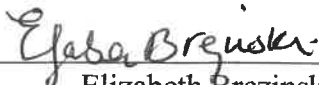


**ORDINANCE 7952
PAMPHLET**

**AN ORDINANCE AMENDING TITLE IX, CHAPTER 94, SECTION 94.04
AND TITLE IX, CHAPTER 99, SECTIONS 99.01 THROUGH 99.06
OF THE LOMBARD VILLAGE CODE IN REGARD TO TREES**



PUBLISHED IN PAMPHLET FORM THIS 21ST DAY OF MAY 2021, BY ORDER
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE
COUNTY, ILLINOIS.


Elizabeth Brezinski
Village Clerk

ORDINANCE NO. 7952

AN ORDINANCE ADDING TITLE IX, CHAPTER 94, SECTIONS 94.04(R) AND AMENDING ARTICLE IX, CHAPTER 99, SECTIONS 99.01 THROUGH 99.06 OF THE LOMBARD VILLAGE CODE IN REGARD TO TREES

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

SECTION 1: That Title IX, Section 94.04 is hereby amended by adding a new Section 94.04(R) thereto, which shall read in its entirety as follows:

“94.04(R): Dangerous trees as set forth within Section 99.01(F) et. seq. of Village Code”

SECTION 2: That Title IX, Chapter 99, Sections 99.01 through 99.06 of the Lombard Village Code is hereby amended to read in its entirety as set forth on Exhibit A attached hereto and made part hereof.

SECTION 3: 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 6th day of May, 2021.

First reading waived by action of the Board of Trustees this ___ day of ___, 2021.

Passed on second reading this 20th day of May, 2021, pursuant to a roll call vote as follows:

AYES: Trustee LaVaque, Puccio, Dudek, Honig and Bachner


NAYS: None

ABSENT: Trustee Militello

APPROVED by me this 20th day of May, 2021.


Keith Giagnorio, Village President

ATTEST:


Elizabeth Brezinski, Village Clerk

Published by me in pamphlet form this 21st day of May, 2021.

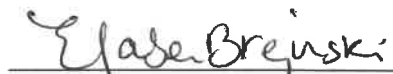

Elizabeth Brezinski, Village Clerk

Exhibit A

ARTICLE I. - TREES

§ 99.01 - Intent/disclaimer/definitions.

- (A) *Intent.* It is the intent of this chapter to promote and protect the public health, safety, and general welfare of the residents of and the visitors to the Village of Lombard, including on public rights-of-way and other village-owned property by providing for the regulation of the planting, maintenance, and removal of trees, shrubs, and other plants within the Village of Lombard.
- (B) *Disclaimer of liability.* Nothing contained in this Code shall be deemed to impose any liability upon the village, its officers, agents or employees, nor to relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any area abutting his/her property or under his/her control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, alley or public place within the village.
- (C) *Definitions.*

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

Acceptable tree species—A species of tree suitable for planting along streets and not listed in § 99.06 of this Code.

Arboricultural standards manual—ANSI Z-133.1 Standards: American National Standards Institute safety standards for tree care operations and ANSI A300: American National Standards Institute standard practices for tree care operations.

Arborist—One who is versed in the art and science of arboriculture, including tree surgery, the prevention and cure of tree diseases and the control of insect pests.

Caliper—The diameter of a tree measured at six inches above the finished grade at the base of the tree; used primarily for nursery stock.

Certified arborist—A professional who is certified through the International Society of Arboriculture as possessing the technical competence through experience and related training to provide for or supervise the maintenance of trees and other woody plants in the residential, commercial and public landscape.

Clear vision triangle—A triangular area on a corner lot measured 30 feet from the intersection of the lot lines bordering the public streets.

Columnar stature tree – Those trees which attain a mature width of less than 15 feet.

Contractor—A person, company or organization employed to supply the necessary skills and services in trimming, removing, cabling and maintenance of trees and shrubs.

County—DuPage County, Illinois.

