

## Introduction

In order to gain compliance with code violations in a timely manner, maintain a high rate of success in prosecutions, protect the Village from legal challenges to enforcement actions, and ensure the citizens constitutional guarantee of equal protection and due process, the Village of Lombard Department of Community Development has established the following procedures manual for enforcement actions. This procedure manual is also intended to reflect the current processes utilized by the Department and shall be updated as warranted.

The purpose and intent of this manual is to:

- Identify the organizational structure of the Code Enforcement Division
- Denote the philosophy and approach to be undertaken by staff; and
- Identify the processes and procedure for processing code violations

The Code Enforcement Division of the Department of Community Development has responsibility for enforcement of selected sections of the Lombard Code of Ordinances. These sections include:

<b><u>Title 5</u></b>	Chapter 50	PUBLIC WORKS (portions)
	Chapter 51	WATER (portions)
<b><u>Title 9</u></b>	Chapter 90.	ANIMALS
	Chapter 92.	HEALTH AND SANITATION
	Chapter 94.	NUISANCES
	Chapter 97.	STREETS AND SIDEWALKS (portions)
<b><u>Title 11</u></b>	Chapter 110.	AMUSEMENTS AND ENTERTAINMENT (portions)
	Chapter 119.	RESTAURANTS AND FOOD (portions)
<b><u>Title 15</u></b>	Chapter 150.	BUILDING CODE (portions)
	Chapter 151.	FLOOD CONTROL
	Chapter 152.	PLANNING
	Chapter 153.	SIGNS
	Chapter 154.	SUBDIVISIONS AND DEVELOPMENT
	Chapter 155.	ZONING CODE

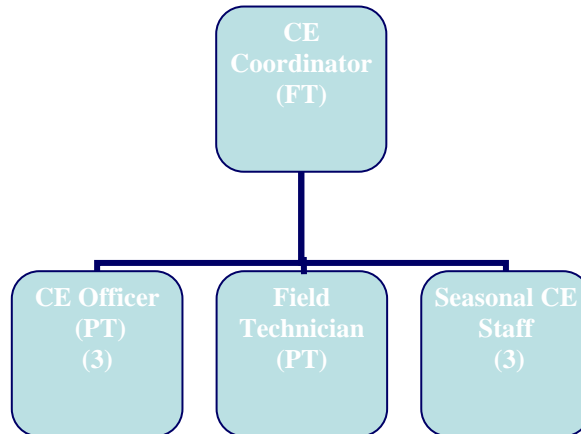
In addition, the Division provides enforcement assistance to other Divisions and Departments as requested.

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## Structure/Staffing

As of June, 2008, the Code Enforcement Division consists of the following staff positions:

- 1 Full-time Code Enforcement Coordinator
- 3 Part-time Code Enforcement Officers (18 hr/wk)
- 1 Part-time Field Technician (10-15 hr/wk)
- Summer/Seasonal Code Enforcement staff



As a supplement to this staffing, the Division also relies upon a part-time support staff. The general roles and responsibilities within each of these positions are denoted in the Job Description form in the Human Resources office.

### Code Enforcement Coordinator

The Code Enforcement Coordinator reports directly to the Director of Community Development. The role of the Code Enforcement Coordinator is to oversee all aspects of the division to ensure that the activities being undertaken by the division are consistent with laws, ordinances and Village policies. The Coordinator also is responsible for ensuring that the established protocols and policies of the department are met. The position also fills the activities of a code enforcement officer as needed.

### Code Enforcement Officers

Code Enforcement Officers report directly to the Code Enforcement Coordinator. Their principal role shall be to:

1. Inspect properties for compliance with the applicable and relevant sections of the Village code;
2. Serve as the primary liaison with the applicable complainants, property owners and tenants in ensuring compliance with code;
3. Process all aspects of the code enforcement process from initial receipt of the complaint to final compliance through site inspections to court action;
4. Work closely with the Planning Services staff for cases in which zoning relief is needed or to determine code interpretation and applicability.

5. Work closely with the Private Development Engineer on drainage complaints; and
6. Coordinate efforts for cases involving both zoning and building code violations.

### **Organization**

The Code Enforcement Division is organized into two job sharing teams. The community is divided into a north and south regions, with the dividing line being Madison Street. There should be at least one Code Enforcement Officer from each sector of the community scheduled to work on each business day. The division into regions reduces the amount of territory each officer concentrates on, so that problems can be more closely monitored. The Code Enforcement Coordinator shall assign cases by level of complexity with more complex cases reserved for experienced officers. One member of each Code Enforcement team should be scheduled to work every workday to handle calls, front counter requests and inspections to provide consistent service for both regions.

## **Response Approach to Code Enforcement**

Based upon existing staffing and resources available to address code violations, the primary focus is to operate and address complaint based requests for service. The Code Enforcement Division will accept reports of suspected violations of the Lombard Code of Ordinances from any source including:

- Phone calls
- Emails
- Letters
- Referrals from Village staff
- Complaints received through the Village website
- Elected officials
- Other Government Agencies

In receipt of such a request, staff shall follow the procedures noted within the “Violation Processing” section of the manual.

## **Proactive Approach to Code Enforcement**

Proactive enforcement also offers the ability to monitor properties for violations that the casual observer may not find offensive, as property owner may not be aware of applicable codes. In the performance of their duties, the Code Enforcement staff should also undertake a more comprehensive review of a given property to determine if other code violations are present. Moreover, this approach can also be applied to other neighboring properties to help ensure consistent enforcement within neighborhoods. Additionally, Code Enforcement staff can more effectively monitor sites to determine if small issues persist or multiply and step in with an advisory letter in the event no complaint is

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received. However, emphasis should be placed on service calls and those violations that more directly affect life/safety issues.

