

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

Resolution or Ordinance (Blue) X
Recommendations of Boards, Commissions & Committees (Green)
Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: June 10, 2009 (B of T) Date: June 18, 2009

TITLE: Amendment to the Village Code Title 9, Chapter 92 (Administrative Fees - Weed
Liens)

SUBMITTED BY: Department of Community Development *MA*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance amending Title 9, Chapter 92 of the Lombard Code in regard to Health and Sanitation Regulations specifically relating to administrative fees for grass/weeds.

Staff is requesting a waiver of first reading.

Please place this item on the June 18, 2009 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X
Finance Director X
Village Manager X

Signature of David A. Hulseberg

Date
Date
Date
6-18-09

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: David A. Hulseberg, Village Manager

FROM: William Heniff, AICP, Director of Community Development *WH*

DATE: June 10, 2009

SUBJECT: Administrative Fees - Weed Liens

Staff is proposing an amendment to relevant sections of Village Code, specifically Title 9, Chapter 92, Sections 92.25 through 92.34 to reflect updated fees, costs and procedures associated with a property owner who fails to maintain weeds/grass on his property. Given the increased number of such violations resulting from foreclosures, staff recommends approval of the amendments.

BACKGROUND

With regard to Section 92.34(B) existing Village Code currently uses a tiered fine approach of \$25/\$50/\$100 for the first, second and third offenses respectively in any one calendar year against an offending owner or tenant for noncompliance of weed/grass after a finding of guilty. Staff has found that the existing procedures currently in place do not reflect actual costs incurred in order to perfect this process.

Code Enforcement prefers to keep the property owner responsible for maintaining their property by sending advisory letters and issuing tickets rather than providing lawn service. In the event Code Enforcement is unable to contact the owner of the property, due to the owner being out of the country or if the property has been abandoned or foreclosed upon, there is a significant problem. Staff must order a cut, place a lien on the property for the costs incurred and attach an administrative fee. In addition to inspection time, phone time with complaints, and property ownership research time, the State of Illinois requires that before a lien is placed on the property, the owner of record must be notified after the Village of Lombard receives the bill for the cut in order to give them the opportunity to intercept the lien. Another letter is then sent and the case diaried for the lien. Currently, the administrative fee is \$25.00 for the first offense in one calendar year.

This year staff has seen an unusually high amount of noncompliance in this regard either due to extremely wet weather conditions and/or the economy as outlined below:

Year	Total Weed Liens	Cuts Ordered through May
2005	6	0
2006	9	1
2007	12	2
2008	10	0
2009	8 (as of 6/4/09)	8

After conferring with legal counsel, staff is suggesting the following code amendments:

- Eliminating the tiered fine approach and imposing a minimum fine of \$50 with a maximum penalty of \$750 per day per violation;
- Including a provision for recovery of \$200 in legal fees for the preparation and recording of the lien; and
- Including a provision to provide for the actual costs incurred to record the lien.

Staff believes that amending the Code as set forth above will now include evolving issues and provide for reasonable fees associated with the compliance and maintenance of property as it relates to grass/weeds.

RECOMMENDATION

Staff recommends approval of the attached Ordinance Amending Title 9, Chapter 92 of the Lombard Code in regard to Health and Sanitation Regulations. Staff is also requesting a waiver of first reading in order to bring the regulations into effect during the 2009 growing season.

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9, CHAPTER 92 OF THE LOMBARD CODE IN REGARD TO HEALTH AND SANITATION REGULATIONS

WHEREAS, the Village of Lombard has established and maintains health and sanitation regulations, which is found in Title 9, Chapter 92 of the Code of Lombard, Illinois; and,

WHEREAS, the Village finds that Sections 92.25 through 92.34 should be amended to address noxious weeds and grasses within the Village; and

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Code to ensure that the regulations adequately meet the health, safety, morals and welfare needs of the Village and make necessary changes when warranted.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: That Title 9, Chapter 92, Sections 92.25 through 92.34 are hereby revised to read in their entirety as follows:

WEEDS, GRASSES, BUSHES, TREES AND VEGETATION

§ 92.30 DEFINITIONS.

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

WEEDS/GRASSES. Canada thistles (*Cirsium arvense*) and all of its varieties, perennial sow thistles (*Soncus arvensis*), European bindweed (*Convolvulus arvensis*) leafy spurge (*Tithymalus osula*), Russian Knapweed (*Centaura repens*), Hoarycress (*Lepidium draba*), ragweed (*Ambrosia*) and all weeds due to pollination, milkweeds, dandelion, Jimson weed, burdock, cockleburs and the like weeds, as well as all grasses, excepting therefrom trees, shrubs or plant materials permitted by Section 92.33 of this Village Code.

