

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

DATE: July 22, 2009 (BOT) Date: August 20, 2009

TITLE: PC 09-19: Text Amendments to the Zoning Ordinance

SUBMITTED BY: Department of Community Development *MD*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation relative to the above-mentioned petition. The Village of Lombard is proposing text amendments to the Lombard Zoning Ordinance, amending Section 155.212 to establish replacement central air conditioning systems as permitted obstructions in certain required yards.

The Plan Commission recommended approval of this petition.

Staff is requesting a waiver of first reading.

Please place this item on the August 20, 2009 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_  
Date \_\_\_\_\_

Finance Director X \_\_\_\_\_  
Date \_\_\_\_\_

Village Manager X \_\_\_\_\_  
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.





**MEMORANDUM**

**TO:** David A. Hulseberg, Village Manager

**FROM:** William Heniff, AICP  
Director of Community Development *WH*

**DATE:** August 20, 2009

**SUBJECT:** PC 09-19; Text Amendments to the Zoning Ordinance

Attached please find the following items for Village Board consideration as part of the August 20, 2009 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 09-19;
3. An ordinance granting approval of a text amendment to the Zoning Ordinance to allow replacement central air-conditioning systems to be located within the interior side yard.

The Plan Commission recommended approval of the zoning actions associated with this petition. Staff is requesting a waiver of first reading in order to address outstanding permits.



**VILLAGE OF LOMBARD**  
255 E. Wilson Ave.  
Lombard, Illinois 60148-3931  
(630) 620-5700 Fax (630) 620-8222  
www.villageoflombard.org



August 20, 2009

Mr. William J. Mueller,  
Village President, and  
Board of Trustees  
Village of Lombard

**Subject: PC 09-19; Text Amendments to the Zoning Ordinance**

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing Text Amendments to the Lombard Zoning Ordinance, amending Section 15.212 to establish replacement central air-conditioning systems as permitted obstructions in certain required yards.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on July 20, 2009.

Chairperson Ryan stated that this petition has been brought forward by the Village and will be presented by staff.

Michael Toth, Planner I, presented the staff report. The Planning Services Division is proposing code amendments to address the issue of replacement central air-conditioning systems located within the interior side yard.

Mr. Toth stated that the Zoning Ordinance requires central air-conditioning systems meet the required interior side yard setback. There have been a number of permits that have come in over the years for the replacement of nonconforming central air-conditioning systems in the interior side yard. As air conditioning units are not a permitted encroachment in the side yard, they would therefore need to conform to the required setback for structures within the applicable zoning district. Per Section 15.303 of the Zoning Ordinance, once a nonconforming structure is removed, the rights to the nonconforming location are lost and the structure would need to come into compliance with Code. This would mean that any time a central air-conditioning system was to be replaced in a location that was not permitted by Code, a variation would be required.

*"The Mission of the Village of Lombard is to provide superior and responsive governmental services to the people of Lombard."*

*"Our shared vision for Lombard is a community of excellence exemplified by its government working together with residents and businesses to create a distinctive sense of spirit and an outstanding quality of life."*

David A. Hulseberg  
Village Manager

Trustees  
Greg Alan Gron, Dist. 1  
Richard J. Tross, Dist. 2  
Zachary C. Wilson, Dist. 3  
Dana L. Moreau, Dist. 4  
Laura A. Fitzpatrick, Dist. 5  
William "Bill" Ware, Dist. 6

William J. Mueller  
Village President  
Bridgitte O'Brien  
Village Clerk

Mr. Toth stated that unlike a structure, such as a fence or shed, there are more critical elements involved with the piping and electrical components of a home that make the replacement of the a/c unit more complicated. He added that staff wishes to continue to prohibit central air-conditioning systems units as a permitted encroachment in the front and corner side yard. In addition, any new (or additional) air-conditioning units would have to meet the minimum interior side yard requirement.

Mr. Toth stated that the proposed amendments have been drafted to prohibit any replacement central air-conditioning systems to further encroach into the interior side yard. The rationale for allowing a four foot (4') encroachment in the interior side yard assumes the six foot (6') setback required of most single-family residences, takes into consideration the required clearance from the house and the width of the unit.

Mr. Toth stated that staff recognizes the costs associated with the relocation of a central air conditioning unit and also does not wish to punish residents who try to obtain a permit for the replacement of the air conditioning unit. Therefore, staff finds that allowing replacement air conditioning systems to be listing as a permitted encroachment in the interior side yard (with provisions) would reduce the number of variation requests, encourage residents to obtain a permit, eliminate relocation costs and maintain the existing character of residential properties throughout the Village.

Mr. Toth stated that in order to address the demand for the replacement of central air conditioning systems in the side yard, Section 15.5.212 "Permitted Obstructions in Required Yards" will now recognize "Replacement central air-conditioning systems" as a permitted encroachment in the side yard, with exceptions.

Referring to the standards for text amendments, Mr. Toth stated that the proposed amendments would not create additional nonconformity, but rather allow existing nonconforming central air-conditioning systems to be replaced, without requiring a variation. He then stated that this amendment would be consistent with staff and Board policies. The Village has adopted previous amendments regulating the location of certain accessory structures within required yards. Mr. Toth then referred to the list of past Board approvals for a/c units in the side yard.