While Code Enforcement is primarily complaint driven, there following proactive approaches and programs are established to ensure that Code Enforcement is present throughout the Village, while providing a balance of equal enforcement.

### **Geographical Areas**

Dividing the Village into two geographical areas reduces the territory each Code Enforcement Officer inspects, thereby increasing the ability to monitor as subtle changes develop. If no complaint is received regarding a developing violation, the Code Enforcement Officer may send an advisory letter to achieve early compliance.

### **Thoroughfare Review**

As an enhancement to the Village's First Impressions activities and as part of regular code enforcement efforts, each code enforcement team shall complete a review of the commercial corridors within their respective geographical area. This activity should be done on a weekly basis, but can be modified at the direction of the Code Enforcement Coordinator, should special conditions exist.

The thoroughfare review consists of the North Avenue, St. Charles Road, Roosevelt Road, Butterfield Road, Westmore-Meyers Road, Highland Avenue, Main Street and Finley Road. Other collector streets can be added to the review as time permits.

The focus of this review is to ensure that the primary observed complaints along the corridor are addressed, including:

- Business vehicle parking
- Outdoor sales activities (not permitted by right)
- Signage (particularly banners and temporary signage)
- Property maintenance, including grass/weed height
- Code Compliance (tied into the Problem Properties activities)

If the officer observes other violations, they can initiate an advisory letter accordingly.

Main thoroughfares shall be inspected weekly by the Field Technician for signs illegally placed in the public rights-of-way. Other violations observed by the Field Technician are brought to the attention of the Code Enforcement Officers for processing.

During winter months, when illegal signs in the rights-of-way are less prevalent, the Field Technician shall also drive through industrial areas and the rear areas of shopping strips bringing major violations to the attention of the Code Enforcement Officers.

### **Problem Properties**

Recognizing that there are properties within the Village that due to their unique location, situation or past case histories pose a need of ongoing code enforcement efforts and

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activities, the Code Enforcement Coordinator shall maintain a record of the properties and shall set forth provisions to ensure that the properties remain in compliance with Code requirements. These properties having frequent complaints and/or frequent violations are monitored to ensure continued compliance. Frequent inspections are logged. Where there are frequent violations, the log will document a partnership with the complainant(s) in maintaining compliance. In the event of frequent complaints involving minor or nonexistent violations, the problem property log can be used to document code enforcement actions with the persistent complainant and to discourage the perception of harassment.

Properties may be submitted to the Code Enforcement Coordinator for inclusion in the problem property list by the Code Enforcement Officer or by the Director. The comprehensive list will be made available to all Code Enforcement Officers to establish full staff assistance in providing ongoing inspections at frequent intervals. Each inspection will be documented on the Problem Property Inspection Log.

Results of the inspections of problem properties will be given to the Director following monthly Code Enforcement meetings or on request.

### **Snow Clearing Requirements**

During the winter months, the Code Enforcement staff is also responsible for ensuring that the snow clearing requirements for public sidewalks abutting commercial properties is being met. As part of this effort, the Code Enforcement Division shall undertake the following activities:

1. In late fall, a press release shall be sent out reminding commercial property owners of the shoveling requirements.
2. When 24 hours have elapsed after a snowfall, commercial areas of high pedestrian traffic are inspected to verify the sidewalks have been cleared. Follow up efforts shall be undertaken to ensure that the property owners and tenants are aware of the requirements. This is typically done through on-site field visits.
3. In cases where property owners/tenants fail to clear the walkways within the prescribed periods within code, the Code Enforcement staff may either issue violation notices and/or tickets.
4. Other violations observed during this presence are handled through regular code enforcement procedures.

### **Targeted Sweeps**

In order to meet targeted goals or directives set forth by the Director or the Village Board, the Department shall also undertake special reviews of neighborhoods or corridors. In this effort, the teams would work under the direction of the Code Enforcement Coordinator.

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The activities are intended to meet a particular zoning issue or address significant non-compliance activities within a given area or corridor. Typically, these sweeps are intended to be proactive in nature and are intended to provide an entire area with an understanding of particular aspects of the Village Code. As part of this approach, the officers should combine traditional written notification along with follow up phone calls and meetings with individuals to address outstanding issues. In cases where the level of non-compliance requires a significant amount of time or resources on behalf of the property owner, staff should work with the property owners to determine appropriate schedules for compliance.

## **Supplemental Staffing & Activities**

### **Code Enforcement Field Technician**

The Code Enforcement Field Technician may assist Code Enforcement Officers by reporting on status of violations as requested, particularly in reporting status of problem properties on Saturdays, when no Code Enforcement Officer is scheduled to work. Actions taken as a result of the Field Technician reports are at the discretion of the Code Enforcement Officer.

In addition to this support activity, the Field Technician is responsible for removal of illegally posted signage from parkways and medians throughout the Village. If there is an address displayed on the sign, the Field Technician will send a post card requesting compliance with the ordinance. The illegally posted signs will be stored in the collecting vehicle for one week to allow ample time for the owner to reclaim the sign. After one week, the signs will be discarded if no owner has expressed an interest in reclaiming.

The Field Technician is responsible for the maintenance, placement, and removal of public hearing signs as directed by the Assistant Director of Community Development. Identifying case numbers are affixed to public hearing signs by the Field Technician prior to placement.

The Field Technician is responsible for inspecting active construction sites to assure compliance with codes including signage, fencing, weeds, and litter. Enforcement is coordinated with BIS and may include field visits, phone calls and issuing manual notices of violation.

In the winter months, when illegal signage and construction site maintenance inspections are less prevalent, the Field Tech may assist Code Enforcement by doing windshield inspections of industrial areas and rear areas of shopping strips. Major violations are reported to Code Enforcement Officers and Code Enforcement Coordinator.

