



MEMORANDUM

TO: Scott R. Niehaus, Village Manager

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

MEETING DATE: April 6, 2023

SUBJECT: Text Amendments to Chapter 94: Nuisances – Final Ordinance of Approval

The Village Board approved a series of code amendments to Chapter 94 pertaining to nuisance provisions at their March 16, 2023 meeting. With the passage of the draft ordinance (with changes in underscore and strikeout) on first reading, staff has attached a final clean ordinance for approval and signature at the April 6 meeting.

Staff also found a Scrivener's error in the first draft of Section 94.03 (referencing regular mail and certified mail requirements) and the final attached draft corrects this item.

ORDINANCE NO. _____

**AN ORDINANCE GRANTING APPROVAL OF TEXT AMENDMENTS
TO TITLE IX, CHAPTER 94 OF THE LOMBARD VILLAGE CODE**

(Nuisance Provisions)

WHEREAS, the Village of Lombard established Nuisance Code provisions which is found in Title IX, Chapter 94 of the Lombard Code of Ordinances; and,

WHEREAS, the Board of Trustees deem it reasonable to periodically review said Code and make necessary changes; and,

WHEREAS, a review of the Nuisance Code provisions has been conducted by the Village of Lombard Economic & Community Development Committee (ECDC) on January 25, 2023; and,

WHEREAS, the ECDC has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein and as attached herein as Exhibit A and made a part hereof; 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 Title IX, Chapter 94 of the Lombard Village Code shall be amended as attached as Exhibit A and made a part hereof.

SECTION 2: That this ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this ____ day of _____, 2023.

First reading waived by action of the Board of Trustees this ____ day of _____, 2023.

Passed on second reading this ____ day of _____, 2023.

Ayes: _____

Nays: _____

Absent: _____

Ordinance No. _____
Re: Chapter 94: Nuisances
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Approved this _____ day of _____, 2023.

Keith T. Giagnorio, Village President

ATTEST:

Elizabeth Brezinski, Village Clerk

Published in pamphlet from this _____ day _____, 2023.

Elizabeth Brezinski, Village Clerk

EXHIBIT A
TEXT AMEDNMENTS TO TITLE IX, CHAPTER 94 OF THE
VILLAGE CODE: NUISANCES

CHAPTER 94: - NUISANCES

ARTICLE I. - GENERALLY

§ 94.01 - Definitions.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Nuisance. The acts and omissions set forth in §§94.04 and 94.05 are hereby declared to be a nuisance.

Person. Shall include corporations, firms, and other combinations and associations.

('70 Code, § 6.28.010) (Ord. 1639, passed 7-6-71; Am. Ord. 1926, passed 2-26-76)

§ 94.02 - Nuisances prohibited.

It is unlawful for any person to create, maintain, or permit to be created or maintained, or fail or refuse to abate promptly and without delay, any nuisance as defined in §§94.04 and 94.05.

('70 Code, § 6.28.020) (Ord. 1639, passed 7-6-71; Am. Ord. 1926, passed 2-26-76)

Cross reference—Penalty, see §94.99

§ 94.03 - Form of notice, when required.

(A) The Village Manager, or such employee as may be directed from time to time to enforce the provisions of this Chapter, shall give any required notice of a violation as follows:

(1) A written notice to the occupant and/or owner of the premises upon which the violation is occurring, served by regular mail, or by personal service.

(2) In the case of unimproved property, a written notice shall be sent, by standard mail, to both the property owner of record and the last known tax assessee.

(B) Such notice shall identify the premises upon which the violation exists by its commonly known address or other means reasonably sufficient to identify the property, cite the section and ordinance number being violated, and afford the recipient of the notice a reasonable time of not less than three nor more than ten days to abate the nuisance as herein defined, not counting the day of receipt of such notice. The Village, in its discretion, can extend the abatement period, taking into account life, safety and welfare conditions; the nature of the violation; the ability to remedy the violation in a timely manner, seasonal weather conditions, and other factors that may be relevant to the Village. Additionally, the Village may reduce the abatement period if it is determined that the observed condition poses an imminent threat to life, safety and welfare.

