

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager *dah*

DATE: January 11, 2011 (B of T) Date: January 20, 2011

TITLE: Text Amendments to the Lombard Village Code – Bonds for Protection of Public Properties

SUBMITTED BY: Department of Community Development *lsh*

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an ordinance amending Title 15, Chapter 150, Sections 150.144 and 140.145 of the Lombard Village Code in regard to relaxing the requirements for parkway restoration/protection bonds.

Staff recommends approval of this request.

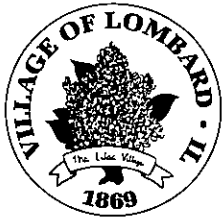
Please place this item on the January 20, 2011 Board of Trustees agenda.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <i>dah</i> _____	Date <u>1/13/11</u>

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 J. Heniff, AICP, Director of Community Development *WH*

DATE: January 20, 2011

SUBJECT: TEXT AMENDMENTS TO SECTION 150.144 & 145 – BONDS FOR PROTECTION OF PUBLIC PROPERTIES

Over the past year and one-half, staff has been seeking opportunities to address the backlog of bonds for right of way protection being held by the Village for development projects that have failed to be completed. Through this continual process, staff has also begun to review the policies and procedures pertaining to collected bonds and the necessity for keeping such bonds for many construction projects. The result of this effort is proposed amendments to Section 150.144 and 145 of the Lombard Building Code significantly relaxing the requirements for parkway restoration/protection bonds.

BACKGROUND

Through code provisions and/or policy interpretations, the Village currently collects a parkway restoration bond for both residential (\$1,000) and non-residential (\$2,000) construction projects that include the pouring of a foundation or most concrete work. The bond has been collected as collateral to ensure that the parkway is not damaged and if it is damaged, the Village has leverage to ensure that it is properly repaired. However, if the project is never completed, the bond is held indefinitely. Throughout 2010, staff sought a number of ways to encourage applicants to finish out the projects so the bonds could be returned. Key responses included a lack of funds to complete the project, change of property ownership, or the contractor is no longer associated with the project. The vast majority of these cases do not have any outstanding issues associated with the parkway that would necessitate holding onto the bond.

Staff recognizes the importance of collecting bonds in some cases, but notes that adjustments to the policies and procedures would be in the best interests of developers, residents and the Village for the following reasons:

1. The bond cannot be used to address any deficiencies associated with the building construction activity itself;
2. Lack of effectiveness, as the bonds cannot be used by the Village or property owners to finish projects;
3. Resident concerns about “tying up” their money while their construction project is occurring.

4. Of the nearly thousands of bonds that have been collected over the past decade, staff can only think of one bond that was actually pulled;
5. Inordinate amount of staff time processing and refunding the bonds (approx. 1-2 hours a day);
6. Some older bonds were pulled by property owners that no longer own the property or businesses no longer in operation – the funds would then be turned over to the State of Illinois and serve no Village benefit; and
7. The Village auditor has commented that we should not hold bonds indefinitely, but code does not provide for their return until a project is finished;

Given these issues, staff will be proposing a major change to the bonding provisions and will allow the owner/contractor to sign an acknowledgement form in lieu of a bond. We will also set parameters for noncompliant contractors. However, this amendment will not affect bonds or letters of credit collected by Private Engineering for constructing public improvements or bonds for commercial projects.

Key benefits of these changes are that the amendments limit the scope and applicability to those projects most likely to impact or damage the parkway. Additionally, any collected bonds will be released upon the completion and approval of the parkway improvements and not the project itself. Lastly, exemption provisions are made for driveway repair/replacement activities and the reductions in water and sewer repair activities are more fully identified. The fees for water and sewer deposits are reflective of the cost to replace a sidewalk section, and are purposely intended to be lower than other construction bonds, as such improvements are usually completed in a very short time frame and without much advance notice.

Staff sees these changes as being beneficial for all parties concerned. The necessity for bonds will be significantly reduced for existing residents and the Village will significantly reduce the time allocated for processing bonds.

