

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: William T. Lichter, Village Manager

DATE: March 8, 2006 (BOT) Date: March 16, 2006

TITLE: Amendments to Title 9, Chapter 92 "Health and Sanitation" and Chapter 94 "Nuisances" of the Lombard Village Code

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development staff transmits for your consideration four ordinance amendments to Title 9, Chapter 92 "Health and Sanitation" and Chapter 94 "Nuisances" of the Lombard Village Code. (ALL DISTRICTS)

Staff recommends approval of these amendments.

Please place this item on the March 16, 2006 Board of Trustees agenda.

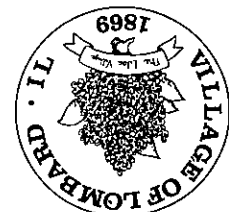
Fiscal Impact/Funding Source:

There will be no fiscal impact and no funding is required. However, the proposed amendment coincides with the startup of staff's Pond Inspection Program. This program will require additional staff time but no additional personnel are required as the duties will be performed by existing engineering staff.

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X _____	Date _____

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:

William T. Lichter, Village Manager

FROM:

David A. Hulseberg, AICP
Director of Community Development

DATE:

March 16, 2006

SUBJECT: Proposed Amendments to the Nuisance Ordinances

The Community Development Department staff is proposing four Ordinance amendments to the Health and Sanitation and Nuisance Ordinances (Chapters 92 and 94 in the Village Code) for Village Board consideration. These amendments are intended to clarify selected code sections to reflect the current interpretations and policies made by staff in the implementation of the Code. The amendments are intended to provide greater clarity to property owners, staff and the courts in the event code enforcement action is taken against a property owner. None of the amendments proposed herein are intended to modify existing Village policies or procedures.

The draft amendments are being transmitted to the Board as separate ordinances, in order to allow the Board flexibility in their review process. The amendments as follows:

Section 92.30 through 92.32 – Noxious Weeds/Grasses

These amendments incorporate the term “grass” or “grasses” where appropriate to allow tall unmowed grass to be clearly classified as a nuisance. Right now, one could argue that absent any noxious weeds, the Village does not have the authority to cut and lien an overgrown property. Staff has cited this section to undertake weed cut liens, but we do not want to get into semantic arguments regarding the type of lower growth plant materials that are overgrown.

Section 94.04(I) – Litter Provisions

This amendment specifically adds the citation “landscape waste as defined by Section 92.41(E) of this Code” to the list of types of litter that can be considered a nuisance. In the past, we have used the term “litter” more generically to include branches and stumps. However, as it is not specifically listed, we do not want this omission to be interpreted that piles of cut branches, stumps or other types of landscape waste on a property is permissible.

Section 94.04(L)(1) – Parking Provisions

This amendment specifically adds the term “tow trucks” to the list of commercial vehicles that cannot be parked on a residential property. It also adds the term “storage” with the parking term to more fully identify that commercial vehicles should not be placed on residential property, except where specifically permitted elsewhere in Code.

Section 94.05(j) – Parking Surface Provisions

This amendment specifically defines the type of surface a vehicle can be parked on. In the past, individuals have placed concrete blocks or bricks underneath vehicle tires and have argued that they are in compliance with code. This proposed amendment would prevent such arguments by tying the surface type to the Village's driveway standards. While this has been the past interpretation made by staff, we want to avoid any confusion or ambiguity should the provisions of this regulation be considered in court.

Please note that this regulation only applies to the respective vehicle parking area itself and not any access points to the parking area itself. For example, this clarification would not require a property owner to provide a full driveway addition to access a parking area used for winter storage of a recreational vehicle.