(C) In cases in which notice was duly transmitted as set forth in Section 94.03 (A) above and compliance has not occurred, the Village may issue a citation via certified mail, return receipt requested, to the occupant(s) and/or owner(s) stating the violation(s) and the applicable section and ordinance number(s) being violated.

(D) In cases in which a nuisance is remedied and the condition for which the violation reappears on a given property within a given twelve-month period from the date in which the original nuisance was identified and transmitted pursuant to § 94.03(A), the Village may proceed with a formal violation, without needing to afford the occupant or property owner a reasonable time period for compliance.

('70 Code, § 6.28.030) (Ord. 1639, passed 7-6-71; Am. Ord. 1926, passed 2-26-76, Ord. 3971, passed 2/16/95)

§ 94.04 - Schedule A: Notice required; nuisances defined.

Notice must be given as set forth in §94.03 for those nuisances defined as follows:

(A) (1) To create or permit to be created or remain upon any premises within the village for a period of more than 30 days, the storing, piling, scattering, accumulating, heaping, amassing or collecting of bricks, concrete blocks, straw, lumber, structural iron, pipe, roofing materials, or any building materials where the same is in public view and where the same may or does constitute a safety hazard to children playing in the area, or that may or does become an attraction to or haven for vermin or rodents.

(2) Building material stored outdoors on any site for construction authorized by a building permit shall not be permitted to remain more than 30 days after completion of construction upon a job site;

(B) To allow, cause, or permit garbage, rubbish, or waste materials to be set out in containers which are not covered, which permit or allow the contents of such containers to be accessible to rodents or animals, or that permit the contents thereof to be scattered or blown about;

(C) For any person to dump, deposit, store, or place any garbage, rubbish, trash, or refuse upon property within the village, except in covered containers;

(D) To keep, shelter, feed, harbor, care for, maintain, or trap, or cause or permit to be kept, sheltered, fed, harbored, cared for, maintained or trapped, any animal on property within the village except in full compliance with Chapter 90 of this Code.

(E) (1) To store, cause to be stored, or permit to remain in public view on any premises within the village, inoperable motor vehicles, not located within a garage. For the purpose of this subsection, "inoperable motor vehicle" means any motor vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power or one that for any period of time has been rendered inoperable because it does not have evidence of registration as required by 625 ILCS 5/3-701 et seq., or one which does not display a current license as required by Chapter 70 of the Village Code.

(2) To deposit upon any public or private roadway, alley, driveway, parking area, or other place within the village limits, any inoperable motor vehicle or part thereof, without first obtaining permission of the owner, occupant, or agent of private property, or the Police Department of the village for public property;

(F) To cause or permit the carcass of any dead animal or vegetable matter, slops, swill, suds, garbage, filth, stable drippings, or other offal or noisome substance of any kind including cat or dog feces to be collected, deposited, or remain in any place, yard or pen except in approved covered containers, and then only long enough to be properly disposed of;

(G) To keep or permit to be kept upon any premises within the village any dog or other animal or fowl emitting loud, frequent, and continuous offensive noises;

(H) 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, landscape waste as defined by § 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;

(I) To corrupt or permit to be corrupted any water stream or source thereof;

(J) To obstruct any water source, ravine, or gutter so as to cause water to stagnate therein, or to permit foul or stagnant water to stand upon any premises;

(K) (1) Parking and/or storage of vehicles on residential property, in which any of the following apply

- a. the vehicle exceeds a gross vehicle weight of 10,000 pounds;
- b. is greater than a one-ton truck;
- c. has a height clearance of greater than 9 feet; or
- d. exceeds 22 feet in length.

