

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 74
OF TITLE 7 REGARDING AN AUTOMATED
TRAFFIC LAW ENFORCEMENT SYSTEM**

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 74 of the Lombard Village Code is amended, as follows:

1. Sub-subsection 74.05(C)(12) of Section 74.05, "Violation Notice", shall be amended by deleting the phrase "in court" to be and read as follows:
 12. a statement that the person may elect to proceed by paying the fine or challenging the charge by mail or by administrative hearing.
2. A new Sub-subsection 74.05(C)(14) shall be inserted into Section 74.05, "Violation Notice", to be and read as follows:
 14. the signature of the person issuing the notice in the form of an identification number.
3. Section 74.09, "Determinations Of Liability", shall be deleted in its entirety and a new Section 74.09 inserted, to be and read as follows:

Section 74.09, Determinations Of Liability.

A determination of Automated Traffic Law Violation liability shall occur following failure to pay the fine or penalty, or to contest the alleged violation within twenty-one (21) days of the Notice of Violation. Where a person fails to appear at a hearing to contest the alleged violation in the time and manner specified in a prior mailed notice, the Hearing Officer will enter Findings, Decision and Order's determination of Automated Traffic Law Violation Liability shall become final: (a) upon denial of a timely petition to set aside that determination, or (b) upon expiration of the period for filing such a petition without a filing having been made. If a person appears at a hearing and is found liable or contests the Violation by mail and is found liable, the Hearing Officer will enter Findings, Decision and Order, which is a final determination of Automated Traffic Law Violation Liability that is a final, appealable order.

3. The text of Section 74.10, "Notice of Determinations of Liability", is deleted and the following inserted in its place, to be and read as follows:

A Notice of Determination of Liability or Findings, Decision and Order shall be sent following a determination of Automated Traffic Law Violation Liability. Except as provided below, the Notice and the Order will state that the owner can petition the Village to set aside the determination of liability before it becomes final under Section 74.12 of

this Chapter and that a late fee of \$100.00 will be due unless a petition is filed or the fine paid within fourteen (14) days of the Notice. In the event that the determination of liability was the result of an in-person or non-appearance hearing, or following the denial of a petition to set aside, the Order will only state that a late fee of \$100.00 will be due unless the fine is paid within fourteen (14) days of the Order. The Notice and Order will explain the right to judicial review.

4. Subsection 2 of Section 74.11, Notice of Final Determination of Liability, shall be amended by deleting the phrase “within fourteen (14) days”, to be and read as follows:

2. A warning that a failure to pay the fine and penalty due and owing the Village may result in the Village’s filing a complaint in the Circuit Court to have the unpaid fine or penalty rendered a judgment in accordance with Section 11-208.3(f) of the Illinois Vehicle Code.

5. The text of Section 74.12, “Administrative Review”, shall be deleted in its entirety and the following inserted in its place:

Section 74.12 Administrative Review.

A person owing an unpaid fine or penalty for an Automated Traffic Law Violation (other than a determination of liability pursuant to an in-person or non-appearance hearing) may file a petition to set aside a determination of such liability within fourteen (14) days of a Notice of Determination of Liability or Findings, Decision and Order. Such a petition shall be filed by sending the same, together with any documentation in support thereof, to the Administrator by certified mail, return receipt requested, or by personal delivery to the Administrator. The grounds for such a petition shall be limited to: (a) the person not having been the owner or lessee of the cited vehicle on the date the Violation Notice was issued, (b) the person having already paid the fine or penalty for the violation in question; or (c) excusable failure to appear at or request a new date for a hearing. The hearing officer shall act on those petitions timely filed and render a decision thereon within fourteen (14) days of the date filed. In the event that such a petition is granted upon a showing of just cause, and the subject determination of Automated Traffic Law Violation liability is thereby set aside, the registered owner shall be provided with a hearing on the merits for that violation.

If more than fourteen (14) days has expired and a petition to set aside has not been filed, where permitted, the Determination of Liability shall become final and a person owing an unpaid fine or penalty must file for judicial review pursuant to Illinois Administrative Review Law in order to appeal such a Determination of Liability. If a petition to set aside is denied, the hearing officer shall enter a Findings, Decision and Order to that effect, which shall be a final, appealable decision, and a person owing an unpaid fine or penalty must file for judicial review pursuant to the Administrative Review Law in order to appeal such a Determination of Liability.

6. The text of Section 74.15, “Non-Appearance Procedures”, is deleted in its entirety and the following inserted in its place:

Persons who receive Violation Notices may contest the merits of the alleged Automated

Traffic Law Violation without attending a hearing by 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 twenty-one (21) days after service of the Violation Notice. Such a statement shall set forth the reasons why a finding of liability should not be entered. 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 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.

5. Section 74.16, "Penalties", shall be amended by deleting the text contained therein and inserting in its place the following:

Section 74.16, "Penalties".

The owner (or lessee) of a motor vehicle is subject to a penalty of one hundred dollars (\$100.00) per Automated Traffic Law Violation. In the event that such penalty is not paid within fourteen (14) days after service of a Notice of Determination of Liability or Findings, Decision and Order, an additional one hundred dollar (\$100.00) late payment penalty shall be imposed. A penalty shall not apply if the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation

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 ____ day of _____, 2009.

Passed on second reading this ____ day of _____, 2009, pursuant to a roll call vote as follows:

AYES: _____
NAYS: _____
ABSENT: _____

APPROVED by me this ____ day of _____, 2009.

William J. Mueller

Village President

ATTEST:

Brigitte O'Brien
Village Clerk

Published by me in pamphlet form this _____ day of _____, 2009.

Brigitte O'Brien
Village Clerk