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## **Summer Voluntary Compliance Program**

The Village developed a Voluntary Code Compliance Program to bring a greater awareness to Village property maintenance and to address problem properties. By creating a greater awareness to Village property maintenance requirements, residents would willingly comply knowing what was expected of them to be a good neighbor in the community. Further, by addressing issues when they are small problems they would not become larger ones. Lastly, once the real problem properties are cleaned up it will provide greater motivation for others to improve their property to keep up with their neighbors. The Voluntary Code Compliance program is repeated every two years and in the off year staff inspects all of the commercial properties to include multiple-family residences.

### **Program Operation**

A seasonal code enforcement intern, who is a temporary summer hire, visits each of the single-family homes in the community by walking past it on the sidewalk. Using a checklist, s/he denotes any code deficiencies observable from the street and records the deficiencies on the Courtesy Notice, traditionally a three part form. A hard copy is left on the door and the other two portions are brought back to the office. If no deficiency was found staff leaves a Thank You card similar in appearance to the Courtesy Notice indicating that they have passed the Voluntary Code Compliance Program.

Allowing at least ten days after the initial inspection in which the deficiency was noted on a property, staff revisits the property to see if the problem has been corrected. If the deficiency was not corrected staff mails the second copy of the Courtesy Notice which is a duplicate of the original with a letter asking them to correct the deficiency again. Staff shall provide frequent status reports for the Code Enforcement Coordinator, Director, Village Manager and the respective trustee.

### **Summer Code Enforcement Follow-Up**

At the conclusion of the Summer Voluntary Compliance Program, records of the properties remaining in violation will be made available to the Code Enforcement Coordinator. If a property is brought to the attention of the Coordinator as having a severe violation, the case will be handled individually through regular Code Enforcement procedures. If analysis of the final report of the program finds widespread noncompliance of a particular ordinance or within a particular area, the Coordinator will bring these concerns to the attention of the Director with recommendations of a subsequent project designed to encourage compliance. Emphasis shall be placed upon those cases, which present life/safety concerns to the subject property or adjacent properties. The properties will be re-inspected as a defined group by Code Enforcement Officers, beginning with an advisory letter. Enforcement will proceed through the regular process. The results of the project will be presented to the Director on completion.

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## General Procedures Summary

In processing a violation of the applicable provisions of the Lombard Code of Ordinances the following overall procedures will be observed.

1. Upon Village staff receipt of a service request or upon an observation of a potential violation pertaining to the relevant sections of the Village Code regulated by the Code Enforcement Division, staff shall forward the request to the Code Enforcement Division.
2. Code Enforcement staff inputs violation information into HTE (the Village's automated tracking software) to document receipt of the report and to release an advisory letter. Complainants will be also given the opportunity to receive updates in the review process.
3. Code Enforcement staff will schedule an inspection. If permission to enter the complainant's property has been granted or if the violation can be clearly seen from a public area, an inspection will follow to determine the validity and nature of the violation. If necessary permission is refused, no inspection will be scheduled and the case will be closed after the advisory letter is released. However, if the violation may present an imminent threat to life and/or safety, Code Enforcement staff will work with other departments and agencies to address the issue.
4. After the violation has been identified, staff determines the identity of the owner(s) and/or occupant(s) of the property in question.
5. A "Notice of Violation" is served to the owner(s) and/or occupant(s) of the property by certified mail, return receipt requested, as required by the Lombard Code of Ordinances. The Notice of Violation identifies the location and nature of the violation, cites the specific section of the Lombard Code of Ordinances being violated, includes required corrective action, and invites contact.
6. Ten days following receipt of the Notice of Violation, Code Enforcement Division staff will perform a follow-up inspection to determine if compliance has been achieved. The ten days is calculated based on the date of the notice.
7. If the inspection finds the violation has been corrected, the case is closed.
8. If inspection shows the violation has not been corrected, a phone contact is attempted in an effort to avoid a ticket requiring a court appearance. If the responsible person indicates they are in process of coming into compliance or indicates a willingness to come into compliance, the Code Enforcement Officer will negotiate a compliance agreement timetable and reschedule a follow up inspection to verify compliance. If the contact attempt is not successful or the responsible person does not indicate a willingness to come into compliance, a Non-Traffic Arrest ticket will be issued requiring a court appearance before the 18th Circuit Court for DuPage County in Glendale Heights or as part of the Village's Administrative Adjudication process. In the case of weed or refuse violations, the person authorized and under contract with the Village will be ordered to correct the violation and a lien placed on the property for the cost of correction.



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9. A pre-court inspection is completed the day before the case is heard by the court or by the adjudicator, whichever is applicable. Evidence documented in that inspection is provided to the judge. The prosecuting attorney may also request documentation regarding prior violations and dates of phone contacts, photos, and all correspondence. Proper documentation assists the judge in making a decision as to the severity of the violation and assures the judge that the Village has made considerable efforts to achieve compliance without court intervention. In the event of a trial, the Code Enforcement Officer is required to testify. Upon conviction, the judge may impose fines of up to \$750.00 for each day the violation exists, impose a period of supervision requiring an additional appearance before the court, issue a rule to show cause for failure to comply, or schedule a hearing for a charge of contempt of court which may involve a jail sentence.
  10. Based on the decision of the court, Code Enforcement Division staff will perform follow-up inspections until compliance is achieved or additional court action is completed.
  11. Once compliance is achieved, the file is closed.

## **Violation Processing**

### **Receiving a Complaint**

When a violation is reported, the information is recorded in HTE. The information recorded will include:

1. Address of the property where the Violation is located.
2. The specific location of the Violation on the property.
3. The nature of and a detailed description of the Violation.
4. The timing of the Violation (continuous, intermittent, periodic).
5. The names of those involved, if known.
6. Permission to enter the complainant's property if the violation cannot be clearly seen from a public area.

