

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: December 28, 2015 (B of T) Date: January 7, 2016

TITLE: PC 15-28; Text Amendment to the Zoning Ordinance - Fences *WLB*

SUBMITTED BY: Department of Community Development *WLB*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village grant approval of a text amendment to Title 15, Chapter 155, Sections 155.205 and 155.802 of the Lombard Zoning Ordinance.

The Plan Commission recommended approval of this petition by a vote of 5-0.

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:** Scott R. Niehaus, Village Manager

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

**DATE:** January 7, 2016

**SUBJECT:** **PC 15-28; Text Amendment to the Zoning Ordinance**

Please find the following items for Village Board consideration as part of the January 7, 2016 Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 15-28; and
3. An Ordinance granting approval of a text amendment to the Zoning Ordinance.

The Plan Commission recommended approval of this petition by a vote of 5-0. Please place this petition on the January 7, 2016 Board of Trustees agenda.

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## VILLAGE OF LOMBARD

255 E. Wilson Ave.  
Lombard, Illinois 60148-3926  
(630) 620-5700 Fax (630) 620-8222  
[www.villageoflombard.org](http://www.villageoflombard.org)

January 7, 2016

**Village President**  
Keith T. Giagnorio

**Village Clerk**  
Sharon Kuderna

### Trustees

Dan Whittington, Dist. 1  
Michael A. Fugiel, Dist. 2  
Reid Foltyniewicz, Dist. 3  
Bill T. Johnston, Dist. 4  
Robyn Pike, Dist. 5  
William "Bill" Ware, Dist. 6

**Village Manager**  
Scott R. Niehaus

*"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."*

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

Mr. Keith T. Giagnorio,  
Village President, and  
Board of Trustees  
Village of Lombard

### Subject: PC 15-28; Text Amendment to the Zoning Ordinance

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The petitioner requests that the Village grant approval of a text amendment to Title 15, Chapter 155, Sections 155.205 and 155.802 of the Lombard Zoning Ordinance.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on December 21, 2015. Sworn in to present the petition was Jennifer Ganser, Assistant Director and Matt Panfil, Senior Planner.

Chairperson Ryan read the Plan Commissions procedures and asked if anyone other than the petitioner intended to cross examine, and, hearing none, he proceeded with the petition. Chairperson Ryan asked for public comment, and, hearing none, he asked for the staff report.

Ms. Ganser submitted the staff report to the public record in its entirety. Ms. Ganser said the petition was presented to the Zoning Board of Appeals as a workshop in October due to the fact that the Zoning Board of Appeals generally reviews requests for variances for fences. Staff requests the text amendment as it pertains to the opacity of fences to provide more flexibility in the design of fences. The proposed text amendment does not alter the required height of fences.

Currently, fences in the clear line of sight area or corner side yards need to be seventy-five percent (75%) open. Ms. Ganser referred to the illustration in the staff report depicting the clear line of sight triangles. Over the years, residents have expressed dissatisfaction that

the degree of openness is excessive. Staff conducted a study of neighboring communities and found that there is no standard for fence design and other municipalities required thirty-three percent (33%) to seventy-five percent (75%) openness with fifty percent (50%) openness being the most predominant range.

Ms. Ganser reported on past regulations. In 1978, fences in the front yard were to be fifty percent (50%) open and fences were not allowed in the clear line of sight. In 1999, a text amendment allowed fences in the clear line of sight with seventy-five percent (75%) opacity. In review of the staff report from 1999, factors could not be determined that contributed to the selection of seventy-five percent (75%). Staff reviewed the option of allowing fifty percent (50%) opacity however it was determined that the visibility of a motorist could be obscured one hundred percent (100%) depending on the placement of the boards in the construction of the fence. Therefore the selection of sixty-six percent (66%) was determined to provide an adequate level of safety and examples were outlined.

As mentioned, the ZBA reviewed the proposed text amendment as a workshop and was overall supportive with a concern that the proposed decrease of opacity may lead to children or pets getting trapped in the fence. Staff reviewed this concern with the Police and Fire Departments and they determined that the proposed change is not a concern.

Chairperson Ryan asked for public comment, and, hearing none, opened the meeting for comments among the Commissioners.

