

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 4, 2025 (BoT) DATE: March 20, 2025

TITLE: Groundwater Use Prohibition Code Amendment – 401 E North Avenue

SUBMITTED BY: David P. Gorman, Asst. Director of Public Works *DG*

BACKGROUND/POLICY IMPLICATIONS:

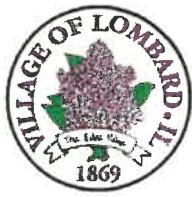
The Department of Public Works transmits for your consideration an ordinance to amend Title 5, Chapter 51, Section 51.02 of the Village Code regarding groundwater use prohibition related to soil contamination at 401 E North Avenue. This item is associated with the separate agenda item regarding a resolution for the Village President and Clerk to sign an Environmental Indemnity Agreement and a Highway Authority Agreement.

FISCAL IMPACT/FUNDING SOURCE

Review (as necessary):


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


NOTE: Materials must be submitted to / approved by the Village Manager's Office by 12:00 pm, Wednesday, prior to the Agenda Distribution.



MEMORANDUM

TO: Scott Niehaus, Village Manager

THROUGH: Carl Goldsmith, Director of Public Works 

FROM: David Gorman, Asst. Director of Public Works 

SUBJECT: Groundwater Use Prohibition Code Amendment, Environmental Indemnity Agreement, and Highway Authority Agreement Related to Soil Contamination at 401 E. North Avenue

DATE: March 4, 2025

BACKGROUND

The Village has received a request from BP Products North America to adopt an ordinance to amend Village Code §51.02 to ban the use of groundwater wells related to soil contamination at 401 E. North Avenue. Companion actions are a Limited Environmental Liability Indemnity Agreement and a Highway Authority Agreement (HAA) to prevent the need for immediate removal of impacted soils in the Village's Grace Street right-of-way adjacent to their property. These three items have been reviewed and approved by the Village Attorney.

This property is the former location of a BP service station and there had been a release of environmental petroleum as documented by the Illinois Emergency Management Agency (IEMA) in Incident Number 20080718. The petitioner has requested the Agreement as a means to protect groundwater impacted by the release. The Agreement also provides the Village the means to be reimbursed for any future costs associated with handling and disposing contaminated soils in the Grace Street right-of-way. IDOT has approved a HAA for their North Avenue right-of-way.

Should the Village Board approve these items, the petitioner would then be able to seek a No Further Remediation (NFR) letter from the IEPA. The issuance of a NFR letter by the IEPA is evidence that the petitioner has successfully demonstrated, through proper investigation and, where warranted, remedial action, that all environmental conditions at their site does not present a significant risk to human health or the environment. The NFR letter also signifies a release of the property owner from further responsibilities under the Illinois Environmental Protection Act and is generally considered that the site does not constitute a significant risk of harm to human health and the environment, so long as the site is utilized in accordance with the terms of the NFR letter.

ACTION REQUESTED

Staff recommends that the Village Board of Trustees approve all three items related to the petitioner's request: (1) the Groundwater Use Prohibition Code Amendment, (2) the Limited Environmental Indemnity Agreement, and (3) the Highway Authority Agreement. The first is to be approved in the form of an ordinance, and the second and third in the form of a resolution.

Exhibit A

**Village of Lombard
Limited Area Groundwater Use Prohibition Area**

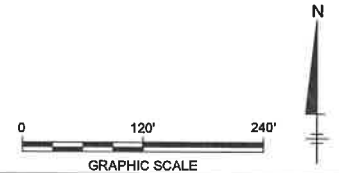


LEGEND:

- PROPERTY BOUNDARY
- /// EXTENT OF EXCAVATION
- PARCEL BOUNDARY
- MONITORING WELL
- ABANDONED OR DESTROYED MONITORING WELL
- SOIL BORING
- ▼ EXCAVATION SOIL SAMPLE
- SUMP
- FIRE HYDRANT
- UTILITY POLE
- UTILITY METER
- MANHOLE
- DROP INLET
- GAS SUBSTATION VAULT
- AREA LIGHT
- SIGN
- ELECTRIC
- ELECTRIC LINE - OVERHEAD
- FIBER OPTIC
- GAS LINE
- WATER LINE
- SANITARY SEWER
- VILLAGE OF LOMBARD LIMITED AREA GROUNDWATER USE PROHIBITION AREA

NOTES

1. PLAN HAS BEEN PLACED INTO NAD 83 ILLINOIS STATE PLANE EAST ZONE, US FEET.
2. ADJACENT PROPERTY INFORMATION SOURCED FROM THE DUPAGE COUNTY TAX ASSESSOR'S WEBSITE.