The name, phone number, and address of the complainant will be requested but are not required. The complainant is invited to stay involved in the case by calling back in ten days if the problem is not resolved. If the complainant declines to provide their own contact information, staff will inform the complainant that staff will be unable to provide them with the results or status of any Village action. Complainants should be invited to contact the Code Enforcement Division periodically to receive status reports, referencing the address of the violation when they do. Permission to enter property from which the violation can be seen is required prior to scheduling an inspection if the violation cannot be seen from a public area.

### **Confidentiality**

The name and address of a complainant are confidential and may not be released. Any request for information concerning the source of the report or complaint must be submitted through the process stipulated by the Freedom of Information Act. Under the provisions of the Act, the name of a witness or plaintiff is considered confidential and may not be released except under court order.

### **Empowering the Complainant**

Increasing communication with the complainant enhances customer service. The Code Enforcement Officer shall explain the requirements and expectations to the complainant and invite them to call back in ten days if their complaint is not addressed to their satisfaction. If they are unsure of the address, we are able to assist them to identify the property by using Geoblade (the Village's internal GIS program). To encourage further action, the officer shall request permission to enter the complainant's property in the event the inspection cannot be done from a public area. This approach allows the complainant to become part of the solution and is encouraged to maintain contact if the problem is not resolved or if it resurfaces in the future.

## **Complaint Processing/Procedure**

### **Advisory Notice**

On receipt of a service request, the location and description of the alleged violation is documented in HTE. An advisory notice is sent by regular mail describing the allegation and inviting compliance. The notice includes a request to be in compliance or to contact the department accordingly. An inspection is scheduled after 10 days to verify compliance.

All advisory letters and violation notices shall include specific information regarding the violation and offer options toward compliance (for example, “Please remove the sign or obtain the required permit”). If the case proceeds to court, the Village can demonstrate that staff has taken appropriate steps to encourage compliance without court intervention.

The advisory letter process is intended to inform the property owner/occupant of the nature of the violation. In cases of properties with an extensive code enforcement history or where the occupant has been notified of the violation on multiple cases, the Village does have the right to proceed to a violation notice. The Code Enforcement Coordinator should only take this action upon review of the case file.

### **Assignment of Inspections**

Upon issuance of an advisory letter or if the matter needs immediate attention, the Code Enforcement Coordinator will forward the case to the appropriate code enforcement officer for follow up and a site inspection.

### **Initial Inspection**

Inspection of private property will take place from the public right-of-way or from adjacent private property with the consent of that property’s owner to protect constitutional rights granted by the Fourth Amendment prohibiting unreasonable search. The inspector can go onto a subject property for an inspection if the property owner grants authorization.

### **Documentation of Violations**

Where inspection has identified a violation, evidence will be documented by photographing the violation where possible. The results of the inspection are recorded in HTE.

### **Filing Documents**

All documents will be placed in a file jacket labeled by the code enforcement support staff with the address of the property. If the property has been subjected to a previous inspection, the file jacket will be removed from the “inactive files” cabinet in the Code Enforcement Division office, and placed with the new case documents in the “active files” cabinet. When a case is closed, the file will be returned to the “inactive” files.

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**No Apparent Violation**

Where inspection determines that the report of a violation is not valid, the results are recorded in HTE and the case is closed. Where supporting documentation has been collected, it may be filed by address in “inactive files.”

**Processing Photographic Evidence**

Photographs of violations will be taken using the Division’s evidence camera, imprinting the date of the inspection on the face of each photograph. Digital photos are printed by the Code Enforcement Officer with the location, date, time and photo storage identifiers printed on each picture.

**Response to Complainant**

In cases where the complainant has provided a name, address or phone number, Code Enforcement staff will contact the complainant on request and provide the results of the initial inspection. Where the inspection has confirmed a violation, staff will outline the enforcement process for the complainant and invite contact at any time for case status.

**Identification of Owner/Occupant**

The proper identification of the owner and/or occupant of a property is critical to successful enforcement action and avoiding lawsuits. Prior to issuing any Notice of Violation or Non-Traffic Arrest Ticket, the following procedures for identification of relevant parties will be observed.

**Property Owner**

The owner is determined by comparing the utility billing records in HTE with the DuPage County Tax records. If there is a discrepancy, the DuPage County Recorder’s Office (see appendix 3) will supply the last owner of record for the parcel in question when provided with the Property Index Number (PIN).

In some cases, the information provided by the DuPage County Recorder’s Office (see appendix 3) will be inaccurate, out of date, or the Recorder’s Office can only provide the name of the person receiving the tax bill. In such a case it may be necessary to contact a land title company and to perform a “Tract Search” to identify the owner(s) of the property listed on the deed to the land.

**Property in Trust**

In many cases property is held in Trust and the owners are not identified on the deed or title. In the case of a trust, a demand for disclosure of Trust Beneficiaries will be sent to the trustee or Management Company for the property. Under Illinois State Statute, when the violation involves health or safety issues, the trustee or management agent has ten (10) days from the date of receipt to disclose the names of those benefiting from the trust. The Demand Disclosure Letter is a standard form letter (Example 3) and can be obtained from the Code Enforcement secretary.

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**Property Owned by a Corporation**

Corporations own often properties. This is most often true of commercial property. Under Illinois law, a corporation is a legal entity with many of the same rights as a person. A corporation may own and sell property. When a violation occurs on property where the owner identified by the deed or title is a corporation, it is the corporation that is legally responsible. In order to properly cite the corporation, the officers of the corporation, and their location must be identified. This can be accomplished by contacting the Illinois Secretary of State, Office of Business Services (see appendix 3). Businesses incorporated in the State of Illinois must register with the State the name and address of the president and other officers of the corporation, as well as the registered agent of the corporation. The Office of Business Services will provide this information over the phone and it is available at the Secretary of State website. The registered agent of a corporation is required by law to accept service of legal documents on behalf of the corporation. Note that the officers and registered agent only accept service of the legal documents. It is the corporation that is named on the ticket or violation notice.