Chairperson Ryan asked staff why reducing the visibility of the clear line of sight is being recommended. Ms. Ganser responded that the proposed change allows for adequate safety to prevent accidents and to be more in line in comparison to other municipalities.

Commissioner Burke asked if Lombard would be the only community with an opacity of sixty-six percent (66%). Ms. Ganser reviewed the chart and stated that another community has a seventy percent (70%) opacity requirement. Commissioner Burke inquired about the picket size requirement. Mr. Panfil responded that there is a maximum six inch (6") picket requirement.

Commissioner Sweetser asked if the proposed text amendment would be retroactive. Ms. Ganser responded that it would apply to fences that are submitted for permits should the Board of Trustees approve the text amendment.


Commissioner Mrofcza asked if the proposed text amendment applies to the clear line of sight and corner lots only and does not apply to back yards. Ms. Ganser confirmed as such.

Chairperson Ryan inquired about the regulations as they pertain to hedges. Mr. Panfil responded that hedges are regulated however fence and landscape plans are not inspected after installation.

On a motion by Commissioner Burke, and a second by Commissioner Mrofcza, the Plan Commission voted 5 to 0 to recommend that the Village Board approve the text amendment, associated with PC 15-28, subject to no conditions.

Respectfully,

**VILLAGE OF LOMBARD**



Donald Ryan, Chairperson  
Lombard Plan Commission

c. Lombard Plan Commission

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# PLAN COMMISSION

## INTER-DEPARTMENTAL REVIEW COMMITTEE REPORT

### TEXT AMENDMENTS TO THE ZONING ORDINANCE – FENCES

DECEMBER 21, 2015

#### Title

PC 15-28

#### Petitioner

Village of Lombard

#### Property Location

Village-wide

#### Approval Sought

Text amendment to Sections 155.205(A)(1)(c)(ii)(b): amending the fencing opacity requirements in the clear line of sight area; Section 155.802: amending the definition of fence-open construction and fence-solid construction (and any other requisite companion amendments and references for clarity) of the Village of Lombard Zoning Ordinance.

#### Prepared By

Tami Urish  
Planner I

#### DESCRIPTION

The Village has a history of amending its Zoning Ordinances to address evolving circumstances presented by petitioners, fence companies, or through discussions with Village representatives. Following up from the October 28, 2015 workshop of the Lombard Zoning Board of Appeals, staff is bringing an amendment pertaining to the opacity of fences to provide for flexibility of design. Additionally, amendments to the definition of a fence-open construction and fence-solid construction are offered for further clarity. The proposed text amendments do not change the maximum height of fences.

The amendments would apply to fences in all zoning districts.

#### INTER-DEPARTMENTAL REVIEW

##### **Building Division:**

The Building Division has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Fire Department:**

The Fire Department has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Private Engineering Services:**

Private Engineering Services has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Public Works:**

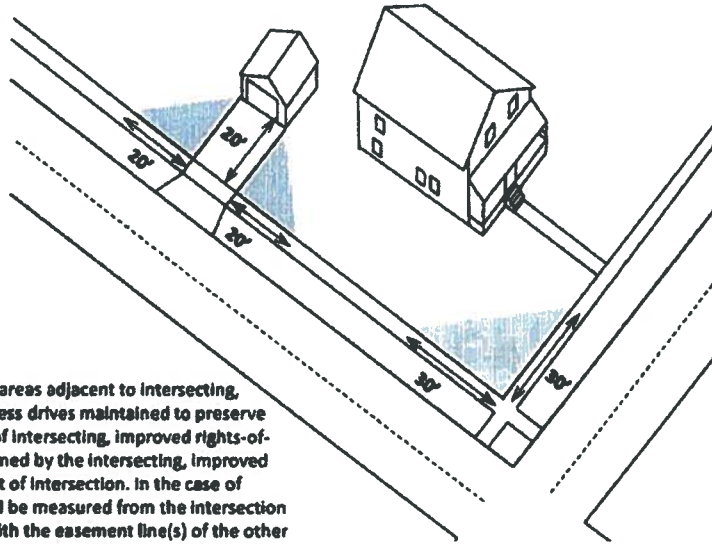
The Department of Public Works has no issues or concerns regarding the proposed text amendments to the Zoning Ordinance.

