

LEGISTAR: 190409
DISTRICT #: ALL

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 : September 18, 2019 (BOT) Date: October 17, 2019

SUBJECT: Ordinance Amending Sections 50.080 through 50.090 of the Lombard Village Code

SUBMITTED BY: Carl S. Goldsmith, Director of Public Works *G*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Public Works transmits for your consideration a proposed ordinance to amend Sections 50.080 through 50.090 of the Village Code. Sections 50.080 through 50.090 establishes the enforcement procedures for the Village of Lombard's Industrial Pretreatment Program.

Fiscal Impact/Funding Source:

Review (as necessary):

Finance Director _____ Date _____
Village Manager _____ 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.



September 18, 2019

TO: Village President and Board of Trustees

THROUGH: Scott Niehaus, Village Manager

FROM: Carl S. Goldsmith, Director of Public Works 

SUBJECT: Ordinance Amending Sections 50.080 through 50.090 of the Lombard Village Code

Sections 50.080 through 50.090 of the Village Code established the enforcement procedures for the Village's Industrial Pretreatment Program. The proposed amendments address issues such as correcting the use of defined terms in the Ordinance (i.e. Industrial User) and transfer the responsibility of compliance with Federal requirements from the "Manager" to the "Director". As staff evaluated the Industrial Pretreatment Program, it was determined that the oversight for the program was not clear. There was conflicting language that appeared to suggest that the management of program was done by GWA, but by law, the responsibility lies with the Village. The amendment clarifies this issue.

Recommendation:

The Public Works Department recommends that the Board of Trustees adopt AN ORDINANCE AMENDING TITLE 5, CHAPTER 50, SECTIONS 50.080 THROUGH 50.090 OF THE LOMBARD VILLAGE CODE IN REGARD TO THE ENFORCEMENT PROCEDURES APPLICABLE TO VIOLATIONS OF CHAPTER 50 OF THE VILLAGE CODE, RELATIVE TO THE VILLAGE'S COMBINED WATER AND SEWER SYSTEM.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 5, CHAPTER 50,
SECTIONS 50.080 THROUGH 50.090 OF THE LOMBARD VILLAGE CODE
IN REGARD TO THE ENFORCEMENT PROCEDURES APPLICABLE TO
VIOLATIONS OF CHAPTER 50 OF THE VILLAGE CODE, RELATIVE TO
THE VILLAGE'S COMBINED WATER AND SEWER SYSTEM**

BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title 5, Chapter 50, Sections 50.080 through 50.090 of the Lombard Village Code are hereby amended to read in their entirety as set forth on Exhibit A attached hereto and made part hereof.

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 _____, 2019.

First reading waived by action of the Board of Trustees this ____ day of _____, 2019.

Passed on second reading this ____ day of _____, 2019, pursuant to a roll call vote as follows:

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this ____ day of _____, 2019.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2019.

Sharon Kuderna, Village Clerk

Exhibit A

§ 50.080 - Public notification; significant noncompliance.

The Director shall annually publish in the largest daily newspaper published in the municipalities in which the authority is located, a list of Industrial Users and Intermediate Users who were determined to be in significant noncompliance with applicable pretreatment requirements or standards or excessive inflow or infiltration during the previous 12 months. The notification shall also summarize any enforcement actions taken against those Industrial Users or Intermediate Users during the same 12 months.

§ 50.081 - Compulsory compliance procedures.

- (A) Should a violation of this Chapter by an Industrial User or Intermediate User occur, including a violation of the maximum permissible inflow and infiltration of storm water, whether or not a significant Industrial User, the Director shall notify the offending User, in writing, through a "Notice of Violation" as to the particulars of such violation or violations and set a time and place for a meeting (hereinafter called a "compliance meeting") to be attended by representatives of the POTW and the Industrial User or Intermediate User. The purpose of such a meeting shall be to establish such procedures, investigations, studies, and compliance measures as the Director deems necessary and desirable to control and prevent violation of this Chapter. Prior issuance of a Notice of Violation is not required for the Director to institute further enforcement actions, in addition to the procedures outlined above. The Industrial User or Intermediate User shall cooperate fully with the Director in making such investigations and studies.
- (B) Order.
- (1) Following the completion of any procedures, investigations, or studies as described in division (A) above, the Director may issue an order which may:
 - (a) Require compliance with applicable pretreatment standards and requirements;
 - (b) Require the User to control the contribution to the POTW to ensure compliance with applicable pretreatment standards and requirements and the conditions of any NPDES permit of the authority or the POTW;
 - (c) Require the development of a compliance schedule for the installation of technology required to meet applicable pretreatment standards and requirements; and the submission of all notices and self-monitoring reports as are necessary to assess and assure compliance by Industrial Users with pretreatment standards and requirements, including but not limited to the reports required by § 50.060;
 - (d) Require abatement of excessive inflow or infiltration of storm water; and
 - (e) Require the payment of any cost associated with sampling, analytical, or testing purposes to detect or approve any violations of this Chapter.
 - (2) If the Director has sufficient information at the time of the compliance meeting to determine necessary and desirable compliance measures, he may, at the time of

