

ORDINANCE NO. 6045

**AN ORDINANCE DECLARING THE LOMBARD CEMETERY AN ABANDONED CEMETERY PURSUANT TO 65 ILCS 5/11-49-1 AND ANNOUNCING THE INTENT OF THE VILLAGE TO ENTER THE LOMBARD CEMETERY AND CAUSE THE GROUNDS THEREOF TO BE MADE ORDERLY**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That the President and the Board of Trustees find as follows:

- A. That there is a cemetery located on the West side of Main Street, between Washington Boulevard and Lilac Lane, has been used as a burial ground since 1851 (hereinafter the "Lombard Cemetery").
- B. That the Lombard Cemetery meets the criteria of an "abandoned cemetery" as set forth in 65 ILCS 5/11-49-1.
- C. That the Village of Lombard may enter any abandoned cemetery to "cause the grounds to be cleared and made orderly" pursuant to 65 ILCS 5/11-49-1.
- D. That is in the best interests of the Village to enter upon the Lombard Cemetery and make the grounds thereof orderly.

**SECTION 2:** That based on the findings as set forth in Section 1 above, the Village staff is hereby authorized to periodically enter the Lombard Cemetery, or cause contractors working for the Village to periodically enter the Lombard Cemetery, to cause the grounds thereof to be cleared and made orderly, including the following activities:

- A. mowing the lawn to prevent an overgrowth of grass and weeds;
- B. trimming of greenery to prevent excessive overgrowth and remove dead limbs;
- C. repair of drains, water lines, buildings, fences and other structures of the cemetery premises; and

- D. any other general maintenance and upkeep activities to necessary to “cause the grounds to be cleared and made orderly.”

**SECTION 3:** That any maintenance or other improvement to the Lombard Cemetery not specifically referenced in Section 2 above shall only be undertaken by Village Staff upon the adoption of an Ordinance authorizing same.

**SECTION 4:** That pursuant to 65 ILCS 5/11-49-1, the Village shall publish a notice in a local newspaper not more than forty-five (45) days nor less than thirty (30) days prior to entering the Lombard Cemetery to perform any work as authorized in Section 2 above. Said notice shall provide:

- A. Notice of the Village’s intended entry and cleanup of the cemetery;
- B. The name and geographic location of the cemetery;
- C. The right of the cemetery authority or owner of the property to deny entry to the Village upon written notice to the Village; and
- D. The date or dates of intended entry and cleanup;

with said notice to be in the form attached hereto as Exhibit A and made part hereof.

**SECTION 5:** That the Village is not assuming, and shall not be deemed to have assumed, ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery by this Ordinance generally or pursuant to 65 ILCS 5/11-52-1 et seq., 65 ILCS 5/11-52.1-1 et seq., 65 ILCS 5/11-52.2-1 et seq., or any other Illinois statute pursuant to which a governmental entity may exercise ownership, control, or maintenance responsibility relative to a cemetery. Furthermore, as the Village is expressly disclaiming ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery, the Village shall not be held liable for and is not assuming

## EXHIBIT A

### NOTICE OF ENTRY AND CLEANUP OF LOMBARD CEMETERY PURSUANT TO 65 ILCS 5/11-49-1 AND VILLAGE OF LOMBARD ORDINANCE NO. -----

NOTICE IS HEREBY GIVEN that the Village of Lombard (hereinafter "Village") staff or contractors duly authorized by the Village intend to enter the premises of the cemetery located on the West Side of Main Street between Washington Boulevard and Lilac Lane in the Village of Lombard, Illinois (hereinafter referred to as the "Lombard Cemetery") on ***[insert date or dates]*** to cause the grounds to be made clear and orderly by performing the following activities:

- (1) mowing the lawn to prevent an overgrowth of grass and weeds;
- (2) trimming of greenery to prevent excessive overgrowth and remove dead limbs;
- (3) repair of drains, water lines, buildings, fences and other structures of the cemetery premises; and
- (4) any other general maintenance and upkeep activities necessary to "cause the grounds to be cleared and made orderly."

NOTICE IS FURTHER HEREBY GIVEN that the Village is authorized to perform the above-referenced maintenance to the Lombard Cemetery pursuant to 65 ILCS 5/11-49-1, as the Lombard Cemetery has been found to be an "abandoned cemetery" by the Village within the meaning of said statute pursuant to Village Ordinance No. \_\_\_\_\_.

NOTICE IS FURTHER HEREBY GIVEN pursuant to 65 ILCS 5/11-49-1 that the owner of the property or the legally responsible cemetery authority shall have the right to deny entry for the above-stated purposes upon written notification to the Village:

- (1) demonstrating the ownership or authority to control or manage the cemetery, and
  - (2) declining the corporate authority authorization to enter the property;
- said written notification to be received by ***[date fourteen (14) days after publication]***.

NOTICE IS FURTHER HEREBY GIVEN that the Village is not assuming, and shall not be deemed to have assumed, ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery by this Ordinance generally or pursuant to 65 ILCS 5/11-52-1 et seq., 65 ILCS 5/11-52.1-1 et seq., 65 ILCS 5/11-52.2-1 et seq., or any other Illinois statute pursuant to which a governmental entity may exercise ownership, control, or maintenance responsibility relative to a cemetery. Furthermore, as the Village is expressly disclaiming ownership or control of, or maintenance responsibility in relation to the Lombard Cemetery, the Village shall not be held liable for and is not assuming and shall not assume liability for any claims of any nature, including but not limited to claims of injury, based on failure to adequately maintain, control or operate the Lombard Cemetery.

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**SECTION 6:** That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

First reading waived by action of the Board of Trustees this 7th day of June, 2007.


Passed on second reading this 7th day of June, 2007.

AYES: Trustees Gron, Tross, O'Brien, Moreau, Fitzpatrick & Soderstrom


NAYS: None

ABSENT: None


APPROVED this 7th day of June, 2007.

  
William J. Mueller  
Village President

ATTEST:

  
Brigitte O'Brien  
Village Clerk

Published by me in pamphlet form this 13th day of June, 2007.

  
Brigitte O'Brien  
Village Clerk