


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

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

TO: PRESIDENT AND BOARD OF TRUSTEES
FROM: David A. Hulseberg, Village Manager
DATE: July 29, 2013 (B of T) Date: August 15, 2013
TITLE: PC 13-11: Text Amendments to the Zoning Ordinance
SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. The Village of Lombard is proposing text amendments to the Section 155.205 (and any other relevant sections for clarity) of the Lombard Zoning Ordinance establishing additional requirements and limitations for fences and walls within the B5 Downtown Lombard zoning district. (DISTRICT #1 and # 4)

The Plan Commission recommended approval of the proposed text amendments. Staff requests a waiver of first reading of the Ordinance.

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, AICP, ICMA-CM, Village Manager

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

DATE: August 15, 2013

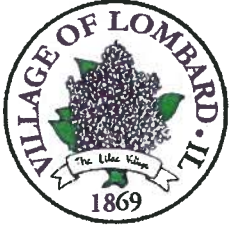
SUBJECT: PC 13-11; Text Amendments to the Zoning Ordinance

Attached please find the following items for Village Board consideration as part of the August 15, 2013 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 13-11;
3. An Ordinance approving text amendments to the Lombard Zoning Ordinance establishing design requirements and limitation for fences within the Downtown Lombard B5 District.

The Plan Commission recommended approval of the proposed text amendments. Staff requests a waiver of first reading of the Ordinance.

H:\CD\WORDUSER\PCCASES\2013\PC 13-11\DAH referral memo.doc



VILLAGE OF LOMBARD

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

August 15, 2013

Village President
Keith T. Giagnorio

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

Village Clerk
Sharon Kuderna

Subject: PC 13-11: Text Amendments to the Zoning Ordinance

Trustees
Dan Whittington, Dist. 1
Michael A. Fugiel, Dist. 2
Reid Foltyniewicz, Dist. 3
Peter Breen, Dist. 4
Laura A. Fitzpatrick, Dist. 5
William "Bill" Ware, Dist. 6

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 Section 155.205 (and any other relevant sections for clarity) of the Lombard Zoning Ordinance establishing additional requirements and limitations for fences and walls within the B5 Downtown Lombard zoning district.

Village Manager
David A. Hulseberg

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on July 15, 2013. William Heniff, Director of Community Development, presented the staff report, which was submitted to the public record in its entirety. He stated the Zoning Ordinance does not have design criteria for fences within the Downtown Lombard B5 District. As such, a myriad of styles could be placed within the downtown area that could be inconsistent with the intent of the downtown district. Moreover, as the downtown does not have general setback requirements, such fences could be legally be placed up to the front property line (frequently the abutting sidewalk) further impacting its aesthetic impact.

"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."

The intent of this text amendment is to provide reasonable regulations pertaining to the location, style and design of such fences within the B5 District as well as limit or address adverse impacts of fencing. The Plan Commission has looked at a number of types of fences in the past. The downtown is unique and we have been very fortunate that we haven't too many fences that would be an embarrassment. Staff is trying to ensure that future fences be consistent with what the Village is trying to implement in the downtown area. Mr. Heniff then reviewed the proposed amendments set forth in the report and itemized the rationale for the proposed changes.

Staff finds that the proposed amendments are consistent with the objectives of the Zoning Ordinance, the Comprehensive Plan in general and the Lombard Downtown Revitalization Guidebook adopted in 2011.

August 15, 2013

PC 13-11

Page 2

Chairperson Ryan asked if anyone was present to speak in favor or against the petition. There was no one to speak in favor or against the petition. He then opened the meeting for comments among the Commissioners.

Commissioner Mrofcza asked if there are any guidelines for the lowest allowable fence. Mr. Heniff confirmed a fence does not need to have a minimum height.

Chairperson Ryan inquired about the fence height not to exceed 6 feet. He gave the example about the situation similar to Walgreen's where there was a residential home next door. Mr. Heniff explained that there would be few of those situations and if there is a need for a fence greater than six feet, they can come before the Plan Commission or Zoning Board of Appeals.

