

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


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

**TO :** PRESIDENT AND BOARD OF TRUSTEES

**FROM:** Scott Niehaus, Village Manager

**DATE :** March 6, 2018                              **(BOT) Date:** March 15, 2018

**SUBJECT:** **Waiver from Section 13.01 of the Village Code (Outstanding Debt)  
Owed the Village Relative to 144 E. St. Charles Road**

**SUBMITTED BY:** William J. Heniff, AICP, Director of Community Development 

**BACKGROUND/POLICY IMPLICATIONS:**

The Department of Community Development transmits a request for a waiver from Section 13.01 of the Village Code as it pertains to payment of all outstanding debts owed the Village prior to issuance of a building permit. This request is being made relative to ongoing environmental remediation work being performed at 144 E. St. Charles Road (the former Spotless Cleaners site) and under the review of the Illinois Environmental Protection Agency (IEPA).

The waiver would provide for the issuance of a building permit exclusively for permits pertaining to the completion of the proposed environmental engineered barrier for the property at 144 E. St. Charles Road, without having to pay off the recorded liens against the subject property.

Staff recommends approval of this request.

Staff requests a waiver of first reading of the Ordinance

**Fiscal Impact/Funding Source:**

Review (as necessary):

Finance Director \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager \_\_\_\_\_ Date \_\_\_\_\_





## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

**FROM:** William J. Heniff, AICP, Director of Community Development

**MEETING DATE:** March 15, 2018

**SUBJECT:** **Waiver from Section 13.01 of the Village Code (Outstanding Debt) Owed the Village Relative to 144 E. St. Charles Road**

Staff is bringing forward a request for a waiver from Section 13.01 of the Village Code as it pertains to payment of all outstanding debts owed the Village prior to issuance of a building permit. This request is being made relative to ongoing environmental remediation work being performed at 144 E. St. Charles Road (the former Spotless Cleaners site) and under the review of the Illinois Environmental Protection Agency (IEPA).

### **BACKGROUND**

The property owner was subject to a judgement through an IEPA pertaining to the property contamination matters. Demolition of the drycleaner building occurred in 2008. However, the property currently has liens by the Village totaling at least \$50,004.23 and covers all Village costs associated with the building demolition and code enforcement property maintenance matters since 2005. Past attempts to secure the judgment by the state through the IEPA were unsuccessful. Current attempts relative were made by the consultant to outreach to the property owner in Bradenton, Florida relative the latest remediation efforts with no success.

The consultant would like to see the clean-up effort on the property continue. The consultant has the ability to proceed with securing the available funds through the state Drycleaner Trust Fund to help pay for the final clean-up efforts and to construct the environmental barrier which will allow for a no-further remediation (NFR) letter to be issued by the IEPA. However, as this work will require a building permit by the Village, Section 13.01 would preclude the permit issuance and the ability for the consultant to access the state funds to complete the work, as the aforementioned section reads as follows (underscore added):

*Section 13.01 - Issuance/renewal.*

*Prior to the issuance or renewal of any license or permit required under any provision of the Lombard Village Code, the village department or employee charged with the duty to issue or renew such license or permit shall contact the finance department to determine whether any monies are due and owing to the village from the applicant, or in relation to the premises in regard to which the license or permit is intended to be used. If monies are found to be due and owing the village, said license or permit shall not be issued or*

renewed until all monies due and owing to the village have been paid in full, and the finance department so certifies.

As the funds may not be available in the future from the state for such work and since the goal of the Village and the consultant is to complete the requisite work in a timely fashion, a variance from Section 13.01 is requested in this highly unique case.

Should the Village Board approve this request, the consultant will proceed their efforts, which will include establishing a pavement surface that will serve as a temporary structure that would ultimately allow issuance of the NFR Letter, which would hopefully facilitate future sale/redevelopment/re-use of the property. For reference purposes, after the NFR Letter is issued, the site can be redeveloped as anything as long as the terms of the NFR Letter are met. Should the property be sold in the future, the Village will still retain its rights for repayment of the recorded liens.

**ACTION REQUESTED**

Please place this item on the March 15, 2018 Village Board agenda for consideration. Staff recommends approval of the attached waiver request from Section 13.01 of the Village Code. The waiver would provide for the issuance of a building permit exclusively for permits pertaining to the completion of the proposed environmental engineered barrier for the property at 144 E. St. Charles Road, without having to pay off the recorded liens against the subject property.

