

PLAN COMMISSION

INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

TEXT AMENDMENTS TO THE ZONING ORDINANCE – CONSTRUCTION TIMELINES

May 18, 2020

Title

PC 20-17

Petitioner

Village of Lombard

Property Location

Village-wide

Approval Sought

The petitioner, the Village of Lombard, is requesting a text amendment to Sections 155.103, 155.203 and 155.601 of the Lombard Code of Ordinances, and any other relevant sections for clarity.

Prepared By

Anna Papke, AICP
Senior Planner

DESCRIPTION

The petitioner, the Village of Lombard, is requesting text amendments to Sections 155.103, 155.203 and 155.601 of the Lombard Code of Ordinances, and any other relevant sections for clarity.

INTER-DEPARTMENTAL REVIEW**Building Division:**

The Building Division has no comments regarding the proposed text amendments to the Zoning Ordinance.

Fire Department:

The Fire Department has no comments regarding the proposed text amendments to the Zoning Ordinance.

Private Engineering Services:

Private Engineering Services has no comments regarding the proposed text amendments to the Zoning Ordinance.

Public Works:

The Department of Public Works has no comments regarding the proposed amendments to the Zoning Ordinance.

Planning Services Division:

The Village proposes to amend the text in three sections of Chapter 155 of the Village Code where it currently requires construction to be completed within an 18-month timeframe. The amendments, as discussed below, will provide for clarity as well as consistency with timeline construction requirements elsewhere in the Village Code.

Section 155.103(F)(11)(a)

The proposed amendment will remove from Section 155.103 the requirement that construction be complete within 18 months of approval of a conditional use. As 155.103(F)(11)(a) is currently written, an approved conditional use that has not completed construction within 18 months of receiving zoning entitlements from the Village Board would lose those entitlements.

This provision sets up the possibility of a scenario in which construction on a major project would need to be halted while the petitioner re-applied for zoning entitlements, a process that takes 60-90 days at minimum. Many larger projects within the Village obtain zoning entitlements as planned developments, which are conditional uses. Construction on these projects can easily stretch more than 18 months beyond approval of the zoning entitlements, as petitioners must go through the building permitting process and work out timing considerations related to financing, weather conditions and availability of labor and materials. Additionally, many larger planned developments are approved with the understanding that construction will be phased over a number of years. Recent examples include Fountain Square, Highlands of Lombard, and Yorktown Commons.

In light of these considerations, staff believes the 18-month construction timeline currently in place for conditional uses is neither practical nor necessary. The proposed amendment will provide clarity regarding the expectation for completion of construction on conditional uses and will bring Chapter 155 into alignment with the Village's past practice. Should the Village deem it necessary to set construction timelines for future projects that require conditional use approval, this could be done within the approval ordinances associated with specific petitions. Note that the requirement for construction to *commence* within a one year after Village approval of a conditional use shall remain in place.

Sections 155.203(F) and 155.601(A)(1)

Both of these sections relate to building permits issued prior to the effective date of Chapter 155. Each provides for construction on such permits to continue so long as construction has commenced within six months of permit issuance and is completed within 18 months. If strictly enforced, these requirements could require developers to halt work on active projects in order to redraw plans to address amendments made to Chapter 155 after the permits were issued.

The same issues related to the practicality of completing large-scale projects on an 18-month timeframe that were discussed above apply here. Similarly, the Village's practice over the years has been to allow construction on permitted projects to continue so long as an active building permit remains in place, regardless of text amendments that may be adopted after the permit is issued. The proposed amendments will bring Chapter 155 into conformance with this practice.

Further, staff notes that issues of construction completion and timing for projects that have already received building permits are more properly addressed by the Building Code in Chapter 150 of Village Code. Section 150.142, Time limits for permits, provides extensive provisions for expiration and extension of approved building permits. Section 150.142 was amended comprehensively by the Board of Building Appeals and the Village Board in 2019, and the amendments now proposed for Chapter 155 are intended to remove inconsistencies or redundancies between the two chapters. The staff report and revisions to Section 150.142 are attached for reference at the end of this report.

EXISTING & PROPOSED REGULATIONS

Staff proposes the following text amendments. Additions are denoted by **bold and underline**. Deletions are denoted by a ~~strike through~~.

Chapter 155

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

§ 155.103 Procedures for administrative functions.

(F) *Conditional Uses.*

(11) Revocation.

- (a) In any case where the construction of an approved conditional use is not substantially underway within one year from the date of granting thereof, ~~and completed within 18 months thereof~~, then, without further action by the Village Board, the conditional use or authorization thereof shall be null and void.

ARTICLE III. - GENERAL PROVISIONS

§ 155.203 - Transitional rules.