##### **Planning Services:**

Over the years staff has spoken to numerous residents who due to driveways or corner lots, require a fence that is seventy-five percent (75%) open. Section 155.205 (A)(1)(e) notes that fences in a clear line of sight must be of open construction. The following graphic shows where the clear line of sight triangle is in relation to a driveway and a corner lot.



## Clear Line of Sight Area



*Clear line of sight areas are triangular-shaped areas adjacent to intersecting, improved rights-of-way, private streets, or access drives maintained to preserve clear visibility at the intersection. In the case of intersecting, improved rights-of-way, the clear line of sight area is the area formed by the intersecting, improved rights-of-way lines 30 feet away from the point of intersection. In the case of private streets, the clear line of sight area shall be measured from the intersection of the easement line(s) of the private street with the easement line(s) of the other private street, the improved right-of-way, or edge(s) of pavement of a private driveway or access drive. In the case of private residential driveways intersecting with improved rights-of-way or streets, the clear line of sight area is the area formed by the intersection of the edge of pavement of such private drive with the improved rights-of-way or street, 20 feet away from the point of intersection.*

Staff reviewed the 2007 staff White Paper on fences, as well as contacting surrounding municipalities, and fence companies. When contacting fence companies, staff found there is no standard in fence design. While a fence company can design most anything, they all noted that 75% opacity was high and can be difficult to engineer with a vinyl fence.

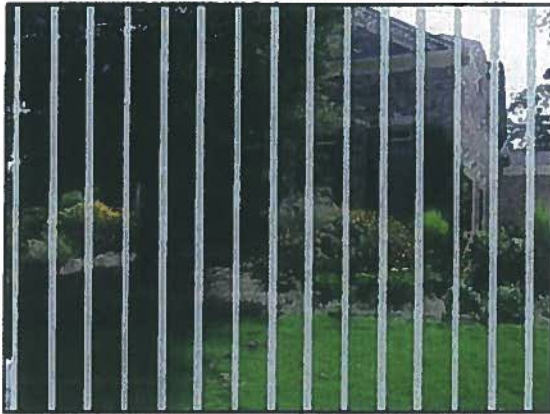
An open fence varies with municipalities from 33% open to 75% open, with many municipalities regulating at 50%. This was the case in the 2007 White Paper, as well as current staff research. Communities with 50% opacity were: Carol Stream, Darien, Glen Ellyn, DuPage County, Lisle, Oak Brook, and Westmont. Communities with 75% opacity were: Lombard, Villa Park, and Woodridge. Those with less than 50% were: Downers Grove, Hinsdale, Wood Dale, and Wheaton. The spreadsheet is attached.

Staff notes that tightening fence regulations would be difficult to enforce. Fence permits were not required until 2000. Restricting fences in the clear line of sight triangle would increase the number of non-conformities. The Village has had opacity regulations on fences as early as the 1970s. Per the 1978 Zoning Ordinance fences in the front yard were to be 50% open though fences were not allowed in the clear line of sight triangle. This continued until a 1999 text amendment when fences were allowed in the clear line of sight triangle with the opacity of 75%.

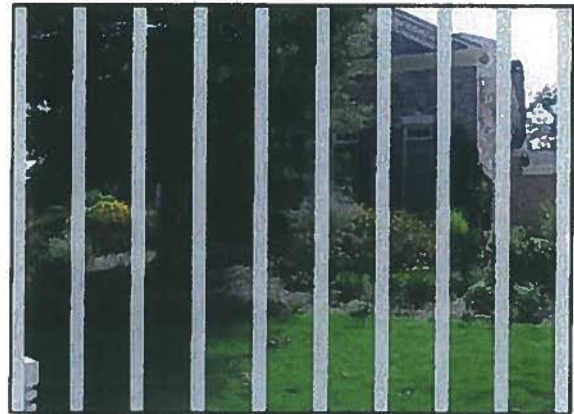
Staff reviewed a 50% open space requirement, but found that a property owner could set the boards in a manner that the fence could appear 100% closed when backing out of a driveway when a fence is at a corner.