For illustrative purposes of this subsection, trucks specifically prohibited include box trucks, dump trucks, boom/lift trucks, or similar vehicles.

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 15 feet from the sidewalk adjacent to said residential property or, where no sidewalk exists, no closer than 15 feet from the street adjacent to said residential property;

Furthermore, the parking of a tow truck vehicle as part of a commercial vehicle safety relocater, as set forth within 625 ILCS 5/1-205.1 and 625 ILCS 5/18 d-105, shall be permitted, provided that no more than one such vehicle is parked or stored on a property.

(2) Storage of all other specialized vehicles such as tractors, plows, backhoes, or any other similar equipment (regardless as to whether it is placed on a trailer or not), stored on one or two-family residential property and residential townhomes; unless said vehicles and equipment are wholly enclosed in a garage, or on a construction site for which a building permit has been issued and construction activity is occurring.

(3) Where said vehicle parking and/or storage of vehicles is otherwise not prohibited by sub-sections (1) and (2) above or Chapters 150 or 155 of Village Code, such parking and/or storage activity shall be limited and restricted as follows:

- (a) Said parking shall only be permissible for vehicles that are exclusively used for the maintenance activities at the respective property and shall not be for general commercial parking purposes;
- (b) The parking of snow removal vehicles and equipment is permissible on non-residential property provided that such storage is exclusively for the use and benefit of the property on which the vehicle or equipment is being stored and such storage is occurring between October 15 and May 1 of the calendar year following snow removal activities on the property.

(M) To direct, allow or permit the flow of water from any downspout, sump pump, drain tile or any other artificial storm, ground or surface water drainage mechanisms or conduits onto a sidewalk or street so as to cause icing to exist on said sidewalk or street as a result of said water drainage. In the event that the nuisance described in this subsection is not corrected upon receipt of the notice referenced in § 94.03 of this Code, and the Public

Works Department is required to de-ice any street referenced in said notice a second or further time, the owner/occupant of the property in question shall, in addition to any fine that may be assessed for said Village Code violation, be billed for the actual costs incurred by the village for the Public Works Department's performance of the de-icing.

(N) To fail to maintain or repair any private stormwater management facility including, but not limited to, any private stormwater retention basin, detention basin or storm sewers, as well as any grates, inlets, outlets, manholes, catch basins or restrictors relative thereto, thereby creating a situation in which said stormwater management facility does not perform as designed or poses a potential or real hazard to the health, safety or welfare of the public.

(O) The storage of firewood on a residential property:

- (1) In an amount exceeding 128 cubic feet, also known as one full-cord;
- (2) To a height greater than four feet from grade;
- (3) Greater than eight feet in width; or
- (4) Infested with vermin or rodents.

(P) Notwithstanding the provisions of § 94.05 (J) of this Code, the parking or placement of recreational vehicles (as defined by 625 ILCS 5/1-169), all-terrain vehicles (as defined by 625 ILCS 5/1-101.8), watercraft, motorboat, sailboat, airboat, personal watercraft or specialty prop-craft (all as defined by 625 ILCS 45/1-2), (each hereinafter a "recreational vehicle"), or any trailer (as defined by 625 ILCS 5/1-209) used to transport or store any recreational vehicle (hereinafter a "trailer"), in the front yard (as defined by § 155.802 of this Code) of any property used for single-family detached or attached residential dwelling unit purposes:

- (1) Between November 1st of each year and March 31st of the following year (becoming effective November 1, 2014);
- (2) At any time if any wheels, that are normally on the recreational vehicle or trailer, have been removed; or
- (3) At any time if the recreational vehicle or trailer has otherwise been permanently affixed to the ground, so as to prevent its immediate removal.