Dangerous Tree – A standing tree that presents a hazard due to conditions such as, but not limited to, deterioration or physical damage to the root system, trunk, stem or limbs, and the direction and lean of the tree based upon the ANSI A300 standards.

Easement—That area of private property in relation to which another entity (public utility/governmental body) has the right to use said area for limited purposes such as access, drainage or utility distribution.

Emerald ash borer (EAB)—(*Agrilus planipennis* Fairmaire) A destructive, non-native insect pest that attacks ash trees.

Evergreen—Those trees and shrubs, including broad-leaf and conifer evergreens that maintain their leaves year-round.

Forestry Supervisor—A full time Lombard Public Works employee trained and skilled in the theory and practice of municipal arboriculture, and who, if possible, shall hold a college degree or its equivalent in arboriculture, horticulture, urban forestry or another closely related field. This employee shall possess an International Society of Arboriculture's arborist certification and shall maintain the certification during his/her term of employment. This employee shall also possess an Illinois Department of Agriculture Pesticide Applicator's license.

Forestry Technician—A full time Lombard Public Works employee performing all aspects of tree care. This employee shall possess an International Society of Arboriculture's arborist certification and shall maintain the certification during his/her term of employment. This employee shall also possess an Illinois Department of Agriculture Pesticide Applicator's license.

Hazardous tree—Any tree deemed a public hazard by the village's Forestry Supervisor or Forestry Technician. The hazardous tree may present possible or potential physical damage to person or property or biological danger to adjacent trees through transmittable disease or insect infestation.

Large stature tree – Those trees which attain a mature height of greater than twenty-five (25) feet and mature width of greater than thirty (30) feet.

Low-growing tree—Those trees that attain a mature height of 25 feet or less.

Maintenance—The pruning, mulching, watering, cabling/bracing, fertilization, and pest management practices necessary for plant/tree/shrub growth.

Medium-growing tree—Those trees that attain a mature height of more than 25 feet but less than 45 feet.

Minimal distance—The closest distance a tree can be planted in relation to a given object.

Mitigation – The process of diminishing risk. In regards to trees, mitigation activities can include, but are not limited to, cabling, bracing, trimming, treatment, and removal of a tree or tree part.

Mulch—A layer of wood chips or other material placed on the surface of the soil around plants/trees/shrubs to retain moisture, prevent weed growth and protect against damage from lawn mowers or weed whips.

Narrow stature tree – Those trees which attain a maximum mature width of thirty (30) feet

Overhead utility—Any street light, telephone, communications, cable TV, primary or secondary electrical distribution line that is above ground.

Parkway—That part of a street right-of-way not covered by sidewalk, curb, gutter or pavement lying between the property line and that portion of the street used for vehicular traffic.

Parkway tree—Any tree on the street right-of-way.

Person—Any person, firm, partnership, association, corporation, company, or organization of any kind except for a public utility.

Private tree—Any tree located on private property.

Prohibited tree species—Those tree species that, because of their undesirable traits, are prohibited from being planted on the village right-of-way (see § 99.06 of this Code).

Property line—The outer edge of a street or highway right-of-way.

Property owner—The person, persons, or entity or entities owning a parcel of real property as shown by the DuPage County Recorder of Deeds office.

Public hazard—A tree that is unsafe due to a structural defect and poses an unacceptable level of risk to persons and property.

Public nuisance—Any tree or shrub which, by reason of its condition, interferes with the use of any public place; is infected with an injurious plant disease; is infested with an injurious insect or other pest; is detrimental to the construction of public improvements; or endangers the life, health, safety or welfare of the public or its property.

Public place—That part of every street or alley between the lot line and curb and from property line to property line, and any other land owned or controlled by the village.

Public tree—Any tree located on property belonging to or under the jurisdiction of the village.

Public utility—Any utility company authorized by Illinois State Statute or village franchise agreement to operate within the village.

Pruning—The removal of specific branches (living or dead) from a tree to improve its structure, its health and/or to maintain safety while allowing for natural growth of the tree.

