

## ORDINANCE NO. 6316

### AN ORDINANCE AMENDING CHAPTER 73 OF TITLE 7 REGARDING ADMINISTRATIVE ADJUDICATION OF VEHICULAR REGULATION VIOLATIONS

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

**SECTION 1:** That Title 7, Chapter 73, of the Lombard Village Code is amended, as follows:

1. Section 73.03, Procedures, shall be amended as follows:
  - a. The text of Sub-Subsection (D)(6) shall be deleted in its entirety and the following inserted in its place:
    - (6) A section entitled “Payment Instructions”, explaining the method for payment by mail, in-person and through the internet, if so provided.
  - b. The text of Sub-Subsection (D)(9) shall be deleted in its entirety and the following inserted in its place:
    - (9) A section entitled, “Request for Hearing – Non-Appearance”, which clearly sets forth that any person may appear at the initial administrative hearing to contest the validity of the vehicular regulation violation notice without appearing by filing a notarized statement, together with the citation number, name and address of the owner, reasons why a finding of liability should not be entered, and any supporting documentation, with the Administrator within fourteen (14) days after service of the Violation Notice. The notice may also provide for the notarized statement and supporting documentation to be sent to the Administrator over the internet at the email address provided in the notice.
2. Section 73.05, Additional Notices, shall be amended as follows:
  - a. The last sentence of Sub-subsection (A)(5)(h) shall be deleted in its entirety and Sub-Subsection (A)(5)(h) shall be and read as follows:
    - h. A statement that upon the occurrence of a determination of vehicular regulation violation liability and the exhaustion of, or the failure to exhaust, available administrative and/or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village.
  - b. Subsection B shall be deleted in its entirety and a new Subsection B inserted in its place, to be and read as follows:
    - (B) Upon failure of the registered owner or lessee to appear at both the initial and second

hearing, a notice of determination of vehicular regulation violation liability shall be entered and sent, detailing the rights of the owner or lessee of the “cited vehicle” to petition for the determination of liability to be set aside on the grounds provided in Section 73.06 of this Code, and to file for judicial review pursuant to Section 73.10 of this Code.

3. The introductory paragraph of Section 73.06, Administrative Review, shall be deleted and the following inserted in its place:

A petition to set aside a determination of vehicular regulation violation liability (other than a determination of liability pursuant to an in-person or non-appearance hearing) may be filed by a person owing an unpaid fine or penalty in the manner and subject to the restrictions and grounds hereinafter set forth:

4. The text of Subsection (A) of Section 73.07, Final Determination of Liability, shall be deleted in its entirety and replaced with the following:

(A) Following the failure to pay the fine or penalty after an in-person or non-appearance hearing, and determination of vehicular regulation violation liability by the hearing officer.

(B) Following the denial of a petition to set aside a Determination of Liability.

The remaining Subsection to be relettered alphabetically.

5. Section 73.08, Non-Appearance Procedures, shall be amended as follows:

- a. The introductory sentence of Section 73.08 shall be deleted and the following inserted in its place:

Persons who have been served with a vehicular regulation violation notice may contest the alleged vehicular regulation violation on its merits in-person at an administrative hearing, or may contest the validity without personally appearing at a hearing by:

- b. Subsections A and B shall be deleted in their entirety and replaced with the following:

(A) Filing a notarized statement contesting the vehicular regulation violation notice, together with the citation number, name and address of the owner, reasons why a finding of liability should not be entered, and any supporting documentation, with the Administrator within fourteen (14) days after service of the violation notice.

(B) In the event that the vehicular regulation violation notice states that the violation notice may be contested through the internet, the notarized statement and supporting documentation required in Subsection A above shall be sent to the email address provided on the notice within fourteen (14) days after the service of the vehicular regulation violation notice.

- b. Subsections (C) and (D) shall be deleted in their entirety

c. Subsection (E) shall be deleted and the following inserted in its place:

(E) The hearing officer will enter a Findings, Decision and Order upon adjudication of the facts set forth in the notarized statement of facts and the facts contained in the vehicular regulation violation notice. The hearing officer's determination of liability shall become a final determination of automated traffic law violation liability that is a final, appealable order.

c. Subsection (G) shall be deleted in its entirety with the remaining Subsection relettered accordingly.

6. The term "operator" shall be deleted from the following Subsections: 73.04(A), 73.04(B), 73.04(G), 73.05(A), 73.05(A)(1), 73.05(A)(5)(e), 73.06((C)(1), 73.06(D)(1), 73.06 (D)(2), 73.06(E).

7. The phrase "Hang-on" shall be deleted from the title of Section 73.03(D) to be and read "Violation Notice" and the phrase "('hang-on violation notice') shall be deleted from the following Subsections: 73.03(D), 73.04(B), 73.05(A).

**SECTION 2:** All prior ordinances and resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**SECTION 3:** This Ordinance shall be in full force and effect ten days from and after the date of its passage, approval and publication as provided by law. If any portion of this Ordinance is held to be invalid, then that portion shall be stricken from this Ordinance and the remaining portions of this Ordinance shall continue in full force and effect to the extent possible.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2009.

First reading waived by action of the Board of Trustees this 2<sup>nd</sup> day of April, 2009.

Passed on second reading this 2<sup>nd</sup> day of April, 2009, pursuant to a roll call vote as follows:

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

**NAYS: None**

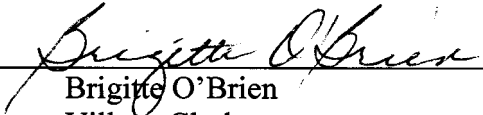
**ABSENT: None**

**APPROVED** by me this 2<sup>nd</sup> day of April, 2009.

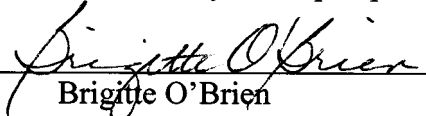
  
\_\_\_\_\_  
William J. Mueller

Village President

**ATTEST:**

  
\_\_\_\_\_  
Brigitte O'Brien  
Village Clerk

Published by me in pamphlet form this 6<sup>th</sup> day of April, 2009.

  
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Brigitte O'Brien  
Village Clerk