be expected to spoil or otherwise perish within the next 30 days.
- D. “Personal Property” means any item reasonably recognizable as belonging to a person and having apparent utility or monetary value, except for Exempt Personal Property.
- E. “Public Camping” means to cause or participate in the establishment of, or the act of remaining in or at, a Campsite.

Section 6. Public Camping Prohibited.

- A. No person may sleep, nor otherwise engage in Public Camping, on a public sidewalk, street, alley, lane, other public right-of-way, park, bench, or any other publicly-owned property, nor on or under any bridge or viaduct, at any time.
- B. No person may sleep, nor otherwise engage in Public Camping, in any pedestrian or vehicular entrance to public or private property abutting a public right-of-way.
- C. No person may sleep, nor otherwise engage in Public Camping, on any real property owned or otherwise maintained by the **City/Village/Town**.
- D. No person may park a vehicle overnight within the **City/Village/Town** for the purpose of sleeping or otherwise engaging in Public Camping in said vehicle.
- E. For the purposes of this section, the act of parking or leaving a vehicle parked for two consecutive hours, and/or remaining within a public vehicle on any property under the jurisdiction of the **City/Village/Town** for the purpose of Public Camping, for two consecutive hours without permission from the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town**, between the hours of midnight and 6:00 a.m., shall be considered a violation of this Ordinance.

Section 7. Exceptions to Prohibition. Notwithstanding the foregoing, it shall not be a violation to engage in Public Camping when done (i) in a manner specifically authorized by this Code; (ii) after a formal declaration of the **City/Village/Town** in emergency circumstances; or, (iii) upon resolution of the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town**, the same may exempt a special event from the prohibitions of this section, if the **City Council/President and Board of Trustees of**

the **Village/President and Board of Trustees of the Town** finds such exemption to be in the public interest and consistent with the goals and objectives of the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town**, and with such conditions imposed as the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town** deems necessary. Any conditions imposed will include a condition requiring that the applicant provide evidence of adequate insurance coverage and agree to indemnify the **City/Village/Town** for any liability, damage or expense incurred by the **City/Village/Town** as a result of the activities of the applicant. Any findings by the **City Council/President and Board of Trustees of the Village/President and Board of Trustees of the Town** shall specify the exact dates and location covered by the exemption.

Section 8. Removal of Campsite. Removal of a Campsite in violation of this Ordinance may occur under the following circumstances:

- A. Prior to removing a Campsite, the **City/Village/Town** shall post a notice, 24-hours in advance of the removal, unless immediate removal of the Campsite is deemed to be necessary for one of the reasons in subparagraphs 1-4, below. If such immediate removal is undertaken, the basis for causing the immediate removal of such Campsite should be adequately documented by the appropriate person(s).
 1. immediate removal of the Campsite is necessary to maintain access to a property;
 2. immediate removal of the Campsite is necessary to maintain the sanitary condition of a property;
 3. immediate removal of the Campsite is necessary because the Campsite is an obstruction to any public right-of-way; or,
 4. immediate removal of the Campsite is necessary because the Campsite poses a risk to the health and safety of the **City/Village/Town** and its residents.
- B. Upon any action pursuant to Section 8.A, above, the person causing such action to be taken shall inform an appropriate agency delivering social services to homeless individuals in the **City/Village/Town**, of the location of the Campsite and the persons found to be in violation of this Ordinance, so said agency may determine whether or not it would be appropriate to offer its services to those persons.
- C. If a 24-hour notice has been posted, and the 24-hour notice period has passed, then the Campsite, as well as all Personal Property thereon, shall be removed by the appropriate person(s) acting on behalf of the **City/Village/Town**.

- D. No portion of this Section shall be construed to prohibit any person found to be engaging in Public Camping from removing their Personal Property from the Campsite; however, such Personal Property that constitutes Exempt Personal Property and which a reasonably prudent law enforcement officer, exercising the applicable constitutional standard, would conclude that said Exempt Personal Property constitutes items appearing to be stolen or otherwise appearing to be evidence of a crime, and/or items which the person cannot demonstrate the requisite lawful authority to possess, may be retained and stored as evidence.

Section 9. Disposition and Release of Personal Property.

- A. All Personal Property removed from any Campsite which is not Exempt Personal Property shall be stored by the appropriate law enforcement agency of the **City/Village/Town**, for a minimum of 30 days, during which time it shall be reasonably available for and released to an individual confirming ownership.
- B. All Exempt Personal Property may be disposed of or retained as evidence by the appropriate law enforcement agency of the **City/Village/Town**.

Section 10. Penalty; Mitigation.

- A. The penalty for any person's first violation of this Ordinance within a rolling twenty-four (24) month period shall be \$75.
- B. The penalty for any person's second violation of this Ordinance within a rolling twenty-four (24) month period shall be \$150.
- C. The penalty for any person's third violation of this Ordinance within a rolling twenty-four (24) month period shall be \$350.
- D. The penalty for any person's fourth violation of this Ordinance within a rolling twenty-four (24) month period shall be \$500.
- E. The penalty for any person's fifth violation of this Ordinance within a rolling twenty-four (24) month period shall be \$750.
- F. The penalty for any person's sixth or subsequent violation of this Ordinance within a rolling twenty-four (24) month period may be a monetary penalty of \$750 or incarceration for a period not exceeding the maximum time allowed pursuant to Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5/1-2-9).
- G. As a substitute for any monetary penalty assessed pursuant to paragraphs A–F, above, and if consented to by the **City/Village/Town**, the penalty assessed to any person found in violation of this Ordinance may be that said person must engage in public service by cleaning the rights-of-way and other public facilities of the **City/Village/Town** for an amount of time that, if the person

found to have violated this Ordinance was being paid the minimum wage under Illinois law, the amount paid for that person's labors would have been equal to the monetary penalty assessed under this Ordinance.

- H. The **City/Village/Town** is hereby empowered to exercise all powers afforded to it, at law or in equity, to collect any fines assessed against a person pursuant to this Ordinance, including but not limited to seeking incarceration of said person for a period of time that conforms with Section 1-2-9 of the Illinois Municipal Code (65 ILCS 5/1-2-9).
- I. In the imposition of any penalty pursuant to this Section, the penalty shall be mitigated by whether or not the person immediately removed all Personal Property and litter, including but not limited to bottles, cans, and garbage, from the Campsite after the person was informed that the person was in violation of this Ordinance.
- J. A separate offense of this Ordinance shall be deemed committed on each day on which a violation occurs or continues.
- K. In addition to any other remedy provided by law or this Ordinance, any person found in violation of this section may be immediately removed from the premises where the Campsite is located.

Section 11. Repeal of Conflicting Provisions. All ordinances, resolutions and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 12. Severability. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 13. Headings/Captions. The headings/captions identifying the various sections and subsections of this Ordinance are for reference only and do not define, modify, expand or limit any of the terms or provisions of the Ordinance.

Section 14. Publication. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code (65 ILCS 5/1-2-4).

IML Model Ordinance: Public Camping

PASSED THIS ____ day of _____, 20_____.

AYES: _____

NAYS: _____

ABSTENTIONS: _____

ABSENT: _____

APPROVED THIS ____ day of _____, 20_____.

Mayor/Village President/Town President

ATTEST:

Clerk

BEFORE ADOPTING ANY ORDINANCE, MUNICIPAL OFFICIALS SHOULD CONSULT WITH THEIR RETAINED LEGAL COUNSEL OR OTHER QUALIFIED ATTORNEY.