Staff is proposing to change the definition of an open fence from 75% to 66%. As an example, a fence with three inch boards would have six inches between each board in order to maintain the 66% open fence. Staff notes that safety is still a concern in the clear line of sight triangle and does not support closed fences. The below pictures are from the 2007 White Paper. Staff believes that a fence at 66% opacity still provides an adequate level of openness for safety.

Staff does not recommend any changes to the four feet maximum height and those requests would still require a public hearing through the Zoning Board of Appeals.



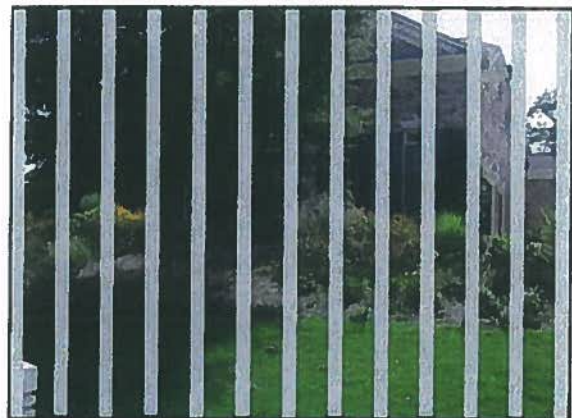
**75% Open with Narrow Pickets**



**75% Open with Wide Pickets**



**66% Open with Narrow Pickets**



**66% Open with Wide Pickets**

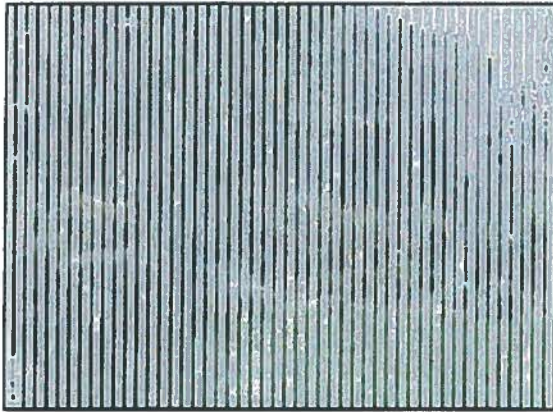


**50% Open with Narrow Pickets**

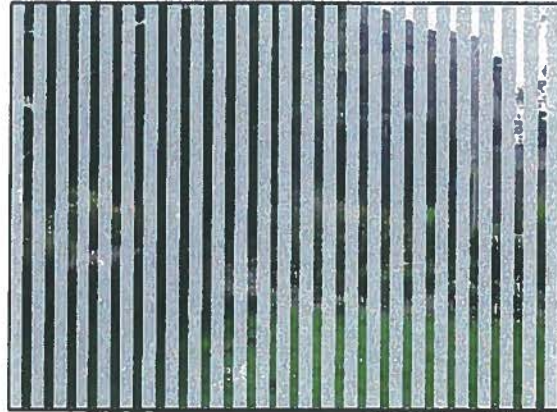


**50% Open with Wide Pickets**





**33% Open with Narrow Pickets**



**33% Open with Wide Pickets**

### **EXISTING & PROPOSED REGULATIONS**

New Text     Deleted-Text

#### **Chapter 155: ZONING**

#### **§155.205 – Fence, walls, and hedges.**

##### **(A) *Fences and walls.***

##### **(1) *Fences or walls in residential districts.***

- (a) *Fence or wall materials.* Fences or walls in residential districts shall not include the use of barbed wire or other material intended to maintain security by means of bodily injury. Electrified fences shall not be permitted in residential districts. Materials for fences or walls in the clear line of sight area shall meet the requirements of subsection 155.205(A)(1)(e) of this Chapter.
- (b) *Permitted locations.* Fences or walls may be erected, placed, or maintained along a lot line or within a required yard on a residentially zoned property, except as otherwise restricted by subsection 155.205(A)(1)(e) of this Chapter. Fences or walls may be erected in public utility easements and drainage easements, except that fences or walls erected in said easements shall not impede drainage flow.
- (c) *Permitted height.*
  - (i) Fences or walls in any residential district shall not exceed six feet in height, except that where a lot in a residential district abuts railroad right-of-way or property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such railroad right-of-way or business, office, or industrial district on the residential lot may reach, but not exceed, eight feet in height.
  - ii. Fences or walls in required front and corner side yards shall not exceed four feet in height. Fences in required front yards shall not be constructed of chain link (with or without slats). Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six feet in height provided the following conditions are met:

a. The fence, in its entirety, must consist of decorative materials such as wrought iron or a comparable material (chain-link fences being specifically excluded);

b. The fence, at any point greater than two feet in height, must be a minimum of ~~75~~ 66 percent open space in total for every one foot of linear dimension.

