



## LOMBARD POLICE DEPARTMENT



DATE: July 20, 2005

TO: Tom Bayer  
Village Attorney

FROM: Ray Byrne  
Chief of Police

**SUBJECT: Village Code – Section 130.01 (Intoxication; Begging)**

Attached to this correspondence, please find a copy of section 130.01 of the Lombard Village Code titled Intoxication; Begging. The Police Department was recently confronted with a situation that generated a great deal of healthy debate about this section of the Code. The main purpose of this correspondence is to request a review of this section to determine if, under present statutory and case law, this remains a viable enforcement tool for the police department.

Specifically, the issue might better be stated as: Can the police department charge a person under this section for simply being intoxicated? A very common scenario that often occurs will have the following factors:

- The police department responds to a report of an intoxicated subject, an ill subject, or a subject passed out
- The subject is in a public place such as a park or the Prairie Path
- The subject has not committed any criminal offenses, nor is there any evidence of criminal behavior
- The subject is evaluated by the Lombard Fire Department Paramedics
- After evaluation by the paramedics and the hospital, it is determined that the subject does not, for any medical reasons, need to be transported to the hospital
- The subject does not wish to go to the hospital and signs a waiver or refusal for the Fire Department
- The subject can, generally, function in terms of walking, talking and responding to questions
- There are clear signs of intoxication, often confirmed by a portable breath tester (PBT) which reveals a blood alcohol concentration of greater than .20

Police officers, confronted with the above circumstances, are often reluctant to simply let the subject travel on their way because of liability concerns if the subject is subsequently injured by falling or being struck by a vehicle. Yet, they cannot be detained for medical reasons, and outside of being intoxicated, they have not committed a criminal offense.

The officers, relying on section 130.01, are taking the subject into custody which generally allows for an adequate amount of time for the subject to sober up. All of the above circumstances assume we have made every effort to call someone to pick the subject up or drive them home if possible.

I would appreciate your review of the existing ordinance provision as it relates to the scenario I have described. There is a great deal of difference of opinion within the department itself that any clarification you can provide would be of valuable assistance. While this situation does not happen every day, it repeats itself with enough frequency that we would like to be more uniform in our approach. Please feel free to contact me with any questions.