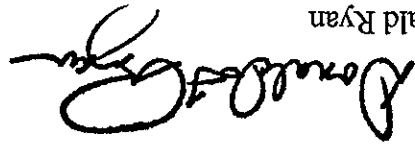
Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission. The Commissioners had no comments.

After due consideration of the petition and the testimony presented, the Plan Commission found that the text amendment complies with the Zoning Ordinance and therefore, the Plan Commission, by a roll call vote of 4 to 0, recommended to the Corporate Authorities, **approval** of PC 09-19.

Re: PC 09-19  
August 20, 2009  
Page 3

Respectfully,

VILLAGE OF LOMBARD



Donald Ryan

Chairperson

Lombard Plan Commission

att-

c. Petitioner

Lombard Plan Commission

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**VILLAGE OF LOMBARD  
INTER-DEPARTMENTAL REVIEW GROUP REPORT**

**TO:** Lombard Plan Commission  
**FROM:** Department of Community Development  
**HEARING DATE:** July 20, 2009  
**PREPARED BY:** Michael S. Toth  
Planner I

**TITLE**

**PC 09-19: Text Amendments to the Zoning Ordinance:** The Village of Lombard is proposing Text Amendments to the Lombard Zoning Ordinance, amending Section 155.212 to establish replacement central air-conditioning systems as permitted obstructions in certain required yards.

**DESCRIPTION**

The Planning Services Division is proposing code amendments to address the issue of replacement central air-conditioning systems located within the interior side yard. The Zoning Ordinance amendments must be addressed through the public hearing process.

**INTER-DEPARTMENTAL REVIEW COMMENTS**

**ENGINEERING**

The Private Engineering Services Division of Community Development has no comments.

**PUBLIC WORKS**

The Public Works Engineering has no comments.

**BUILDING AND FIRE**

With regard to the above referenced proposal for a Zoning Ordinance amendment to Section 155.212, to establish replacement of central a/c units as permitted obstructions in side yards, the Fire Department/Bureau of Inspectional Services supports this proposed amendment change. BIS agrees that there are installation elements involved with these units and to require each homeowner to relocate the unit to a location other than it presently occupies, would create a financial hardship to most residents. As stated, as long as the unit they are replacing goes back into the same location and the allowable encroachment is not compromised, the Fire Department/Bureau of Inspectional Services is comfortable with this text amendment. Also by allowing the new units to be replaced in their original location, more residents will hopefully obtain permits so the utility connections can be inspected for code compliance.

**PLANNING**

Currently, the Zoning Ordinance requires central air-conditioning systems meet the required interior side yard setback. There have been a number of permits that have come in over the years for the

replacement of nonconforming central air-conditioning systems in the interior side yard. As air conditioning units are not a permitted encroachment in the side yard, they would therefore need to conform to the required setback for structures within the applicable zoning district. Per Section 155.303 of the Zoning Ordinance, once a nonconforming structure is removed, the rights to the nonconforming location are lost and the structure would need to come into compliance with Code. This would mean that any time a central air-conditioning system was to be replaced in a location that was not permitted by Code, a variation would be required.

Air conditioning units could be considered a vital element of the home. Also, unlike a structure, such as a fence or shed, there are more critical elements involved with the piping and electrical components of a home that make the replacement of the a/c unit more complicated. Strict application of current code may result in a variation request for every central air-conditioning system that needs to be replaced in the interior side yard. It is noted, that staff wishes to continue to prohibit central air-conditioning systems units as a permitted encroachment in the front and corner side yard. In addition, any new (or additional) air-conditioning units would have to meet the minimum interior side yard requirement.

The proposed amendments have been drafted to prohibit any replacement central air-conditioning systems to further encroach into the interior side yard. The rationale for allowing a four foot (4') encroachment in the interior side yard assumes the six foot (6') setback required of most single-family residences, takes into consideration the required clearance from the house and the width of the unit. The rear yard requirement for a replacement unit would remain the same as a new unit - not encroach more than four feet (4') into the rear yard.

Staff recognizes the costs associated with the relocation of a central air conditioning unit and also does not wish to punish residents who try to obtain a permit for the replacement of the air conditioning unit. Therefore, staff finds that allowing replacement air conditioning systems to be listing as a permitted encroachment in the interior side yard (with provisions) would reduce the number of variation requests, encourage residents to obtain a permit, eliminate relocation costs and maintain the existing character of residential properties throughout the Village.

### Proposed Text Amendments

In order to address the demand for the replacement of central air conditioning systems in the side yard, Section 155.212 "Permitted Obstructions in Required Yards" will now recognize "Replacement central air-conditioning systems" as a permitted encroachment in the side yard, with exceptions.

The proposed text amendments are noted below. Proposed additions to the Zoning Ordinance are underlined and portions that will be extracted are shown with strikethrough. The Standards for Text Amendments are also included below.