It is particularly important to get a summons served in cases involving a corporation. Code Enforcement should follow up with the Police Department to ensure the summons is sent to the responsible party, especially when the address is different from the location of the violation. The ability to prove service of a summons is critical in obtaining a default judgment on cases where the defendant fails to appear.

**Property Owned by a Partnership**

In addition to a corporation, a partnership is another form of legal entity, which under Illinois law may own and sell property. As with a corporation, a partnership is responsible for any violation occurring on property the partnership owns. Two different types of partnerships are General Partnerships, and Limited Partnerships. General Partners, share control and responsibility for the actions of the Partnership. In a Limited Partnership, in addition to one or more general partners, there are a number of limited partners who are investors in the partnership and share the profits but have no voice in the control and direction of the partnership. In order to properly cite a partnership, the general partners, and their location must be identified. This can be accomplished by contacting the Illinois Secretary of State, Limited Partnership Division (see Appendix 3). Partnerships in the State of Illinois must register with the State the name and address of the general partners. The Limited Partnership Division (see appendix 3) will NOT provide this information over the phone. A computer abstract containing the names of the general partners can be obtained for a ten-dollar fee by appearing in person at the Chicago office, or through the mail from the Springfield office. As some Partnership information is available on the Secretary of State website, this should be checked prior to contacting the State for the abstract.

**Occupant Identification**

Information sources to identify the occupant of a building or business include:

- Fire Department Emergency Contact information files
- Water Billing records

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- Department of Community Development business files
  - Internet Reverse Phone Directory Information
  - Certificate of Occupancy records
  - Permits and other Village records
  - Vehicle registration

### **Multi-Tenant Buildings**

When a violation is identified on a parcel containing a multi-tenant building the inspector will attempt to identify which tenant/occupant is responsible for the violation and issue a Notice of Violation to both the owner and the identified tenant/occupant. The evidence serving as the basis for the identification of the tenant/occupant will be documented and recorded in the case file. Where no responsible tenant/occupant can be identified, or the violation occurs on a common area, the Notice of Violation will be served only to the owner of the property.

### **Notice of Violation**

A formal “Notice of Violation” is issued to the owner and occupant of a property found to be in violation of one or more sections of the Lombard Code of Ordinances. This is not a ticket and does not require a court appearance. The Code Enforcement Officer will generate the Notice through HTE detailing:

- The date the notice was issued
- The name and address of the party receiving the notice
- The case number
- The Section of the Lombard Code of Ordinances being violated
- The location of the Violation
- The PIN of the property in violation
- A description of the Violation
- The requirements for correcting the Violation
- The name and contact information of the person issuing the Violation

The notice is served by Certified Mail Return Receipt Requested as required by ordinance, and by regular mail. A copy of the Notice is retained in the case file.

### **Serving Corporations**

Violations issued to corporations must name the corporation but be served to an officer or registered agent of the corporation. The officers and registered agent of a corporation can be identified by contacting the Illinois Secretary of State, Office of Business Services (see appendix 3) or at the Secretary of State website. Businesses incorporated in the State of Illinois must register with the State the name and address of the president and other officers of the corporation, as well as the registered agent of the corporation. The registered agent of a corporation is required by law to accept service of legal documents

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on behalf of the corporation. Serving a notice to the registered agent is always the preferred method of issuing a Notice of Violation to a corporation.

## **Follow-Up Inspection**

A follow-up inspection to determine if a violation has been corrected is performed ten days after the date of the Notice of Violation. Each item identified in the initial inspection is checked to confirm compliance with local ordinances. In addition, the entire property is rechecked to ensure that no additional violations have occurred.

## **Confirmation of Compliance**

When the follow-up inspection confirms compliance, the results of the inspection are documented in HTE. The case file is closed and a Thank You card may be sent.

## **Time Extensions**

In some cases conditions may exist which prohibit the complete correction of a violation within the ten days provided by the Notice of Violation. These conditions may include weather, legal requirements, or the scope of work required. When the party responsible for the violation has contacted the inspector prior to the follow-up inspection, and provides a detailed plan, including a timeline for correcting the violation, the inspector may grant an extension for a reasonable length of time required to complete the work and gain compliance. All contact will be documented in HTE. No extension shall be granted for violations that pose, or may pose, a direct threat to the public health and safety.

The time extension will remain in effect as long as a good faith effort is made by the responsible party to correct the violation. The determination of a good faith effort shall include actions to keep village inspectors informed as to progress and status of compliance efforts.

## **Non-Compliance Procedure**

Where the follow-up inspection shows the violation has not been corrected, and no contact has been made by the recipients of the Notice of Violation; the violations are again documented as in the initial inspection and a Non-Traffic Arrest Ticket is issued to the responsible party. In the event that there is not sufficient evidence to support a ticket, the case will be listed as inactive. The case will not be prosecuted without a witness willing to testify in court and able to substantiate the violation.

## **Non-Traffic Arrest Tickets**

A Non-Traffic Arrest Ticket is a citation requiring a court appearance before the 18th Circuit Court for DuPage County. The court generally hears cases sent to it by the Lombard Code Enforcement Division on the third Thursday of each month, in the morning session. Upon finding a responsible party guilty of violating local ordinance, the court can impose fines of up to \$750.00 for each day the violation exists.