Commissioner Cooper questioned if there was any consideration for a four foot fence along street frontage and six foot alongside side yard and back yard. Mr. Heniff explained staff did take this into consideration. However, it would be hard to justify a lower height, because with a zero set back line, one could legally erect a 30 foot wall for a building.

Commissioner Sweetser asked if the PVC material for solid fencing includes the material that is made to look like wood. Mr. Heniff replied it is included.

Commissioner Cooper inquired if split rail or horse fence made of wood are included in the design criteria. Mr. Heniff noted a wood post and rail fence is excluded. He asked the Commissioners if they want to exclude wood post and rail fences. Commissioner Cooper didn't want to exclude the wood. The other commissioners stated they would like to exclude wood.

Commissioner Mrofcza questioned if there is any criteria for temporary fencing for businesses during certain periods of the year. Heniff explained different examples used for temporary fencing on a seasonal basis, such as what used for the former Texan Restaurant, consistent with the design criteria.

On a motion by Commissioner Mrofcza and a second by Commissioner Flint, the Plan Commission voted 5 to 0 that the Village Board **approve** the text amendments associated with PC 13-11.

Respectfully,

VILLAGE OF LOMBARD

Donald Ryan, Chairperson
Lombard Plan Commission

c. Lombard Plan Commission

H:\CD\WORDUSER\PCCASES\2013\PC 13-11\Referral Letter.doc

JULY 15, 2013

Title

PC 13-11

Petitioner

Village of Lombard

Approval Sought

The Village requests a text amendment to Section 155.205 (and any other relevant sections for clarity) of the Lombard Zoning Ordinance relating to fencing located in the Downtown Lombard B5 District.

Prepared By

William J. Heniff, AICP
Community Development
Director

DESCRIPTION

The existing Zoning Ordinance does not have any design criteria for fences within the Downtown Lombard B5 District. As such, a myriad of styles and designs could be placed within the downtown area that could be inconsistent with the intent of the downtown district. Moreover, as the downtown does not have general setback requirements, such fences could be legally be placed up to the front property line (frequently the abutting sidewalk) further impacting its aesthetic impact.

The intent of this text amendment is to provide reasonable regulations pertaining to the location, style and design of such fences within the B5 District. The regulations are also intended to limit or address adverse impacts of fencing.

INTER-DEPARTMENTAL REVIEW

PUBLIC WORKS

The Department of Public Works has no comments.

PRIVATE ENGINEERING SERVICES

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

BUILDING DIVISION

The Building Division has direct comments on the proposed amendments. However, considering one of the most asked question about fences in the downtown cannot be answered without the Illinois Accessibility Code and the Federal ADA code being addressed, it would be great to make a statement such as “all fences at commercial businesses for the purpose of surrounding seating areas shall be in compliance with the Illinois Accessibility Code and the 2010 Federal ADA Standards”.

FIRE DEPARTMENT

The Fire Department has no comments.

PROPOSED TEXT AMENDMENTS

The proposed amendments to the Zoning Ordinance are offered below in underscore or strikeout.

155.205 FENCES, WALLS, AND HEDGES

A. Fences and Walls

2. Fences or Walls in Business and Office Districts

a. Fence or Wall Materials

The use of barbed wire shall be permitted only around approved outside storage areas and only at a height greater than six feet (6') and less than eight feet (8') above the ground. No electrified fences shall be permitted. Fences or walls within fifteen feet (15') of any building must be of fire resistant type construction, as approved by the ~~Bureau of Inspectional Services~~ Building Division and Fire Department. Materials for fences or walls in the clear line of sight area shall meet the requirement of Section 155.205(A) (2) (e) of this Chapter.

b. Permitted Location

Fences or walls may be erected, placed, or maintained along a lot line or within a required yard in business or office district, except as otherwise restricted by Section 155.205(A)(2)(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