Where properties adjoin railroad right-of-way and the street for which the lot has frontage does not cross said railroad right-of-way, fences or walls along the property line adjoining and paralleling said railroad right-of-way may be six feet in height in the required front or corner side yard.

#### §155.802      DEFINITIONS

*Fence-open construction* is a fence which has over its entirety at least ~~75~~ 66 percent of its surface area in open space which affords a direct view through the fence.

*Fence-solid construction* is a fence which has over its entirety less than a minimum of ~~75~~ 66 percent open space in total for every one foot of linear dimension. Chain link fences with slats do not constitute a solid fence.

#### **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 text amendment is generally applicable to all fences and is not property specific in any way.

2. *The consistency of the proposed amendment with the objectives of this ordinance and the intent of the applicable zoning district regulations;*

The intent of the proposed text amendment is to allow increased flexibility in the design of fences while maintaining the safety of pedestrians utilizing the sidewalks.

3. *The degree to which the proposed amendment would create nonconformity;*

Staff is unaware of any existing legal conforming uses that would be made nonconforming by the proposed text amendment.

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

The proposed text amendment is more permissive in the amount of opacity of a fence in the clear line of sight areas of driveways and intersections in addition to corner side yards. However, the degree of decrease of the opacity of a fence is nine percent (9%). The difference from seventy-five percent (75%) to sixty-six (66%) as looking through a fence for potential obstacles is minimal as illustrated.

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

Fences are not discussed in the Comprehensive Plan. The proposed text amendment would be would not be contrary to anything in 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 its Zoning Ordinance to address evolving circumstances presented by petitioners or by recognizing a desire to amend the code to address desired code regulations. The proposed amendments are consistent with established Village policy in this regard.

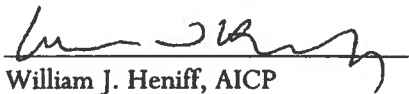
### **FINDINGS & RECOMMENDATIONS**

Staff finds the proposed text amendment to be consistent with the objectives of the Zoning Ordinance. The proposed text amendment is also consistent with the intent of the Comprehensive Plan in general.

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 amendment **complies** 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 15-28.

Inter-Departmental Review Committee Report approved by:



William J. Heniff, AICP  
Director of Community Development

c. Petitioner

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ORDINANCE \_\_\_\_\_

AN ORDINANCE APPROVING TEXT AMENDMENTS  
TO THE LOMBARD ZONING ORDINANCE  
TITLE 15, CHAPTER 155, SECTIONS 155.205 and 155.802,  
OF THE LOMBARD VILLAGE CODE

PC 15-28: Text Amendment

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

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

WHEREAS, a public hearing to consider text amendments to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on December 21, 2015 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, Sections 155.205 and 155.802 of the Lombard Village Code is hereby amended as follows:

**New Text**      ~~Deleted Text~~

**§155.205 – Fence, walls, and hedges.**

- b. The fence, at any point greater than two feet in height, must be a minimum of ~~75~~ **66** percent open space in total for every one foot of linear dimension.

**§155.802      DEFINITIONS**

*Fence-open construction* is a fence which has over its entirety at least ~~75~~ **66** percent of its surface area in open space which affords a direct view through the fence.

Ordinance No. \_\_\_\_\_

Re: PC 15-28

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*Fence-solid construction* is a fence which has over its entirety less than a minimum of ~~75~~66 percent open space in total for every one foot of linear dimension. Chain link fences with slats do not constitute a solid fence.

**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 \_\_\_\_\_, 2016.

First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2016.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

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

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

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

Approved this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Keith T. Giagnorio, Village President

ATTEST:

\_\_\_\_\_  
Sharon Kuderna, Village Clerk

Published in pamphlet from this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Sharon Kuderna, Village Clerk