**Issuing a Ticket**

Ticket forms are obtained from the Lombard Police Department. Each numbered ticket must be filled out with the following information:

The location of the Court -----Glendale Heights  
 Plaintiff-----check Village of Lombard  
 Defendant's Name -----As identified on the Notice of Violation  
 Defendant's Address -----As identified on the Notice of Violation  
 Birthday -----Required for warrant if defendant fails to appear  
 Sex -----Required for warrant if defendant fails to appear  
 Race-----Not Required, complete if known  
 Height & Weight-----Not Required, complete if known  
 Date and Time of Violation -----Date and Time of follow up inspection on which the ticket is based.  
 Offense -----Category of Offense, (i.e. Zoning Violation, Creating a Nuisance, Sign Violation, Illegal Fill and Grading, etc.) Chapter and Section  
 To Wit -----Narrative describing conditions causing violation, and citing section of local ordinance being violated. Complete the narrative with statement, "and maintained said violation after notification."  
 List all dates of notification and the location of the violation.  
 Sworn and Subscribed-----Completed by Notary Public  
 Date -----Date Ticket is issued  
 Signature & Identification -----Signature of inspector issuing the ticket

**Witness Information Form**

The "Witness Information" form is also to be completed by the inspector. This form is used to transmit the name and address of the inspector to the Clerk of the Court. The clerk then notifies the inspector of the court date when one is assigned to the case. Information required on the form is:

Complaint or Ticket Number-----The number from the upper right hand corner of the Non-Traffic Arrest Ticket. Include both the alphabetical prefix and suffix with the number  
 Name-----The name of the inspector  
 Address -----The Address of the Lombard Village Hall:  
 255 E. Wilson, Lombard, IL 60148  
 Telephone -----Work phone number

If there are any other persons to be called as witnesses before the court, include their name address and phone number on the Witness Information form.



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Non-Traffic Ticket Log Book-----Log all tickets including address, defendant & violation

### **Serving the Tickets**

Once the Non-Traffic Arrest Ticket and the Witness Information form are completed and notarized, copies of the documents are placed in the case file. The original documents are forwarded to the Lombard Police Department, Records Division. The Records Division transmits the case to the Clerk of the Court, and a Lombard Police Officer serves the defendant the ticket.

### **Bond**

Upon being served with the Non-Traffic Arrest Ticket the defendant will be required to post bond to ensure their appearance before the court. This is handled by the Police Department.

### **Weed Complaints**

When a follow-up inspection shows a violation involving the growth of weeds or the accumulation of refuse, has not been corrected, the Code Enforcement Officer will submit an order to the contractor authorized by the Village, to enter onto the property and correct the violation, by authority of Section 92.06 and 92.32 of the Village of Lombard Code of Ordinances. When the contractor completes the work, Village staff will reinspect the property to document the actions taken.

### **Liens**

The cost of the work required to correct the violation will be placed as a lien on the property where the work was completed. The lien will include the actual cost of the work and any reasonable administrative fees for Village actions. The procedures for recording the lien and releasing the lien will be those established by the Village of Lombard Finance Department. The property owner is notified that a lien will be placed on the property and that the lien can be avoided by paying the associated costs. The property owner is invited to contact the code enforcement secretary for lien payment procedure.

### **Enforcement in Addition to Liens**

In those cases where the code enforcement officer determines that, the weed or refuse violation is the result of a pattern of failure to comply with the Lombard Code of Ordinances and properly maintain the property, and finds that no extenuating circumstances exist to explain the failure to comply; the official shall issue a Non-Traffic Arrest Ticket for the violation in addition to the lien for the cost of correction.

### **Prosecution of Complaints**

In the prosecution of complaints the Village is represented by legal counsel retained for the sole purpose of acting as Village Prosecutor. For most cases the information and evidence documented on the case file is sufficient for the prosecutor to successfully

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prosecute the case. Specific procedures for presenting a case to the Village Prosecutor are:

***Pre-Trial Inspection***

On the day preceding the trial, the code enforcement officer, appearing as witness for the Village, will reinspect the location of the violation. The results will be documented and placed in the case file for use at the trial the next day. Inspections will be recorded using standard inspection procedures previously described.

***Presentation to Prosecutor***

On the court date the code enforcement officer will provide the Village Prosecutor with a written synopsis of each case. If pre-trial inspection has determined that the violation is corrected, the officer will so inform the prosecutor of the compliance and recommend a suitable penalty. The recommended penalty will be based on the history of the case and the degree to which the defendant demonstrated a good faith effort to abate the violation.

***Dismissal of Charges***

The Code Enforcement Division provides ample opportunity to correct a violation prior to the issuance of a ticket requiring a court appearance. Given the Division's policy of granting any reasonable request for an extension to take corrective action, and the expense incurred by the Village for filing charges in court, the goal of the Code Enforcement Division is that all cases it brings before the court result in a successful prosecution. The dismissal of charges is therefor discouraged as an enforcement tool.

Under certain circumstances the prosecution of a specific case may not be in the best interest of the Village of Lombard. In cases where the violation was not corrected until after a ticket was issued but prior to the court date, the code enforcement official may recommend to the Village prosecutor that the charges be dismissed. Conditions warranting dismissal include, temporary disability due to physical or mental health, and temporary family crises such as the death or severe injury of a family member. Vacation scheduling is not grounds for the dismissal of charges. The Code Enforcement Officer should determine, when possible, if there are extenuating circumstances that preclude the property owner from bringing the property into compliance with Code prior to bringing the case to Court.

***Arraignment***

After calling the court into session, the judge will begin the arraignment process. The defendants will be called before the judge to enter a plea of guilty or not guilty, or request a continuance. At this time the code enforcement officer should step forward to observe the proceedings and respond to questions if required by the judge. Testimony from the code enforcement officer is usually not required at this time. If the defendant enters a plea of guilty, the judge may seek information on the current condition of the violation, as documented in the pre-court inspection, and a recommendation from the Village Prosecutor on the sentence or amount of fines. If the defendant does not enter a guilty plea, they may request a continuance or plead not guilty and request a trial. After the pleas are entered the judge will recess the court for a short break.