Right-of-way—A strip of land over which the village has the right by ownership or dedication to construct a public street, sidewalk, or use for public utilities.

Risk – The likelihood of a conflict or tree failure occurring and affecting a Target and the severity of the associated consequences – personal injury, property damage, or disruption of activities or event and severity of the potential consequences. Determination of Risk is made through a Tree Risk Assessment and Tree Risk Evaluation.

Shrub—A woody plant, smaller than a tree, consisting of several small stems from the ground or small branches near the ground.

Small stature tree – Those trees which attain a mature height of less than 25 feet.

Spacing requirements—All trees planted along the streets shall conform to the spacing requirements stated in subsection 99.04(C) of this Code.

Street tree—See parkway tree.

Tall-growing tree—Those trees that attain a mature height of 45 feet or more.

Target – People, property or activities that could be injured, damaged, or disrupted by a tree.

Topping—The severe cutting back of branches of a tree to a stub, bud, or a lateral branch not large enough to assume the terminal role to such a degree so as to remove the normal canopy and disfigure the tree.

Traffic control device—Any traffic signal, regulatory or warning sign erected in accordance with the manual of traffic control devices.

Tree Risk Assessment – A systematic process to identify, analyze and evaluate tree risk.

Tree Risk Evaluation – The process of comparing the assessed risk against risk criteria to determine the significance of the risk. The evaluation is determined by categorizing the likelihood (probability) of occurrence and the severity of consequences.

Trimming—See pruning.

Village—The geographically area lying within the municipal boundaries of the Village of Lombard, DuPage County, Illinois.

(Ord. No. 7193, § 1, passed 2-18-16)

§ 99.02 - Authority of Public Works Director.

- (A) The Public Works Director, or his designee, shall have exclusive jurisdiction and supervision over all trees, shrubs, other plants, and grassy areas planted or growing in public places.
- (B) The Public Works Director, or his designee, shall have the authority and it shall be his duty to plant, trim, spray, preserve, and remove trees, other plants, and grassy areas in public places to maintain an acceptable level of risk within the urban forest managed by the Village and to preserve the beauty of such public places.
- (C) The Public Works Director, or his designee, shall have the authority and it shall be his duty to order the trimming, preservation, or removal of trees or plants upon private property when he/she shall find a public hazard exists and such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.
- (D) Control of Dutch Elm Disease and Emerald Ash Borer.
 - (1) Any elm tree infected with Dutch Elm Disease or any ash tree infested with the Emerald Ash Borer as determined by the Village of Lombard is a public nuisance and shall be removed within 30 days following notification of such infection or infestation. It is unlawful for any person, being the owner of the property whereon such tree is situated, to possess or keep such a tree after the expiration of the 30-day period following notification of the infection on their property.
 - (2) Elm trees and ash trees or parts thereof in a dead or dying condition that serve as a breeding place for the Elm Bark Beetle (*Hyaluronans rufipes* or *Scolytus multistriatus*) or the Emerald Ash Borer (*Agrilus planipennis fairmaire*) are a public nuisance and it is unlawful for the person owning such property whereon the same is situated to possess or keep same in such condition more than 30 days following notification of the condition on their property.
 - (3) The Public Works Director, or his designee, to enforce this division, may enter upon private property at all reasonable hours for the purpose of inspecting trees thereon, and

may cause to be removed such specimens as are required for the purpose of analysis to determine whether or not the same is infected or infested, and to cause to be removed such diseased trees upon failure of the owner to do so after due notification. Notice shall not be required for the Public Works Director to inspect trees on private property. Due notification for removal of diseased trees shall follow the format and delivery requirements for notice set forth below in Section 99.02 (F)(2)(a),(b),(c),(d) and (e).