Staff also requests a waiver of first reading of the aforementioned ordinance.

## Heniff, William

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**From:** Todd McCollister <McCollisterT@aktpeerless.com>  
**Sent:** Friday, March 2, 2018 12:22 PM  
**To:** Heniff, William  
**Cc:** Ganser, Jennifer  
**Subject:** Fee Waiver Request / Former Spotless Cleaners Property, 144 East St. Charles Road, Lombard, Illinois

Hi Bill,

As you know, we are in the process of making preparations to complete risk-based corrective action activities at the former Spotless Cleaners property located at 144 E. St. Charles Road in Lombard, which will ultimately lead to a “No Further Remediation” (NFR) Letter from the Illinois Environmental Protection Agency’s Site Remediation Program. In order for us to complete that work, I would like to request a waiver from the provisions of Section 13.01 of the Village Code that requires all outstanding debts be paid prior to the issuance of a building permit. In this particular case, the request is being made and is limited to the existing debt that exists in the form of recorded liens against the property.

Thank you. Feel free to call with questions.

Sincerely,

Todd

**R. Todd McCollister, PE**

Senior Project Manager

**AKT Peerless Environmental**

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**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE APPROVING A WAIVER OF THE REQUIREMENTS OF  
TITLE I, CHAPTER 13, SECTION 13.01 OF THE LOMBARD VILLAGE CODE  
PERTAINING TO THE ISSUANCE OF LICENSES AND PERMITS**

**(144 East St. Charles Road)**

WHEREAS, 144 East St. Charles Road, Lombard, Illinois (the “Subject Property”) has been identified as an environmentally contaminated site by the Illinois Environmental Protection Agency (IEPA); and

WHEREAS, to address the proposed environmental clean-up activities and construction of an engineered environmental barrier on the Subject Property, an application has been filed with the Village of Lombard (the “Village”) requesting a building permit for environmental remediation and engineered environmental barrier work on the Subject Property, within the area as depicted on Exhibit A attached hereto and made part hereof; and

WHEREAS, the environmental remediation efforts are being funded by the State of Illinois Drycleaner Fund, and said funds are available for only a limited period of time; and

WHEREAS, Section 13.01 of the Lombard Village Code states that, “if monies are found to be due and owing the Village, said license or permit shall not be issued or renewed until all monies due and owing to the Village have been paid in full, and the finance department so certifies.”; and

WHEREAS, the Subject Property is subject to liens filed by the Village relative to costs incurred by the Village, in an amount of at least \$50,004.23, relative to Lombard Village Code Violations, demolition of a building on the Subject Property and environmental clean-up work in relation thereto and

WHEREAS, past attempts to collect the money owed the Village, have been unsuccessful; and

WHEREAS, the Village staff and the environmental engineering consultant who would like to proceed with the environmental remediation, that undertaking the desired environmental remediation at this time, relative to the Subject Property, is in the best interest of all parties; and

WHEREAS, the President and Board of Trustees of the Village have determined that is in the best interests of the Village granting a waiver from the provisions of Section 13.01 of the Lombard Village Code, so as to provide for the issuance of a building permit for the engineered environmental barrier work on the Subject Property without having the Village liens paid prior to permit issuance; and

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 a waiver is hereby granted, from the provisions of Title I, Chapter 13, Section 13.01 of the Lombard Village Code, so as to allow for the release of a building permit limited to, and exclusively for, environmental remediation and engineered barrier improvements at the Subject Property, without the Village receiving payment for all outstanding monetary amounts owed to the Village.

**SECTION 2:** This Ordinance is limited and restricted to the environmental remediation and engineered environmental barrier improvements at the property located at 144 East St. Charles Road, Lombard, Illinois, to be funded from the State of Illinois Drycleaner Fund.

**SECTION 3:** This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

Passed on first reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018,  
Pursuant to a roll call vote as follows:

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Keith T. Giagnorio, Village President

ATTEST:

Ordinance No. \_\_\_\_\_  
Re: 144 E. St. Charles Road – Variation from Section 13.01  
Page 3

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Sharon Kuderna, Village Clerk

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**Exhibit "A"**  
**Depiction of 144 East St. Charles Road**  
Property with Proposed Remediation/Engineered Barrier Areas