1. No fence or wall shall be erected, placed, or maintained to a height exceeding eight feet (8') in any business or office district.
2. Fences or walls in the required front or corner side yard shall not exceed four feet (4') in height.
3. Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall shall be four feet (4').

d. Fence Installation

When fences are located in the required front yard or corner side yard, the finished or decorative side of the fence shall face the adjacent property(ies) or street. Additionally, all fences at commercial businesses for the purpose of surrounding seating areas shall be in compliance with the Illinois Accessibility Code and the applicable Federal Americans with Disabilities Act (ADA) Standards.

e. Fences or Walls in the Clear Line of Sight Area

No fences or walls more than two feet (2') in height shall be located within the clear line of sign area, as defined in Section 155.802 of this Ordinance, unless it meets all of the following criteria:

1. Fences or walls are of open construction, such as chain link without slats, wrought iron, cyclone, picket, or split rail fences.
2. Fences or walls are not of solid construction, such as board on board, solid wood, brick, concrete, or chain link with slats.
3. Deciduous trees around or adjacent to the fence are free of foliage and branches from ground level to eight feet (8') above ground level. All other plant materials which are around, adjacent to, or through the fence are no greater than two feet (2') in height.
4. Supporting members are no greater than six inches (6") in width.

f. Fences or Walls within the B5 District

In addition to the provisions listed in Section 155.205 (A)(2) above, all fences and walls located within the B5 District shall meet the following additional provisions:

1. Fence or Wall Materials

All fences in the B5 District shall be constructed of the following materials:

- a. Open Fences: Aluminum, wrought iron, cast iron or welded steel; pillars may be constructed of masonry materials
- b. Solid Fences: Brick, masonry or pre-cast materials with a decorative side facing the exterior of the property in which it is located.
- c. Chain link fencing shall only be permitted for construction fencing purposes, as required by Section 150 of the Village Code.
- d. Solid fencing made of wood or PVC shall only be permitted as required by Section 155.707 (transitional yard requirements) or 155.710 (refuse screening) of the Zoning Ordinance.
- e. Landscape hedgerows shall be permitted within the B5 District
- f. Barbed wire or razor wire is expressly prohibited.

2. Permitted Location

Fences or walls may be erected, placed, or maintained along a lot line or within the property. Walls or fencing of parking spaces within parking lots shall only be permissible if said spaces were granted a conditional use, as set forth within Section 155.418 (C)(14) or (15) of the Zoning Ordinance.

3. Permitted Height

No fence or wall shall be erected, placed, or maintained to a height exceeding six feet (6') in the B5 District.

FINDINGS & RECOMMENDATIONS

Staff has prepared requisite responses to standards for text amendments, which can be found as Attachment A. Staff finds that the proposed amendments are consistent with the objectives of the Zoning Ordinance. The amendments are also consistent with the intent of the Comprehensive Plan in general and the Lombard Downtown Revitalization guidebook, a component of the Plan adopted in 2011.

Based on the above findings, the Inter-Departmental Review Committee has reviewed the petition and finds that it meets the standards required by the Lombard 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 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 13-11.

Inter-Departmental Review Group Report approved by:



William J. Heniff, AICP
Director of Community Development

c. Petitioner

Attachment A
Response to Standards for Text Amendments

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards and the petitioner's and staff comments 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;*

Should the fence amendments be approved, it would apply to all properties in the B5 District.

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

The Downtown Lombard B5 District does not have clear line of sight regulations, as the intent of the district is to encourage pedestrian scale development with buildings located up to the front property line. Solid fences could also be placed up to the property lines. However, the Zoning Ordinance does not specify a required or prohibited material for fences. Staff believes that fence regulations located in the district should also be more restrictive relative to the types of permissible fencing materials as such fences are visible to the public right-of-way and many neighboring properties. Staff believes that chain link fences and other types of undesired fencing should be specifically excluded as a permissible fencing material in the downtown area to avoid a potential negative visual impact.