## SECTION 2: GENERAL PROVISIONS

### 155.212 "Permitted Obstructions In Required Yards"

Types of Structure or Use Obstruction X = Permitted Obstruction		Front & Corner Sideyard	Interior Side Yards	Rear Yard
Central air-conditioning systems, the outside elements of which extend not more than four feet into the yard, new				Must meet Footnote F
Central air-conditioning systems, replacement	Must meet Footnote E and F			Must meet Footnote F

E. The unit shall not further encroach into the requisite yard than the previous unit.

F. The unit shall not encroach more than four feet (4') into the requisite yard.

**Standards for Text Amendments**

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property*  
 The proposed amendment would be uniformly applied to all properties in the Village that have existing units within the interior side yard.

2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations*  
 The proposed text amendments would be applied to all applicable zoning districts. The overall objective is to maintain the aesthetic value of neighborhoods within the Village and minimize the impacts on adjacent properties that central air-conditioning systems may impose.

3. *The degree to which the proposed amendment would create nonconformity;*  
 The proposed amendments would not create additional nonconformity, but rather allow existing nonconforming central air-conditioning systems to be replaced, without requiring a variation.

4. *The degree to which the proposed amendment would make this ordinance more permissive;*

Currently, central air-conditioning systems are only listed as a permitted encroachment in the rear yard, provided that they do not extend more than four feet into yard. The proposed amendments would actually provide greater flexibility to allow replacement central air-conditioning systems to be located within four feet (4') of the required interior side and rear yards. Current Code states that if a central air-conditioning system is currently located within the interior side yard and is to be replaced, a variation is required.

5. *The consistency of the proposed amendment with the Comprehensive Plan;*

The Comprehensive Plan offers a number of recommendations pertaining to property maintenance as well as the protection/enhancement of identity and character of residential neighborhoods. The addition of the aforementioned regulations will further increase the Village's ability to keep with the Comprehensive Plan.

6. *The degree to which the proposed amendment is consistent with Village policy as established in previous rulings on petitions involving similar circumstances.*

This amendment would be consistent with staff and Board policies. The Village has adopted previous amendments regulating the location of certain accessory structures within required yards.

Case No.	Address	Variation Requested	Request Type	Staff	ZBA	BOT
ZBA 07-03	250 W. Willow	Allow a central air conditioning unit as a permitted obstruction within an interior side yard.	Permitted Obstruction	Approval	Approval	Approval
ZBA 06-23	145 E. Morningside Avenue	Allow a central air conditioning unit as a permitted obstruction within an interior side yard.	Permitted Obstruction	Approval	Approval	Approval
ZBA 04-12	332 N Broadview	Allow a central air conditioning unit as a permitted obstruction within an interior side yard.	Permitted Obstruction	Approval	Approval	Approval
ZBA 02-23	155 S. Martha Street	Allow a central air conditioning unit as a permitted obstruction within an interior side yard.	Permitted Obstruction	Approval	Approval	Approval

**RECOMMENDATION**

The Inter-Departmental Review Report includes a response to the standards for text amendments and finds that the petition meets the standards. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of the request as proposed:

Based on the submitted petition and the testimony presented, the proposed text amendments comply with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission find that the findings included as part of the Inter-Departmental Review Report be the findings of the Plan Commission and therefore, I recommend to the Corporate Authorities **approval** of the text amendments described in PC 09-19.



**ORDINANCE**

**AN ORDINANCE APPROVING TEXT AMENDMENTS  
TO THE LOMBARD ZONING ORDINANCE  
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD, ILLINOIS**

**(PC 09-19; Text Amendments to the Zoning Ordinance)**

WHEREAS, the Village of Lombard maintains a Zoning Ordinance which is found in Title 15, Chapter 155 of the Code of Lombard, Illinois; and,

WHEREAS, Section 155.102 (E)(13) of the Zoning Ordinance directs the Director of Community Development to initiate a review of the provisions established within the Zoning Ordinance; and

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

WHEREAS, as the Director has identified and recommends text amendments to the Zoning Ordinance as set forth herein; and

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on July 20, 2009 pursuant to appropriate and legal notice; and,

WHEREAS, the Plan Commission has filed its recommendations with the President and Board of Trustees recommending approval of the text amendments described herein; and,

WHEREAS, the President and Board of Trustees approve and adopt the findings and recommendations of the Plan Commission and incorporate such findings and recommendations herein by reference as if they were fully set forth herein.

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 15, Chapter 155, Section 200, of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

**SECTION 2: GENERAL PROVISIONS**

**155.212 "Permitted Obstructions In Required Yards"**

Types of Structure or Use Obstruction		X = Permitted Obstruction	
Front & Corner	Sideyard	Interior	Side Yards
Central air-conditioning systems, the outside elements of which extend not more than four feet into the yard, new	Central air-conditioning systems, replacement	Must meet footnote F	Must meet footnote F
		Must meet footnote E and F	Must meet footnote F

E. The unit shall not further encroach into the requisite yard than the previous unit.

F. The unit shall not encroach more than four feet (4') into the requisite yard.

**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 \_\_\_\_\_, 2009.

First reading waived by action of the Board of Trustees this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Passed on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

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

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

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

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

Brigitte O'Brien, Village Clerk