(Q) To cause or permit the storage of any item of personal property, other than a motor vehicle, a recreational vehicle (as defined by subsection (P) above) or a trailer (as defined by subsection (P) above), on a residential lot, other than within: (1) the primary building; (2) an accessory building; (3) an accessory structure; (4) a completely enclosed storage trailer; or (5) the enclosed portion of a motor vehicle, provided said motor vehicle is not rendered incapable of being driven, in full compliance with the requirements of the Illinois

Motor Vehicle Code, as a result of the storage of the personal property therein. Notwithstanding the foregoing, the outdoor storage of personal property on a residential lot, where the personal property is intended for use by the occupants thereof, on or about the outdoor area where stored (e.g. lawn furniture, barbeque grill, swing set, outdoor fire pit, etc.), and where the personal property is unbroken, and in a condition such that it can be used for its intended purpose, shall be permitted.

(R) Dangerous trees as set forth within § 99.01(F) et seq. of this Code.

('70 Code, § 6.28.060) (Ord. 1639, passed 7-6-71; Am. Res. R-16-74, passed 1974; Am. Ord. 1926, passed 2-26-76; Am. Ord. 2993, passed 10-15-87) Penalty, see § 94.99, Ord. 4130, passed 2/15/96, Ord. 4333, passed 7/17/97; Ord. 4935, passed 3/1/01; Ord. 5154, passed 6/20/02; Ord. 5860, passed 5/18/06; Ord. 5877, passed 6/1/06; Ord. 6456, passed 3/18/10; Ord. 6871, passed 9/19/13; Ord. No. 7161, § 1, passed 12-17-15; Ord. No. 7338, § 1, passed 3-16-17; Ord. No. 7952, § 1, passed 5-20-21)

§ 94.05 - Schedule B: Notice not required; nuisances defined.

No notice need be given as set forth in § 94.03, and a complaint, summons, or citation may be issued instantly upon the occurrence of any of the nuisances defined as follows:

(A) To place, cause, or permit any tangible item to be placed upon or permitted to remain upon any parkway within the village, except for the purpose of being picked up by a regularly scheduled scavenger service or as otherwise authorized in Sections 97.005, 97.010, 119.20, 153.233, 153.239, or other provisions of this Code; or to allow or permit the placement of items for pickup by scavenger service upon any parkway sooner than 24 hours before the regularly scheduled day for pickup; or to allow or permit containers or other tangible items to remain upon any parkway beyond 24 hours following the regularly scheduled day for pickup;

(B) To allow or permit the grazing or riding of animals upon the village parkways, or on private property without the permission of the owner thereof, nor in such a manner as to interfere with anyone walking upon the public sidewalks, or that may cause damage to ornamental plantings. To cause, allow, or permit anywhere within the village limits, dogs or other animals to excrete bodily wastes upon the premises of others;

(C) The burning of leaves, grass clippings, waste paper, garbage, or any other trash material at any time in any place in any amount. Natural fireplaces and the burning of wood products normally used in fireplaces are exempted from the provisions of this section;

(D) (1) To burn any garbage (organic material) or refuse which emits noxious odors, fumes, or heavy smoke.

(2) All other trash or refuse may be burned only in incinerators installed under a permit obtained through the Community Development Department and the plans for which have

been approved by either the Departments of Health of the county or state. However, use of such incinerator shall be considered a violation to the extent that improper burning is permitted so as to cause noxious smoke or flying particles, or if the incinerator is used to destroy material not normally burned in such incinerator, or for which such incinerator is not designed.

(3) When authorized by the Village Manager, open fire burning shall be permitted for public functions or recreational activities under the supervision of the Fire Department;

(E) To loiter on quasi-public portions of private property, or institutional property of a public nature, such as schools, churches, and the like, and which loitering is not part of or associated with the trade, business, or occupations carried on or conducted on such private property, except that participation in recognized athletic activity, facilities for which are provided by the institutional proprietor, are excepted from this definition;

(F) Any peddler or solicitor, in violation of § 118.05 of the Village Code, is a nuisance and may be prosecuted pursuant to this subchapter;

(G) (1) It is unlawful for any storekeeper, manager, employer, or agent thereof, to authorize the removal of a shopping cart from the premises upon which the said store is located, except that such shopping cart may be used within the parking area upon the premises or immediately contiguous thereto and entry to which parking lot does not necessitate crossing a public right-of-way such as a street, sidewalk, or alley.