- (4) It is unlawful for any person, firm, or corporation to prevent the Public Works Director, or his designee, from entering on private property for purposes of carrying out his duties hereunder or to interfere with such Public Works Director, or his designee, in the lawful performance of his duties.
- (5) In accordance with 65 ILCS 5/11-20-12, in cases where the property owner fails to remove the elm tree or elmwood or ash tree as required by this chapter, the Public Works Director or his agents may go upon such property to cut down and remove such nuisance, and the owner shall be assessed the cost of removal. Notice shall be served as set forth below in Section 99.02 (F)(2)(a),(b),(c),(d) and (e).
- (6) In accordance with 65 ILCS 5/11-20-12, whenever such charges shall remain unpaid for a period of 30 days from the date of the bill herein provided for, the Village Attorney is authorized to:
 - (a) Institute suit in the name of the village to enforce collection of such charge; or
 - (b) To file a sworn statement showing such obligation in the office of the Recorder of Deeds of the County; and the filing of such statement shall be deemed notice of the lien for payment of such charges.
- (7) Nothing in this section shall be interpreted to prevent the Village from electing to obtain a lien under the procedure set forth in 65 ILCS 5/11-20-15.1 in the case of an abandoned residential property.
- (E) The Public Works Director, or his designee, shall have the responsibility to perform a Tree Risk Assessment for any Public Tree or Private Tree. The findings of the Tree Risk Assessment will be used in accordance with the Tree Risk Evaluation to determine whether a tree is either a Dangerous Tree or a Hazardous Tree.
- (F) Abatement. The following are the prescribed means of abating Public Nuisances under this article:
 - (1) Any tree determined to be a Public Nuisance or Public Hazard under this article which is located on Village-owned property shall be pruned, removed, or otherwise treated by the Certified Arborist in whatever fashion is required to the abatement of the nuisance within a reasonable time after its discovery.
 - (2) Any tree determined to be a Public Nuisance or Public Hazard under this article which is located on private-owned property shall be pruned, removed, or otherwise treated by the property owner or his/her agent in whatever fashion is required to cause the abatement of the nuisance. It shall be the duty of any persons growing a tree on his or her property to trim the trees or treat and remove any diseased trees to prevent the trees from constituting a nuisance to the neighbor or public. No property owner may be found guilty

of violating this provision unless and until the following requirements of notice have been satisfied:

- a. The Public Works Director or his designee shall cause a written notice to be personally served upon or sent by Certified U.S. Mail to, the person to whom was sent the tax bill for the general taxes for the last preceding year, and to the property itself by First Class U.S. Mail.
- b. Such notice shall describe the kind of tree, shrub or plant part which has been declared to be a Public Nuisance or Public Hazard; its location on the property; the reason for declaring it a Public Nuisance or Public Hazard;
- c. Such notice shall describe by legal description or by common description the premises.
- d. Such notice shall state the actions that the property owner may undertake to abate the Public Nuisance or Public Hazard;
- e. Such notice will require the elimination of the Public Nuisance or Public Hazard no less than thirty (30) days after the notice is delivered or sent to the person to whom was sent the tax bill for the general taxes for the last preceding year.
- f. Should the owner neglect to comply with the terms of the written notice by the date specified within thirty (30) days after receiving it, the Department of Public Works will cause the removal, treatment or trimming of the nuisance tree, shrub or plant part. The owner will be invoiced by the Village for all costs associated with the mitigation of the nuisance tree, and payment of such invoice shall be made in full within 30 days of the invoice date.
- g. After removal activities have been performed, a notice shall be personally served upon, or sent by Certified U.S. Mail to, the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities. The notice will, at minimum, state the substance of 65 ILCS 5/11-20-15 (set forth fully below) and the substance of this Section of the Village Code, as well as identify underlying parcel by common description, and describe the removal activity.