ACTION REQUESTED

Please place this item on the March 16, 2006 Village Board consideration with a staff recommendation to approve four Ordinances on first reading pertaining to the Village nuisance regulations.

attachments

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9, CHAPTER 92 OF THE LOMBARD VILLAGE
CODE IN REGARD TO HEALTH AND SANITATION REGULATIONS
(WEEDS/GRASSES)

WHEREAS, the Village of Lombard has established and maintains health and sanitation regulations, which are found in Title 9, Chapter 92 of the Lombard Village Code; and, WHEREAS, the Village finds that Sections 92.30 through 92.34 of the Lombard Village Code should be amended to address noxious weeds and grasses within the Village; and WHEREAS, the President and Board of Trustees deems it reasonable to periodically review the Lombard Village Code to ensure that the regulations adequately meet the health, safety, and welfare needs of the Village, and make necessary changes when warranted;

NOW THEREFORE, 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 92.30 through 92.34 of the Lombard Village Code are hereby revised to read in their entirety as follows (the underlined language representing the additions thereto):

“WEEDS, GRASSES AND VEGETATION

§ 92.30 DEFINITIONS.

For the purpose of this ~~subchapter~~ Chapter Sections 92.30 through 92.34 of this Code, 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 (*Sonchus arvensis*), European bindweed (*Convolvulus arvensis*) leafy spurge (*Tithymalus osula*), Russian Knapweed (*Centauria repens*), Hoarycress (*Lepidium draba*), ragweed (*Ambrosia*) and all weeds due to pollination, milkweeds, dandelion, Jimson weed, burdock, cocklebur and the like weeds, as well as all grasses, excepting therefrom trees, shrubs or plant materials permitted by Section 92.33 of the Village Code.

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

§ 92.31 DESTRUCTION OF NOXIOUS WEEDS/GRASSES

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, destroyed or sprayed with efficient chemicals ~~weed-killers~~ by the owner or person in control of said lot or parcel of property so as not to constitute weeds/grasses in a wild/uncultivated state.

§ 92.32 EXPENSE OF DESTRUCTION.

When the person, firm, or corporation owning or controlling any lot or parcel of property fails to destroy 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) Penalty, see § 92.99

§ 92.33 ~~XEROSCAPING~~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 ~~subchapter~~ Code.

§ 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 ICS 5/11-20-7, if said weeds/grasses or weed/grass areas are maintained in a wild/uncultivated state.

(B) The Village Manager may, at any time, not less than seven (7) days after having given written notice to the owner of the necessity for destroying properly maintaining such ~~noxious~~ 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 ~~cut or destroy~~ maintain such weed/grass or weed/grass areas in accordance

with the provisions of Section 92.31 of this Code and the written notice herein required. Upon a finding of guilt, such owner shall be fined \$25 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.”

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.

Passed on first reading this _____ day of _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2006.

Brigitte O'Brien, Village Clerk

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 94
OF THE LOMBARD VILLAGE CODE
IN REGARD TO NUISANCE REGULATIONS
(LITTER/DEBRIS)**

ORDINANCE NO. _____

WHEREAS, the Village of Lombard has established and maintains nuisance regulations, which are found in Title 9, Chapter 94 of the Lombard Village Code; and,

WHEREAS, the Village finds that Section 94.04(I) of the Lombard Village Code should be amended to clarify and include various types of landscape waste, such as cut branches and tree stumps, as a type of litter within the Village; and

WHEREAS, the President and Board of Trustees deems it reasonable to periodically review the Lombard Village Code to ensure that the regulations adequately meet the health, safety, and welfare needs of the Village, and make necessary changes when warranted;

NOW THEREFORE, 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 94, Section 94.04(I) of the Lombard Village Code is hereby amended to read in its entirety as follows (the underlined or .strikeout language representing the amendments thereto):

“(I) To cause or permit any premises within the Village to become or remain littered with tin cans, glass jars, bottles, scrap glass, paper cartons, scraps of paper, boxes, ashes, iron, old hot water tanks, oil storage tanks, tin or other metal materials, refuse, rubbish, junk, waste, manure, straw, piles of grass clippings, landscape waste as defined by Section 92.41(E) of this Code, lumber, old bricks, concrete blocks, chunks of broken concrete, plaster board, discarded furniture, household appliances, mattresses, bed springs, portable swimming pools in disrepair, tires, or other like matter of things;”

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.