- (F) *Previously issued building permits.* When a building permit for a building or structure has been lawfully issued prior to the effective date of this Chapter, and when construction has begun within six months of the issuance of such permit and is being diligently pursued to completion, ~~(completion to be accomplished within 18 months of the adoption of this Chapter)~~, the building or structure may be completed in accordance with the plans on the basis of which the building permit was issued and may, upon completion, be occupied under a certificate of occupancy for the use originally intended, subject to the provisions of Article IV, nonconforming buildings, structures, and uses.

ARTICLE X. - OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 155.601 - Scope and application.

(A) *Scope of regulations.*

- (1) For all buildings and structures erected and all uses of land, accessory parking and loading facilities shall be provided as required below. However, where a building permit has been issued prior to the effective date of this Chapter and provided that construction is begun within six months of such effective date and diligently executed to completion ~~(completion to be accomplished within 18 months of the effective date of this Chapter)~~, parking and loading facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this Chapter.

STANDARDS FOR TEXT AMENDMENTS

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards are noted below:

1. *The degree to which the proposed amendment has general applicability within the Village at large and not intended to benefit specific property;*
The text amendments are generally applicable to all properties and proposed developments in the Village.
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 are consistent with the objectives of the Zoning Ordinance.

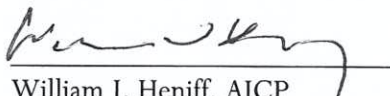
3. *The degree to which the proposed amendment would create nonconformity;*
Staff does not believe any nonconformity would be created.
4. *The degree to which the proposed amendment would make this ordinance more permissive;*
The proposed amendments will clarify the existing regulations.
5. *The consistency of the proposed amendment with the Comprehensive Plan; and*
Staff finds that the proposed amendments would be consistent 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.*
The Village has a history of amending the Zoning Ordinance to address edits for clarity. The proposed amendments are consistent with established Village policy in this regard.

FINDING & RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Zoning Ordinance. As such, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending approval of this petition:

Based on the submitted petition and the testimony presented, the requested text amendments **comply** with the standards required by the Village of Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission accept the findings and recommendations of the Inter-Departmental Report as the findings of the Plan Commission and I recommend to the Corporate Authorities **approval** of PC 20-17.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP
Director of Community Development

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MEMORANDUM

TO: Board of Building Appeals (BOBA) Members

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

MEETING DATE: August 7, 2019

SUBJECT: Text Amendments to Section 150.142 of the Village Code – Building Permit Time Limits

Over the past few years, The Village has had several instances in which various building permits have been issued for private development projects which for varying reasons have exceeded the time limits established within Village Code. In these cases, existing code provides for the ability of staff to issue time extensions. If these extension periods are exceeded permits can be renewed through paying a portion of the overall permit fee. In other cases, projects proceeded at such a slow pace that the code enforcement issues needed to be pursued and permits needed to be reissued in their entirety.

In the application of these regulations, staff found a number of discrepancies, inconsistencies and other policy matters set forth within Section 150.142 of the Village Code. Attached for discussion and consideration are a number of edits proposed by staff (see attached Exhibit A) and based upon both internal and external concerns. The amendments are intended to memorialize past practices or otherwise offer additional clarity relative to such permits.

ACTION REQUESTED

Staff is placing this matter on the August 7, 2019 BOBA agenda for review and consideration of amendments to Section 150.142 as it pertains to Time Limits for Building Permits.

EXHIBIT A
Proposed Code Amendment Changes to Section 150.142 of Village Code

§ 150.142 - Time limit for ~~building~~ permits.

- (A) An applicant or property owner must take possession of a permit within 30 days after notification that a permit has been approved. The date of notification for the purpose of this section shall be the date on which a telephone call or electronic correspondence is made informing the applicant or owner that their permit was approved. If an applicant or owner does not take possession of a permit within 30 days from the date the permit was approved by the Village, then the permit shall have lapsed and the application for that permit shall be considered to be withdrawn~~destroyed after 90 days if the applicant has not reapplied.~~ However, any permits that are withdrawn as a result of this subsection shall still be subject to the permit fee payment provisions of Section 150.141(K).
- (B) A single-family residential permit may be cancelled by the applicant or the owner, if work has not begun. The applicant or the owner must request cancellation of the permit, in written form, to the Director of Community Development or his/her designee. The plan review fee ~~and the administrative fee~~ shall be retained by the village. Any fees associated with water and sewer connections, water meters, construction bonds or miscellaneous bonds shall be refunded at 100 percent to the applicant or the owner. The remainder of the single-family residential building permit fees shall be refunded to the applicant or the owner as follows:
- (1) Permits cancelled less than 30 calendar days after issuance will be refunded at 100 percent minus the review fee and the administrative fee.
 - (2) Permits cancelled less than 180 calendar days after issuance will be refunded at 50 percent.
 - (3) Permits cancelled less than 365 calendar days after issuance will be refunded at 25 percent.
- (C) All other building permits may be cancelled by the applicant or by the owner within 180 calendar days of issuance, in written form, to the Community Development Director or his/her designee. The plan review fee ~~and the administrative fee~~ shall be retained by the village. Any fees associated with water and/or sewer connections, water meters, construction bonds, and miscellaneous bonds shall be refunded at 100 percent to the applicant or the owner. The remainder of the building permit fees shall be refunded to the applicant or the owner at 50 percent of the applicable fees, if the request is made in written form within 180 calendar days of the date of issuance.
- (D) A permit, once issued, shall be valid for a period of one year for all single-family residential construction ~~except multi-family construction~~. The Community Development Director or his/her designee may grant two extensions of time for additional periods not to exceed six months each, provided a fee of 25 percent of the original cost of the permit shall be charged at the time each extension is granted. Where, under authority of a permit or extended permit work has been started, and has been abandoned for a continuous period of 12 months, all rights under such permit shall thereupon terminate ~~by limitations, and the permit fee shall be forfeited.~~