RECOMMENDATION

Attached is a draft ordinance for consideration amending Section 150.144 and 145 amending the bond process. Please place this item on the January 20, 2011 Board Agenda. Staff recommends approval of the proposed amendments.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING TITLE 15, CHAPTER 150, SECTIONS 150.144
AND 150.145 OF THE LOMBARD VILLAGE CODE IN REGARD TO BONDS
FOR PROTECTION OF PUBLIC PROPERTY**

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

SECTION 1: That Title 15, Chapter 150, Section 150.144, DEPOSIT REQUIRED FOR PROTECTION OF PUBLIC PROPERTIES, of the Lombard Village Code is hereby amended to read in its entirety as follows:

§ 150.144 DEPOSIT REQUIRED FOR PROTECTION OF PUBLIC PROPERTIES.

(A) The applicant requesting a permit to build a ~~one or two family dwelling~~ new principal structure or undertaking work within the public right of way not covered under Section 150.145, shall be required to place on deposit the amount of ~~\$1,000.00~~ set forth in Section 150.141 as part of the building permit which will ~~insure~~ ensure public right-of way restoration, such as sidewalks, curbs, ~~and parkways~~ landscaping and other parkway improvements. This requirement shall not be required for permits to repair or replace existing driveways or sidewalks.

(B) ~~Upon final inspection, and after an unconditional non-temporary occupancy permit has been issued as regulated by Section 150.246, or after both where required~~ completion of work within the public right of way and inspection approval by the Village, a refund of the deposit referenced in subsection (A) above shall be issued by the Village to the person, firm or corporation making said deposit, provided that all portions of the public right-of-way, and appurtenances thereto have been restored to the Village's satisfaction. Construction deposits under this section shall be retained until the requirements of Subsection 150.152(D) have been met.

(C) (1) When any earth, gravel, or other material is caused to roll, flow, or wash upon any street, the person causing or having responsibility for causing, the earth and like material to be placed or rest on the street, shall cause the same to be removed from the street within 24 hours after deposit, unless said deposit is of sufficient quantity or such a nature that would cause either a safety hazard or a spreading problem beyond which would be considered reasonable as determined by the Community Development Director or

his/her designee. In that event the earth, gravel, or other material shall be removed immediately. In the event it is not, the Village Manager or his/her designee shall cause to remove said dirt, gravel, or other material and the person causing said earth, gravel, or other materials to be placed or allowing it to be placed on the street shall be billed for the cost of removal or such.

(2) If the person causing or allowing the earth, gravel, or other material to rest upon any street, is a permittee, for example, an individual who has a permit from the village, the cost of such by the village may be deducted from any type of miscellaneous deposit said permittee has. Any violation of this section shall be as provided in division (D) of this section.

(D) Failure to restore said public right-of-way shall place the entire deposit in default, plus any amount required over the deposited amount to restore the public way shall be recorded as a lien against the property.

~~(E) The applicant for other than one- and two family dwellings shall be required to place on deposit the sum of \$1,000 as part of the permit to insure public property as described in division (A) above. Construction deposits under this section shall be retained until the requirements of § 150.152(D) have been complied with.~~

SECTION 2: That Title 15, Chapter 150, Section 150.145, WATER AND SEWER REPAIR DEPOSITS, of the Lombard Village Code is hereby amended to read in its entirety as follows:

§ 150.145 SEWER AND WATER REPAIR DEPOSITS.

A deposit of \$~~100~~ 250 shall be required for restoration of parkway and sidewalks for sewer and water service repairs of residential property. A deposit of \$500 shall be required for restoration of parkway and sidewalks for sewer and water service repairs of nonresidential property. If it is necessary to open parkway on the opposite side of the street, an additional \$~~100~~ 250 will be deposited.

SECTION 3: 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 _____, 2011.

Ordinance No. _____

Page 3

First reading waived by action of the Board of Trustees this ____ day of _____, 2011.

Passed on second reading this ____ day of _____, 2011, pursuant to a roll call vote as follows:

Ayes: _____

Nays: _____

Absent: _____

Approved by me this ____ day of _____, 2011.

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published in pamphlet from this ____ day of _____, 2011.

Brigitte O'Brien,
Village Clerk