the compliance meeting, issue an order directing and requiring the Industrial User and/or intermediate User to take such action, including pretreatment, without further investigation or study.

- (3) Failure to comply with the order of the Director shall be deemed a violation of the chapter and may be grounds for disconnection of service and grounds for such other actions as may be authorized for violation of this Chapter.

§ 50.082 - Disconnection; order to show cause.

- (A) The Director may, upon discovering an ongoing or potential discharge to the POTW or the Village sewage system which presents or may present a danger to the environment or which threatens to interfere with the operation of the POTW, including excessive inflow or infiltration of storm water, immediately issue an order to the responsible Industrial User or intermediate User to show cause why the POTW or Village should not disconnect service, or seek injunctive relief to prohibit the Industrial User or intermediate User from making the discharge to the POTW.
- (B) Procedures for show cause hearing.
 - (1) A notice shall be served on the Industrial User or intermediate User specifying the time and place of a hearing to be held by the Director or his delegate, regarding the ongoing or potential discharge of pollutants or excessive storm water to the POTW which reasonably appears to present an imminent danger to the health or welfare of persons, or the operation of the POTW, the reasons why the action is to be taken, the proposed action, and directing the Industrial User or intermediate User to show cause why its service should not be disconnected. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
 - (2) The POTW may itself conduct the hearing and take the evidence, or may designate any of its members or its attorney to conduct the hearing as a hearing officer and to:
 - (a) Issue in the name of the POTW notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - (b) Take the evidence;
 - (c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Executive Oversight Committee for action thereon.
 - (3) At any hearing held pursuant to this Chapter, testimony taken must be under oath and recorded stenographically or by tape recording. The transcript of said hearing will be made available to any member of the public or any party to the hearing upon payment of the usual copying charges therefor.
 - (4) After the POTW has reviewed the evidence, it may issue an order to the Industrial User or intermediate User responsible for the discharge directing either: that the service be disconnected; or that following a specified time the sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and operated properly; or direct the User to

cease the unauthorized discharge effective after a specified period of time, or that such other action as deemed necessary by the POTW to abate the discharge be done by the Industrial User or by the intermediate User. Further orders and directives as are necessary may be issued.

- (5) Following an order under this section, the Industrial User or intermediate User shall cease discharging to the POTW in accordance with the terms of said order. Failure to do so shall be prima facie evidence of continuing harm to POTW and provide grounds for the granting of injunctive relief or temporary restraining orders.

§ 50.083 - Excessive inflow or infiltration.

- (A) This section applies to all Users other than Industrial and intermediate Users, except for primary Users, who are connected to a sanitary sewer system.
- (B) In the event the Director discovers excessive inflow or infiltration of storm water from a User to whom this section applies, the Director may institute the compulsory compliance and show cause procedures set forth at §§ 50.081 and 50.082 of this Chapter. The remedy of immediate disconnection of service shall not apply in these instances.
- (C) In addition to the remedies set forth herein, the remedies set forth at §§ 50.086 through 50.088 and §50.999 of this Chapter shall apply.

§ 50.084 - Immediate disconnection.

- (A) Any Industrial User is subject to immediate disconnection of service whenever immediate disconnection is required to halt or prevent any discharge of pollutants to the POTW which reasonably appears to the Director to present an imminent endangerment to the health or welfare of persons. The Director may also immediately suspend an Industrial User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.
- (B) Notwithstanding §§ 50.081 or 50.082 of this Chapter, the POTW shall have the authority, after informal notice to the Industrial User and to the Village, to immediately and effectively halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. When the POTW determines that such an emergency situation exists, he shall issue a verbal order (followed immediately by a written order) to the Industrial User stating the problem and requiring immediate cessation of discharge. The POTW's actions may include disconnection of wastewater collection service. The POTW shall obtain the concurrence of the attorney for the Village before disconnection. Methods of informal notice shall include, but not be limited to, any of the following: personal conversation between the Industrial User and authority employees, telephone calls, letters, hand delivered messages or notices posted at the Industrial User's premises or point of discharge.