- (4) The extension fee may be waived at the discretion of the Community Development Director or his/her designee, if the delay was caused by an act of nature, labor strike, casualty accident or other event beyond the control of the applicant or the owner.
- (E) For all commercial, industrial, institutional and multiple-family construction permits for buildings of less than 100,000 square feet of gross floor area or less, a permit once issued shall be valid for 12 months. ~~For construction projects greater than 100,000 square feet but less than 200,000 square feet, a permit once issued shall be valid for 18 months.~~ For construction projects greater than 2100,000 square feet of gross floor area, a permit shall be valid for 24 months. The Community Development Director or his/her designee may grant two extensions of up to six months each, provided that ten percent of the original building-permit fee, has been paid. Any additional plan review fee or associated fee shall be charged according to the building-permit fee schedule and will be in addition to the ten percent renewal fee charge. If the three-year deadline to complete work has been exceeded and the work has received valid past inspections, full current permit fees are due upon renewal for all remaining work to be undertaken as part of the project.
- (F) Any building permit which is duly issued by the village, pursuant to § 150.140, shall automatically become invalid if the work which is the subject of the permit is not commenced within ~~6180~~ days of the date the permit was issued. After the permit is issued, it shall be the obligation of the applicant to take reasonable and appropriate action so that the work, which is the subject of the permit, is commenced and completed in a diligent manner. ~~The permit shall become invalid if no work is conducted on the construction site for 50 or more working days during any given 60 working day period.~~ The occurrence of the event described above involving the immediate preceding delay, the permit shall automatically become invalid unless the unpermitted delay is caused by an act of nature, labor strike, casualty or accident. In the event of such an act of nature, labor strike, casualty or accident which results in such an unpermitted delay, the applicant shall promptly notify the Community Development Director or his/her designee in writing, describing in reasonable detail the circumstances of the unpermitted delay. For the purpose of this section the definition of the word "work" shall be held to mean, "labor performed for the number of hours that the construction industry accepts as constituting a work day."
- (G) Any permit that has become invalid will require a new building-permit application to be completed and submitted to the Community Development Department Building Division. The applicant or the owner shall be required to pay ~~100 percent of the administration fees, as well as~~ 50 percent of all building fees, if the application is made within six months of the permit becoming invalid. After six months of the permit becoming invalid, a new building permit will be required. The new permit shall be reviewed with respect to all building and fire-codes that are currently enforced by the village, as of the date of the new permit being applied for. ~~Permit fee calculations shall be charged at 100 percent of the fees that were in effect at the time of the original review.~~
- (H) Any permitted work that is not completed by the permit expiration date(s), including extensions, shall be maintained in a safe condition. Any unsafe conditions that may exist, as determined by the Community Development Director or his/her designee, shall be immediately made safe or remove the dangerous structure or portion thereof, as determined at the discretion of the Community Development Director or his/her designee, and a contractor selected by the Community Development Director or his/her designee, shall make the structure, the site or portion thereof safe, at the owner's expense. All costs associated with making the structure, the site or portion thereof safe, including but not limited to legal fees, staff hours, and any contractual work, shall be the responsibility of the owner. If all costs associated with making the structure, the site or portion thereof safe are not paid within 30 days of receipt of invoice from the village, a lien shall be placed upon the property.
- (I) Any permitted construction that has been idle for a period of six months after permit issuance is invalid and the applicant or the owner shall be held in violation of village ordinance and will be

subject to being ticketed. The applicant or the owner of the property ~~shall~~ may be ~~responsible~~ subject to fines of up to \$750.00 per day, for each day the property is found in violation of village ordinance.

(Ord. 2561, passed 10-28-82; Ord. 5481, passed 5/6/04; Ord. 5914, passed 9/7/06)