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***Continuance***

In the arraignment the court may choose to grant a continuance if requested by either party to the case. This is a common occurrence for violations of local ordinance. The court will often grant a first and second request for continuance by a defendant. The judge in the case will usually grant additional requests only when unique conditions are demonstrated requiring such a delay. The usual continuance is thirty (30) days but can be longer at the discretion of the judge.

When a continuance is granted, the code enforcement officer shall make inspections of the property in question not less than every two (2) weeks, and complete a pre-trial inspection before the new court date. The results of each inspection will be documented and placed in the case file. Where the scope or impact of a violation is increasing during a continuance, the code enforcement officer may opt to write a new ticket.

***Pre-Trial Conference***

While the court is in recess, following the arraignment phase, the Village Prosecutor will meet with the defendants, if they desire and engage in a pre-trial conference. At this time the evidence gathered by the code enforcement officer will be shown to the defendant and options presented to resolve the case. These options will usually involve the Village agreeing to a reduced fine in exchange for a guilty plea by the defendant and an agreement to correct the violation by a specific date. The prosecutor will rely on the code enforcement officer for details in establishing the date for correction and an appropriate fine.

If the option is accepted by the defendant, the prosecutor will call the case back before the judge when court resumes and enter the agreement and amended plea. If the options are not accepted by the defendant, the case will go to trial before the judge and the code enforcement officer called to give testimony concerning the facts of the case and the evidence in the case file. Other options, such as a trial by jury, are available to the defendant and offered by the judge.

**Court Actions**

In deciding a case, the court has a number of options available to it. The actions required of the code enforcement officer would depend on which option the court chooses.

**Acquittal**

The court may choose to acquit the defendant for a number of reasons. These include:

- Insufficient evidence to substantiate the charge;
- Procedural errors by the Village, (i.e. improper notice, incorrect name, failure to show probable cause, etc.)
- Preemption by State or Federal Statute;
- Vague ordinance language such that the defendant could not know he or she was in violation until after the offense was committed;
- Violations by the Village of due process, (i.e. arbitrary and capricious enforcement, failure to follow established procedures, etc.)

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When the court acquits a defendant the case is closed and enforcement must begin again at the start of the process. The actions of the court and the reason for the acquittal are reported to the Code Enforcement Officer and corrective action taken.

### **Conviction**

A conviction can result from either a guilty plea from the defendant, or as a result of a trial. As a result of a conviction the judge will assess a penalty for the defendant, these penalties may be in the form of a fine, or may involve some court ordered action by the defendant.

### **Fines**

The simplest form of penalty is a fine in which the court requires the defendant to pay a specific amount as punishment for violating the law. The Village Prosecutor may recommend a fine based on the history and extent of the violation. A simple fine is normally assessed only when the court finds the violation occurred at the time the ticket was written but is corrected when the case comes before the court.

### **Supervision**

Supervision is disposition, which allows for a fine, but is used when the violation has not been corrected by the court date. In addition to the fine, supervision requires that the defendant return to court at a later date to show that the violation has been corrected and the property kept in compliance with local ordinances. If the defendant successfully completes court supervision, the case is dismissed. If the defendant violates court supervision, the defendant can be resentenced with a higher fine.

### **Court Orders**

Court orders may be issued as a condition of supervision or conditional discharge and in addition to a fine. A court order is a set of actions established by the court that the defendant is required to take. They may require the defendant to permit Village inspectors onto their property, take specific steps to correct a violation, seek professional assistance, or any other actions the court feels are necessary. Failure to abide by a court order is considered contempt of court and is punishable by fines or imprisonment. It may also lead to the revocation of the defendants' sentence.

### **Court Follow-Up**

Based on the action of the court, the code enforcement officer may be required to monitor the actions of the defendant. If the court has placed the defendant on supervision, or conditional discharge, the code enforcement officer may be required to perform regular inspections of the property. The results of these inspections will be documented in the standard inspection format, and placed in the case file for presentation to the court when required.

### **Closing a Case**

Once compliance has been achieved and documented the case is closed. This can occur at many points in the process such as:

Compliance upon initial inspection;  
Compliance after initial notification;  
Compliance after the notice of violation;  
Compliance following Non-Traffic Arrest Ticket  
Compliance following court action.

Once the inspection, which determines the property to be in compliance with the Lombard Code of Ordinances, is completed the results are documented in HTE and placed in the case file. If the compliance occurred at any point after the initial inspection, a standard "Thank You" card may be sent to the responsible party to acknowledge their efforts to correct the violation.

## **Phase II – Administrative Adjudication**

*With the initial staffing changes in place and staff completing its initial training period, staff is now turning its attention to the process of seeking greater compliance in a timely manner. Additionally, changes are also being pursued to reduce the overall costs associated with proceeding with violations through the DuPage County Circuit court process. Similar to the parking adjudication process initiated by the Police Department earlier in 2008, the next phase will be to expand the adjudication process to include appropriate cases including, but not limited to nuisance, health and safety, and primary zoning/sign violation cases. Staff is working with the Police Department and Village Counsel to implement the next phase of the program. Upon adoption of the requisite administrative adjudication ordinances by the Village Board, the procedures for processing violation through this program will be established and incorporated into the Procedures Manual.*

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## APPENDIX 1

### DEMOLITION PROCEDURES

The Municipal Code ( 65 ILCS 5/11-31) grants the Village the ability to cause the repair or removal of unsafe buildings. The statute requires that the Village apply to the Circuit Court of DuPage County for an order authorizing the Village to remove the building or ordering the owners of record to remove the building. The procedures for such a petition are as follows:

- I. Inspection of the building by Village Code Enforcement Officers identifies and documents all code deficiencies.
- II. Normal enforcement procedures are followed including notification to the owners, and instructions to correct the violations.
- III. At the end of the required notice period, the Village files a “long form” complaint in the court alleging the violations and requesting either,
  - A. An order authorizing the Village to remove or repair the building, or
  - B. An order requiring the owners to remove or repair the building.
- IV. If the Village removes the building, the Village will record a lien against the property for the cost of the authorized action.