65 ILCS 5-11-20-15 Lien for removal costs.

- (a) If the municipality incurs a removal cost under Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any underlying parcel, then that cost is a lien upon that underlying parcel. This lien is superior to all other liens and encumbrances, except tax liens and as otherwise provided in subsection (c) of this Section.
- (b) To perfect a lien under this Section, the municipality must, within one year after the removal cost is incurred, file notice of lien in the office of the recorder in the county in which the underlying parcel is located or, if the underlying parcel is registered under the Torrens system, in the office of the Registrar of Titles of that county. The notice must consist of a sworn statement setting out:
 - (1) a description of the underlying parcel that sufficiently identifies the parcel;

- (2) The amount of the removal cost; and
- (3) The date or dates when the removal cost was incurred by the municipality.

If, for any one parcel, the municipality engaged in any removal activity on more than one occasion during the course of one year, then the municipality may combine any or all of the costs of each of those activities into a single notice of lien.

- (c) A lien under this Section is not valid as to: (i) any purchaser whose rights in and to the underlying parcel arose after the removal activity but before the filing of the notice of lien; or (ii) any mortgagee, judgment creditor, or other lienor whose rights in and to the underlying parcel arose before the filing of the notice of lien.
- (d) The removal cost is not a lien on the underlying parcel unless a notice is personally served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities. The notice must be delivered or sent after the removal activities have been performed, and it must: (i) state the substance of this Section and the substance of any ordinance of the municipality implementing this Section; (ii) identify the underlying parcel, by common description; and (iii) describe the removal activity.
- (e) A lien under this Section may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within 2 years after the date of filing notice of lien.
- (f) Any person who performs a removal activity by the authority of the municipality may, in his or her own name, file a lien and foreclose on that lien in the same manner as a municipality under this Section.
- (g) A failure to file a foreclosure action does not, in any way, affect the validity of the lien against the underlying parcel.
- (h) Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the municipality (or its agent under subsection (f) shall release the lien, and the release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.

(i) For the purposes of this Section:

"Lien cost" means the removal cost and the filing costs for any notice of lien under subsection (b).

"Removal activity" means any activity for which a removal cost was incurred.

"Removal cost" means a removal cost as defined under Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

"Underlying parcel" means a parcel of private property upon which a removal activity was performed.

"Year" means a 365-day period.

(j) This Section applies only to liens filed after August 14, 2009 (the effective date of Public Act 96-462).

(k) This Section shall not apply to a lien filed pursuant to Section 11-20-15.1.

h. In the event that the owner does not remit payment to the Village in the required timeframe, the full expense thereof shall be assessed as a lien against the property in accordance with ILCS 5/11-20-7 and 65 ILCS 5/11-20-15.

i. Nothing in this section shall be interpreted to prevent the Village from electing to obtain a lien under the procedures set forth in 65 ILCS 5/11-20-15.1 in the case of an abandoned residential property.

(3) The Arborist is empowered to cause the immediate abatement of any Public Nuisance or Public Hazard provided that the nuisance is determined by the arborist to be immediate threat to any person, property.

(Ord. No. 7193, § 1, passed 2-18-16)

§ 99.04 - Planting standards.

(A) Trees when planted shall have a minimum diameter of two inches at a distance of six inches above the ground and shall have a continuous single trunk. All trees shall be free from deformity and indication of undesirable growth characteristics.

(B) Trees when planted shall be free of infectious disease or insect infestation.

(C) Trees shall be planted on the centerline of the parkways or in line with the existing row of trees. No trees may be planted on parkways less than four feet wide. Planting of trees in situations which meet requirements of this chapter will be prohibited if such planting will interfere with existing utilities.

(D) No tree shall be placed so as to cause a traffic hazard or within the clear line of sight triangle as defined within Section 155.802 of Village Code.

(E) Spacing of trees shall be as follows unless otherwise approved by the Public Works Director. Street trees will be planted:

(1) At a minimum distance of 35 feet between trees for tree categorized as large or medium growing. A minimum distance of 25 feet between trees shall be required for trees categorized as small or narrow growing.

(2) A minimum distance of ten feet from driveway aprons.

(3) A minimum distance of five feet from water/sewer service lines.

(4) A minimum distance of 15 feet from crosswalks.