Passed on first reading this _____ day of _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Ordinance No. _____

Page 2

Passed on second reading this _____ day of _____, 2006, pursuant to a roll call vote as follows:

Ayes: _____

Nayes: _____

Absent: _____

Approved by me this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2006.

Brigitte O'Brien, Village Clerk

AN ORDINANCE AMENDING TITLE 9, CHAPTER 94 OF THE
LOMBARD VILLAGE CODE
IN REGARD TO NUISANCE REGULATIONS
(COMMERCIAL VEHICLES ON RESIDENTIAL PROPERTY)

ORDINANCE NO. _____

WHEREAS, the Village of Lombard has established and maintains nuisance regulations, which are found in Title 9, Chapter 94 of the Lombard Village Code; and,

WHEREAS, the Village finds that Sections 94.04(L)(1) and (2) of the Lombard Village Code should be amended to clarify the regulations and restriction for parking and/or storage of commercial vehicles on residential property within the Village; and

WHEREAS, the President and Board of Trustees deems it reasonable to periodically review the Lombard Village Code to ensure that the regulations adequately meet the health, safety, and welfare needs of the Village, and make necessary changes when warranted;

NOW THEREFORE, 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 94, Sections 94.04(L)(1) and (2) of the Lombard Village Code is hereby amended to read in its entirety as follows (the undersigned language representing the additions thereto):

“(L)(1) All parking and/or storage of commercial vehicles requiring more than a Class B license plate as established by the Office of the Secretary of State of the State of Illinois ~~over three-fourths ton in size~~ such as trucks, tow trucks, tractors, and trailers on residential property; however, the parking of a school bus, as defined by 625 ILCS 5/1-182, shall not be prohibited between 8:00 a.m. and 4:00 p.m., provided:

(a) The occupant of the residential property is the authorized driver of said school bus; and

(b) The school bus is parked no closer than fifteen (15) feet from the sidewalk adjacent to said residential property or, where no sidewalk exists, no closer than fifteen (15) feet from the street adjacent to said residential property;

(2) Storage of all other specialized commercial vehicles such as tractors, plows, backhoes, or any other similar equipment stored on any residential property unless said

Ordinance No. _____
Page 2
equipment is garaged, or for a construction site building is under construction for which a building permit has been issued.

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.

Passed on first reading this _____ day of _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2006.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2006.

Brigitte O'Brien, Village Clerk

**AN ORDINANCE AMENDING TITLE 9, CHAPTER 94 OF THE
LOMBARD VILLAGE CODE
IN REGARD TO NUISANCE REGULATIONS
(VEHICLE PARKING SURFACES)**

ORDINANCE NO. _____

WHEREAS, the Village of Lombard has established and maintains nuisance regulations, which is found in Title 9, Chapter 94 of the Lombard Village Code; and,

WHEREAS, the Village finds that Sections 94.05(J) of the Lombard Village Code should be amended to clarify the regulations pertaining to the parking surface required for parking and/or storage of vehicles on residential property within the Village; and

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

NOW THEREFORE, 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 94, Section 94.05(J) of the Lombard Village Code is hereby amended to read in its entirety as follows (the underlined language representing the additions thereto):

“(J) The parking of motor vehicles, trailers, boats, or other similar equipment on grass, soil, gravel, or other outdoor areas not surfaced with asphalt or concrete as required by Title 15, Chapter 150, Section 150.301(B) of this Code, except for legal nonconforming parking areas covered under the provisions of Title 15, Chapter 155, Sections 155.301 through 155.306 of this Code.”

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.

Passed on first reading this _____ day of _____, 2006.

First reading waived by action of the Board of Trustees this _____ day of _____, 2006.

Passed on second reading this _____ day of _____, 2006, pursuant to a roll call vote as follows.

Ayes: _____
Naves: _____
Absent: _____
Approved by me this _____ day of _____, 2006.

William J. Mueller, Village President
ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2006.

Brigitte O'Brien, Village Clerk