If the court issues the order to remove the building, written notice must be provided to the owners of record. If after 15 days of issuing the notice, the owners have failed to correct the violations or remove the building, the Village may execute the court’s order. Where diligent search has failed to determine the identity or location of the current owners, notice may be sent to the person or persons last assessed for the property.

While the legal process for removing a structure is relatively simple and straightforward, as a practical matter, the DuPage courts have been reluctant to order such action. The history of demolition actions by the Circuit Court for DuPage County indicates that the court is not inclined to order the demolition of buildings that are either occupied or capable of being repaired. Based on conversations with the Village Attorney, the Village must be able to demonstrate to the court’s satisfaction:

- That the building represents a hazard and is unsafe for occupancy.
- That the building is vacant.
- The value of the building, (based on 3 independent appraisals).
- The cost of repairs, (based on 3 independent estimates).
- That the cost of bringing the building into compliance is more than 51% of the buildings value.

The Village may also petition the court to have the property declared abandoned if:

1. The property has been tax delinquent for 2 years, or bills for water service for the property have been outstanding for 2 or more years;
2. The property is unoccupied by persons legally in possession; and
3. The property contains a dangerous or unsafe building.

All persons having an interest in the property must be named as defendants in the petition and served with notice of the actions. If the Village proves the conditions claimed in the petition exist, and no person having an interest in the property appears, the court can declare the building abandoned. The title for the property will then transfer to the Village after 30 days written notice mailed to all persons having an interest in the property and no person has filed with the court a request to demolish or repair the building.

Municipal Code ( 65 ILCS 5/11-31-1(e)) provides an expedited demolition process for cases where the building is open and vacant, and is an immediate and continuing hazard to the community. This process enables the Village to demolish these dangerous buildings without a court order provided that:

1. Required notice is posted on the building;
2. Required written notice is served via certified mail to all persons with an interest in the property within 30 days of posting notice on the building;
3. Required notice is published in the newspaper for 3 consecutive days, within 30 days of posting notice on the building;
4. A 30 day period following either the date notice was mailed or the last day notice was published is provided for objections.

If no objections are received within the 30 days provided, the Village may remove the building and place a lien on the property to recover the cost. If an objection is received within the 30 days provided, the Village must seek a court order for the demolition of the building.

The court ordered demolition of code deficient buildings is a viable and appropriate option where enforcement action has determined the building represents a hazard to the community. It must be noted that the option of demolition is viable only where the building is unsafe and not where the building is “unsightly”. Where code deficiencies have been identified which do not result in a building being unsafe, or which can be corrected, the court has demonstrated it is unwilling to cause the building's removal. In those cases the Village may be more successful in seeking an order to repair the building and place a lien on the property to recover the costs.



## APPENDIX 2

### ADMINISTRATIVE SEARCH WARRANTS

The protections against unlawful search and seizure provided by the Constitution of the United States guarantee the resident a “reasonable expectation of privacy.” While the Lombard Code of Ordinances and the BOCA National Property Maintenance Code, provide enforcement officials the power to enter a property to perform inspections, this power can only be exercised with the consent of the resident or owner.

Where no consent is given for an inspection and evidence, visible from the exterior of the property or provided by persons with legal access to the property, provides probable cause to believe that violations exist upon the premises, the Village may petition the court for an administrative search warrant to force the inspection of the property. The Village is required to apply to the Circuit Court of DuPage County for an order authorizing the Village to inspect the premises for specific purposes. The procedures for such a petition are as follows:

1. Perform normal inspection procedure to identify owner or occupant, and document nature of complaint.
2. File a “Complaint for Administrative Search Warrant” with the Circuit Court for DuPage County. The complaint must contain the reasons the Village believes that violations exist, (i.e. why the Village wants to inspect) and the specific items the Village will inspect for.
3. The warrant must be served by a sworn police officer.
4. The warrant service and execution record must be filled out and returned to the clerk of the court.
5. The warrant must be served within 96 hours of being issued by the court.
6. A record of the service must be returned to the Clerk of the Court following execution of the warrant.

## APPENDIX 3

### Phone list

Thomas P. Bayer Village Attorney ----- 312/984-6422

Linda S. Pieczynski, Village Prosecutor ----- 630/655-8783

DuPage County Recorders Office----- 630/682-7398

Illinois Secretary of State  
Office of Business Services----- 312/793-3380

Illinois Secretary of State  
Limited Partnership Division  
17 N. State Street, Site 1137  
Chicago: (Walk In Counter Service Only)----- 312/793-2872

For Computer Abstracts of Limited Partnership with  
Name of General Partners, Mail Requests and \$10.00 fee, to:

Illinois Secretary of State  
Limited Partnership Division  
328 Howlett Building  
Springfield, IL 62756

## **APPENDIX 4**

### **BANNER PERMIT**

On issuing a banner permit, a photocopy showing start & end dates and total banner permits used is forwarded by the Planner to Code Enforcement.

Code Enforcement will enter the case in HTE under inspector BNR showing total days used and total permits used. A postcard reminder will be released by Code Enforcement to the permit holder 2 days prior to the permit expiration and an inspection will be scheduled to verify that the banner has been removed.

Follow-up banner inspection lists are requested under BNR for periodic inspections. A list of properties with current banner permits is maintained and available to all Code Enforcement Officers so that any noncompliance is readily apparent. The list is organized by month of permit expiration and reviewed by the Code Enforcement Officer assigned to this responsibility. If on a follow-up inspection the banner remains in violation, Code Enforcement will proceed directly to a violation notice as the postcard is considered the advisory step and the narrative screen will contain the banner permit history. Subsequent permits are entered on the initial screen to keep the permit history for one year together. See Code Enforcement HTE screen examples.