WEED AREAS Any lot or parcel of property, or portion of any lot or parcel of property containing in its make up weeds as defined above.

WILD/UNCULTIVATED Weeds/ or weed or grass areas with a height in excess of eight (8) inches above the ground.
(70 Code, § 6.20.010) (Ord. 1304, passed 8-21-67; Am. Ord. 2356, passed 1-3-80, Ord. 3617, passed 11/5/92; Ord. 5860, passed 5/18/06)

§ 92.31 DESTRUCTION REMEDIATION OF NOXIOUS WEEDS VEGETATION.

It shall be unlawful for any person, firm, or corporation owning or controlling any lot or parcel of property to permit the growth of weeds/grasses or weed/grass areas in a wild/uncultivated state. All such weeds/grasses or weed/grass areas shall be cut, pulled, or destroyed ~~or sprayed with efficient chemicals~~ by the owner or person in control of said lot or parcel of property so as not to constitute weeds/grasses/bushes/trees in a wild/uncultivated state. ('70 Code, § 6.20.020) (Ord. 1304, passed 8-21-67; Am. Ord. 2356, passed 1-3-80, Ord. 3716, passed 11/5/92; Ord. 5860, passed 5/18/06) Penalty, see § 92.99

§ 92.32 EXPENSE OF DESTRUCTION REMEDIATION.

When the person, firm, or corporation owning or controlling any lot or parcel of property fails to maintain the weeds/grasses or weed/grass areas growing thereon, so as to prevent said weeds/grasses or weed/grass areas from existing in a wild/uncultivated state, the Village Manager shall cause the weeds/grasses or weed/grass areas to be brought into compliance with this Code, and the reasonable expense incurred by the Village in doing so shall be charged against the owner, and may be recovered in an appropriate action at law. ('70 Code, § 6.20.030) (Ord. 1304, passed 8-21-67; Am. Ord. 2356, passed 1-3-80, Ord. 3617, passed 11/5/92; Ord. 5860, passed 5/18/06) Penalty, see § 92.99

§ 92.33 XERISCAPING.

In cases where the person, firm, or corporation owning or controlling any lot or parcel of property, landscapes said lot or parcel of property with vegetation native to the region, so as to reduce or eliminate required maintenance, said person, firm or corporation shall provide upon request of the Director of Community Development a landscape plan, including plan box detailing the species of vegetation planted, or other documentation required by the Director to show compliance with section 92.31 of this Code. ('70 Code, § 6.20.035) (Ord. 2356, passed 1-3-80, Ord. 3617, passed 11/5/92) Penalty, see § 92.99

§ 92.34 LIEN.

(A) In addition to all other remedies provided by law, the Village may record a lien on the real estate on which the weeds/grasses or weed/grass areas are growing, for the reasonable cost of the cutting, removal, or destruction of such weeds/grasses or weed/grass areas, pursuant to 65 ILCS 5/11-20-7, if said weeds/grasses or weed/grass areas are maintained in a wild/uncultivated state.

ATTEST:

William J. Mueller, Village President

Approved this _____ day of _____, 2009.

Absent: _____

Nays: _____

Ayes: _____

Passed on second reading this _____ day of _____, 2009.

First reading waived by action of the Board of Trustees this _____ day of _____, 2009.

Passed on first reading this _____ day of _____, 2009.

SECTION 2: 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.

~~The Village Manager may, at any time, not less than seven days after having given written notice to the owner of the necessity for destroying property maintaining such weeds/grasses, and/or weed/grass areas, by himself, or by his direction, execute, or cause the execution of a complaint for service of a warrant or summons upon any offending property owner or tenant for failure to maintain such weed/grass or weed/grass areas in accordance with the written notice herein required. Upon a finding of guilty, such owner shall be fined a minimum of \$25 \$50 with a maximum penalty of \$750 per day per violation, for the first offense and \$50 for the second offense committed in any one calendar year, and \$100 for each subsequent offense committed in any one calendar year. This procedure may be followed in addition to the lien of the Village for expenses, if it so desires, but A payment in full or such lien by the owner shall constitute a defense to the prosecution hereby commenced. In addition to the amount due, pursuant to the Ordinances of the Village of Lombard, legal fees in the amount of \$200.00, relative to the preparation and recording of this lien claim, as well as actual costs incurred for the recording of this lien, must be paid prior to the issuance of any release of lien.~~

(70 Code, § 6.20.040) (Ord. 1304, passed 8-21-67; Am. Ord. 1408, passed 7-1-68; Am. Ord. 2356, passed 1/3/80; Ord. 5860, passed 5/18/06)

Ordinance No. _____
Page 4

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