BP PRODUCTS N.A., INC.
FORMER BP SERVICE STATION NO. 18901
401 E. NORTH AVENUE
LOMBARD, ILLINOIS

**VILLAGE OF LOMBARD
LIMITED AREA GROUNDWATER USE
PROHIBITION AREA**

ARCADIS

**EXHIBIT
A**

PART OF THE SOUTH HALF OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN AND ALSO PART OF THE NORTH HALF OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN.



ARCADIS
8725 ROSEHILL ROAD
LENEXA, KANSAS 66215

LIMITED AREA GROUNDWATER USE EXHIBIT
401 E. NORTH AVENUE
LOMBARD, IL

[illegible]

**Weaver
Consultants
Group**

AVER CONSULTANTS
 GROUP
 1316 BROAD STREET
 SUITE 100
 RIVALE, ELKON 01888
 (530)-717-4548
 WWW.WCGR.COM
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 permission of Weaver
 Consultants Group.

OWN BY: CPV
 DREW BY: MDE
 E: 08/18/2014
 2449-328-09
 and rest exhibit

XНПВІТ А

LEGAL DESCRIPTION

THAT PART OF THE SOUTH HALF OF SECTION 32, TOWNSHIP 40 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, AND ALSO PART OF THE NORTH HALF OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1 IN TERRACE COMMERCIAL SUBDIVISION, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R2005-198826;

THENCE EASTERLY, ALONG THE NORTHERLY LINE OF SAID LOT 1 TO THE EASTERLY RIGHT-OF-WAY LINE OF GRACE STREET AND A POINT ON THE WESTERLY LINE OF LOT 2 IN RYDER'S SUBDIVISION, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R1988-135230;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID GRACE STREET TO THE NORTHWEST CORNER OF LOT 1 IN G & W PARTNERS PLAT OF CONSOLIDATION, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R2013-152885;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID LOT 1 AND THE EASTERLY EXTENSION THEREOF TO THE EASTERLY RIGHT-OF-WAY LINE OF LALONDE AVENUE AND THE NORTHWEST CORNER OF LOT 12 BLOCK 11 IN NORTH AVENUE MANOR, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R1928-269443;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LALONDE AVENUE TO THE SOUTHWEST CORNER OF LOT 12, BLOCK 11 OF SAID NORTH AVENUE MANOR;

THENCE SOUTHERLY TO THE NORTHEAST CORNER OF LOT 2 IN HOLIDAY INN EXPRESS LOMBARD RESUBDIVISION PLAT, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R2020-107742;

THENCE SOUTHERLY ALONG THE EASTERLY LINE OF SAID LOT 2 TO THE SOUTHEAST CORNER OF SAID LOT 2, ALSO BEING A POINT ON THE NORTH LINE OF LOMBARD HEIGHTS LOT A, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R1953-704195;

THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID LOT A TO THE WESTERLY RIGHT-OF-WAY LINE OF JOYCE AVENUE;

THENCE SOUTHERLY AND EASTERLY ALONG SAID WESTERLY RIGHT-OF-WAY LINE TO THE INTERSECTION OF THE WESTERLY RIGHT-OF-WAY LINE OF SAID JOYCE AVENUE AND THE SOUTHERLY LINE OF LE MOYNE AVENUE;

THENCE SOUTHWESTERLY ALONG SAID JOYCE AVENUE TO THE NORTHERLY RIGHT-OF-WAY LINE OF MARCUS DRIVE;

THENCE WESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID MARCUS DRIVE TO A POINT IN THE EASTERLY LINE OF GRACE STREET, SAID POINT BEING THE SOUTHWEST CORNER OF AFORESAID LOT A;

THENCE WESTERLY TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF GRACE STREET, SAID POINT ALSO BEING THE NORTHEASTERLY CORNER OF LOT 5 BLOCK 11 IN FIRST ADDITION TO HARRIS' LOMBARD HILLS, AS PLATTED AND RECORDED AS DOCUMENT NUMBER R1951-628133;

THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID GRACE STREET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF LE MOYNE AVENUE, SAID POINT BEING ALSO THE SOUTHEASTERLY CORNER OF LOT 24 BLOCK 3 OF SAID ADDITION TO HARRIS' LOMBARD HILLS;

THENCE WESTERLY ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF LE MOYNE AVENUE TO THE SOUTHWEST CORNER OF LOT 20 BLOCK 3 OF SAID ADDITION TO HARRIS' LOMBARD HILLS;

THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 20 AND THE NORTHERLY EXTENSION THEREOF TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF NORTH AVENUE, SAID POINT BEING ALSO THE NORTHWEST CORNER OF LOT 5 BLOCK 3 OF SAID ADDITION TO HARRIS' LOMBARD HILLS;

THENCE NORTHERLY TO A POINT ON THE NORTH LINE OF NORTH AVENUE, SAID POINT BEING ALSO THE SOUTHWESTERLY CORNER OF LOT 1 IN TERRACE COMMERCIAL SUBDIVISION AFORESAID;

THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID LOT 1 TO THE POINT OF BEGINNING, ALL IN LOMBARD, DUPAGE COUNTY, ILLINOIS.

ORDINANCE NUMBER _____

AN ORDINANCE PROHIBITING THE USE OF GROUNDWATER AS A POTABLE WATER SUPPLY BY THE INSTALLATION OR USE OF POTABLE WATER SUPPLY WELLS OR BY ANY OTHER METHOD WITHIN THE SPECIFIED LIMITS SURROUNDING THE PROPERTIES LOCATED AT 337, 343, 350, 401, 404, AND 415 EAST NORTH AVENUE, 740 NORTH GRACE STREET, 336, 342, AND 348 EAST LE MOYNE AVENUE, RECREATIONAL AREA DESIGNATED LOMBARD LAGOON, AND ADJACENT RIGHTS-OF-WAY, INCLUDING POINTS OF WITHDRAWAL BY THE VILLAGE OF LOMBARD

WHEREAS, certain properties in the Village of Lombard, Illinois have been used over a period of time for commercial/industrial purpose; and

WHEREAS, because of said use, concentrations of certain chemical constituents in the groundwater beneath the Village of Lombard may exceed Class I groundwater quality standards for potable resource groundwater as set forth in 35 Illinois Administrative Code ("Ill. Adm. Code") 620 or Tier 1 remediation objectives as set forth in 35 Ill. Adm. Code 742; and

WHEREAS, the Village of Lombard desires to limit potential threats to human health from groundwater contamination while facilitating the redevelopment and productive use of properties that are the source of said chemical constituents;

NOW, THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, ILLINOIS:

Section One. Use of groundwater as a potable water supply prohibited.

The use of, or attempted use of, groundwater, as a potable water supply, from within the property boundaries of the property located at 401 East North Avenue, Lombard, Illinois, and the properties illustrated and legally described in **Exhibit A** by the installation or drilling of wells or by any other method is hereby prohibited. This prohibition applies to governmental bodies, including the Village of Lombard.

Section Two. Penalties.

Any person violating the provisions of this ordinance shall be subject to a fine of up to \$750.00 for each violation.

Section Three. Definitions.

"Person" is any individual, partnership, co-partnership, firm, company, limited liability company, corporation, association, joint stock company, trust, estate, political subdivisions, or any other legal entity, or their legal representatives, agents or assigns.

"Potable water" is any water used for human or domestic consumption, including, but not limited to, water used from drinking, bathing, swimming, washing dishes, or preparing foods.

Section Four. Repealer.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed insofar as they are in conflict with this ordinance.

Section Five. Severability.

If any provision of this ordinance or its application to any person or under any circumstances is adjudged invalid, such adjudication shall not affect the validity of the ordinance as a whole or of any portion not adjudged invalid.

Section Six. Effective date.

This ordinance shall be in full force and effect from and after its passage, approval and publication as required by law.

Section Seven. 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.

Ayes:

Nays:

Absent:

ADOPTED: _____
(Date)

APPROVED: _____
(Date)

(Village Clerk)

(Village President)

Officially published this _____ day of _____, 2025.