§ 50.085 - Elimination of discharge; reinstatement.

Any Industrial User or Intermediate User notified of a disconnection of wastewater treatment service under §§ 50.081 or 50.082 shall immediately stop or eliminate the discharge. In the event of a failure of the Industrial User or Intermediate User to comply voluntarily with the disconnection order, the POTW shall take such steps as deemed necessary, including immediate blockage or severance of the sewer connection, to prevent or minimize damage to the POTW system or danger to any person. If the POTW exercises his authority under § 50.084 of this Chapter, the POTW shall reinstate the wastewater treatment service upon satisfactory proof of the elimination of the non-complying discharge.

§ 50.086 - Injunctive relief.

- (A) The Village may institute a civil action for an injunction to restrain violations of this Chapter.
- (B) The Village may, upon discovering an ongoing or potential discharge of pollutants or of excessive storm water to the POTW which reasonably appears to present an imminent danger to the health or welfare of persons, or an ongoing or repetitive interference with proper operation of the POTW, including excessive flows, seek and obtain from the circuit court of DuPage County a temporary restraining order or preliminary injunction to halt or prohibit such discharge. Informal notice between the Village and the discharger shall be attempted, but shall not be considered a condition precedent to POTW petitioning for and obtaining a temporary restraining order.

§ 50.087 - Additional remedies.

- (A) In addition to remedies available to the Village set forth elsewhere in this Chapter, if the POTW, the authority, or the Village is fined by the state or USEPA for violation of the POTW NPDES permit, violation of water quality standards, or violation of the maximum capacity of the POTW as the result of discharge of pollutants or of excessive inflow or infiltration of storm water, then the fine, including all the POTW legal, sampling, analytical, and testing costs and any other related costs shall be charged to the responsible Industrial User or Intermediate User. Such charge shall be in addition to, and not in lieu of, any other remedies the Village may have under this Chapter, statutes, regulations, at law, or in equity.
- (B) If the discharge from any User causes a deposit, obstruction, or damage to any of the POTW, the Director shall cause the deposit or obstruction to be promptly removed or cause the damage to be promptly repaired. The cost for such work, including materials, labor, and supervision, shall be borne by the User causing such deposit, obstruction, or damage.
- (C) The remedies provided in this Chapter shall not be exclusive and other remedies as authorized by statute, at law or in equity may be sought against any User violating the provisions of this Chapter.
- (D) In addition to any fine levied under § 50.999 of this Chapter, where the circumstances of the particular case so dictate, injunctive relief to prohibit the User from discharging into the sanitary sewer system, or to provide such other affirmative relief as may be appropriate may be sought.

§ 50.088 - Falsification.

Any person who knowingly makes any false statements, representations, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this Chapter or wastewater discharge permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter, shall be subject to the penalties and costs provided in § 50.999 of this Chapter.

§ 50.089 - Power and authority of inspectors.

- (A) As a condition of the provision of sewage collection or treatment, the Director and other duly authorized representatives of the authority or the Village, bearing proper credentials and identification shall be permitted to enter all properties of any User for the purposes of inspection, observation, measurement, sampling, and testing to determine compliance with the provisions of this Chapter. The Director or duly authorized representatives shall have authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other Industrial processes beyond that point having a direct effect on the kind and source of discharge to the storm or sanitary sewers, natural outlet or facilities for wastewater treatment. Failure to allow such inspection, observation, measurement, sampling and testing at any reasonable time may result in the termination of service to such premises. Notification of such intention to terminate service to such premises shall be given in accordance with § 50.084 of this Chapter.
- (B) While inspecting or performing the necessary work on private property pursuant to this Chapter the Director or duly authorized representatives shall observe all safety rules applicable to the premises, which are made known.

§ 50.090 - Appeals procedure.

Any person directly aggrieved by any provisions of this Chapter or any decisions of the Director made pursuant to this Chapter shall have the right to request a variance from the provisions of this Chapter or appeal any decision of the Director made pursuant to the provisions of § 50.036 (V) of this Code.