(2) It is unlawful to have possession of a shopping cart off the premises or contiguous parking lot, as described immediately hereinabove. To be guilty of a violation of this division (2), it is not necessary that the person found with possession of the shopping cart by the same person who removed such shopping cart from the premises or parking lot of the store, as more fully described in division (1) above.

(3) The village, by its agents, shall advise the store owner of any shopping cart found off premises as to its location, and the store owner or other management personnel shall have a reasonable time after such notice to repossess and restore such shopping cart to the premises of the store owner. Possession of the shopping carts and adherence to this division (3) should not be deemed a violation of division (2) above;

(H) Parking in violation of posted signs upon institutional property such as, but not limited to schools, religious institutions and multiple-dwelling complexes, containing 20 or more units, shall be deemed a trespass and thereby a nuisance under this subchapter, subject to the following: the designation and posting of "no parking" areas shall have been inspected by the Police Chief, and approved in writing, with a view toward improving and controlling the safe flow of traffic.

(I) To cause or permit any tangible item, except for naturally fallen snow, to encroach, obstruct, be placed upon, or placed less than seven feet directly above any sidewalk,

easement, or right-of-way intended, dedicated, or used for access by the public, without obtaining prior written authorization from the Village Manager or designee.

(J) The parking of vehicles, trailers, boats, or other similar equipment on grass, soil, gravel, or other outdoor areas not meeting the standards required by Title 15, Chapter 150, §150.301 (B) of this Code, except for legal nonconforming parking areas covered under the provisions of Title 15, Chapter 155 of the Village Code. Such driveway standard surfaces shall exist underneath the wheels and any hitch supports of such recreational vehicles or trailers as well as underneath the associated recreational vehicles or recreational trailers

(K) The repair work or service of motor vehicles of any kind in conjunction with parking or loading facilities, except for emergency repair service necessary to start vehicles or the washing of accessory vehicles.

(L) Outdoor parking of more than one recreational vehicle or more than one trailer (as defined by 625 ILCS 5/1-209) used to transport or store any recreational vehicle such as motorized or nonmotorized watercraft, all-terrain vehicles, bicycles and the like, on a one or two-family residential property and/or residential townhome property.

(M) The parking of any vehicle within any quasi-public parking lot within fifty (50) feet of the right of way of any street or highway, for the primary purpose of sale, within the Village. Quasi-public parking lots means any off-street parking area designated for the use of the general public who have business or some other type of function at the premises where the parking lot is located. The "Primary purpose of sale" means; the vehicle is parked with signs or markings clearly indicating that the vehicle is offered for sale and that said vehicle is not being used for any purpose other than offering the vehicle for sale. It is presumed, in the event a vehicle is parked in excess of ten (10) hours at one (1) location with signs indicating the vehicle is for sale, that the primary purpose is for sale purposes. ('70 Code, § 6.28.070) (Ord. 1639, passed 7-6-71; Am. Ord. 2399, passed 7-17-80; Am. Ord. 2554, passed 9-23-82; Am. Ord. 2752, passed 6-13-85, Ord. 3572, passed 6/25/92, Ord. 3589, passed 8/20/92, Ord. 3930, passed 1/17/94; Ord. 5876, passed 6/1/06; Ord. 5929, passed 10/5/06; Ord. No. 7774, § 1, passed 1-23-20)

Cross reference— Penalty, see § 94.99

§ 94.06 - Composting.

Notwithstanding any other provisions of this Chapter 94, it shall not constitute a violation of this Chapter to engage in composting provided that said composting fully complies with all the provisions of § 92.40 of this Code.

(Ord. 3247, passed 4/19/90)