(5) A minimum distance of 15 feet from street light poles and utility poles.

(6) A minimum distance of ten feet from fire hydrants.

(7) A minimum distance of 15 feet from any traffic control device, not including signs.

(F) No tree shall be planted where the soil is too poor to ensure the growth of such tree.

- (G) Trees required for new developments shall be planted by the village at the owner's cost of \$350.00 each. However, the abutting property owner will be responsible to securing approval from and planting any required trees in a State of Illinois or DuPage County right-of-way. If insufficient rights-of-way exist, the owner shall plant the trees on the abutting private property in a location generally perpendicular to where said tree would have been required.
- (H) Only Small Stature trees shall be planted under overhead utility lines located within the right-of-way.
- (I) Only narrow or columnar growing trees shall be planted in the village's downtown area tree pits to minimize interference with roadways, sidewalks and buildings.
- (J) No tree will be allowed to be planted in a parkway less than four feet in width.

(Ord. No. 7193, § 1, passed 2-18-16)

§ 99.05 - Injury to trees and shrubs prohibited.

No person shall, without a written permit from the Public Works Director or his designee, in the case of a public tree or shrub do, or cause to be done by others, any of the following acts:

- (A) Secure, fasten, or run any rope, wire, sign, unprotected electrical installation, or other device or material to, around or through a tree or shrub;
- (B) Cut (including the root system), break, injure, mutilate, deface, kill, destroy, or permit any fire to burn where it will injure any trees or shrub;
- (C) Permit any toxic chemical, gas, smoke, salt brine, oil, or other injurious substance to seep, drain, or be emptied upon or about any tree or shrub;
- (D) Erect, alter, repair, or raze any building or structure without placing suitable guard around all nearby public trees or shrubs which may be injured by such operations;
- (E) Knowingly permit any unprotected electric service wire to come in prolonged contact with any public tree or shrub;
- (F) Remove any guard, stake, or other device or material intended for the protection of a public tree or shrub, or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water, and fertilizer.
- (G) Trim or remove any limbs in a manner that does not conform to § 99.10 of this Code.
- (H) Use of any unnatural pruning techniques (stubbing, dehorning or lopping).

In the event that a public tree or shrub is injured and the Public Works Director or his designee determine that the public tree or shrub should be replaced, the Village shall determine the replacement value of the tree or shrub based upon the Replacement Cost Method established by the Council of Tree & Landscape Appraisers, Guide for Plant Appraisal. The person responsible for the injury to a public tree or shrub shall be responsible for all costs for the removal and replacement of the public tree.

(Ord. No. 7193, § 1, passed 2-18-16)

§ 99.06 - Prohibited trees.

It is unlawful to plant any of the following trees in the public parkway:

Common Name	Botanical Name
Fir	Abies (All species)
Box Elder	Acer negundo
Silver Maple	Acer saccharinum
Tree of Heaven	Ailanthus glandulosa
Catalpa	Catalpa (all species)
Hawthorn	Crataegus (varieties with thorns)
Russian or Autumn Olive	Elaeagnus (all species)
Ginkgo	Ginkgo (female varieties)
Walnut	Juglans (all species)
Juniper	Juniperus (all species)
Ash	Fraxinus (all species)
Osage Orange	Maclura pomifera
Mulberry	Morus (all species)
Spruce	Picea (all species)
Pine	Pinus (all species)
Sycamore	Platanus occidentalis
Poplar	Populus (all species)
Black Cherry	Prunus serotina
Douglas Fir	Pseudotsuga menziesii
Pear	Pyrus
Buckthorn	Rhamnus (all species)
Sumac	Rhus (all species)
Black Locust	Roninia Pseudoacacia
Willow	Salix (all species)
Yew	Taxus (all species)
Arborvitae	Thuja (all species)
Hemlock	Tsuga (all species)
Siberian Elm	Ulmus pumila

(Ord. No. 7193, § 1, passed 2-18-16)