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

The proposed amendment will create non-conformities for those properties that are using fences that do not adhere to the enumerated acceptable design. For example, if a property owner is currently using a chain link fence and wishes to replace the fence, they will be required to install a new fence type to meet the Village's new requirements. However, the amendments would allow for selected wood or PVC fences where required elsewhere by code.

Lastly, the proposed regulations would preclude fencing of parking areas, unless such areas are granted a conditional use for an outdoor parking lot. This provision would preclude or minimize multiple fences to restrict or designate parking rights on a property.

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

The proposed amendments would not make the Zoning Ordinance more permissive with regard to allowable fencing materials; however, staff believes that design aesthetics do need to be addressed in this case.

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

Staff believes that the proposed amendment would be consistent with the Comprehensive Plan in general and the Lombard downtown Revitalization guidebook in particular. The amendments will enhance the character of the downtown by prohibiting or removing chain link fences and other like fence types, which deteriorate over time. Moreover, decorative fencing can be deemed as an aesthetic attribute to the downtown property.

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 does have a history of amending its Zoning Ordinance to address design aesthetics on residential properties relative to fencing. In 2005, The Zoning Board of Appeals and Plan Commission both agreed that solid six-foot fences on reverse corner side yards were unacceptable due to the impact they would have on the front yard of neighboring properties. As such, staff was directed to compose provisions permitting decorative or ornate fencing (wrought iron or comparable materials), which incorporate a 75% open construction, in the corner side yard to a height of six (6) feet. In 2009, the Village prohibited chain link fencing in residential front yards to avoid any negative visual impacts imposed by such fences. This series of amendments is intended to balance the desire and need for fencing in a pedestrian oriented area and adding an aesthetic component.

ORDINANCE _____

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

(PC 13-11; Text Amendments to the Zoning Ordinance - Fences in the B5 District)

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 15, 2013 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 205, of the Code of Lombard, Illinois is hereby amended to read in part, as follows:

155.205 FENCES, WALLS, AND HEDGES

A. Fences and Walls

2. Fences or Walls in Business and Office Districts

a. Fence or Wall Materials

The use of barbed wire shall be permitted only around approved outside storage areas and only at a height greater than six feet (6') and less than eight feet (8') above the ground. No electrified fences shall be permitted. Materials for fences or walls in the clear line of sight area shall meet the requirement of Section 155.205(A) (2) (e) of this Chapter.

b. Permitted Location

Fences or walls may be erected, placed, or maintained along a lot line or within a required yard in business or office district, except as otherwise restricted by Section 155.205(A)(2)(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

1. No fence or wall shall be erected, placed, or maintained to a height exceeding eight feet (8') in any business or office district.
2. Fences or walls in the required front or corner side yard shall not exceed four feet (4') in height.
3. Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall shall be four feet (4').

d. Fence Installation

When fences are located in the required front yard or corner side yard, the finished or decorative side of the fence shall face the adjacent property(ies) or street. Additionally, all fences at commercial businesses for the purpose of surrounding seating areas shall be in compliance with the Illinois Accessibility Code and the applicable Federal Americans with Disabilities Act (ADA) Standards.

e. Fences or Walls in the Clear Line of Sight Area

No fences or walls more than two feet (2') in height shall be located within the clear line of sign area, as defined in Section 155.802 of this Ordinance, unless it meets all of the following criteria:

1. Fences or walls are of open construction, such as chain link without slats, wrought iron, cyclone, picket, or split rail fences.
2. Fences or walls are not of solid construction, such as board on board, solid wood, brick, concrete, or chain link with slats.
3. Deciduous trees around or adjacent to the fence are free of foliage and branches from ground level to eight feet (8') above ground level. All other plant materials which are around, adjacent to, or through the fence are no greater than two feet (2') in height.
4. Supporting members are no greater than six inches (6") in width.

f. Fences or Walls within the B5 District

In addition to the provisions listed in Section 155.205 (A)(2) above, all fences and walls located within the B5 District shall meet the following additional provisions:

1. Fence or Wall Materials

All fences in the B5 District shall be constructed of the following materials:

- a. Open Fences: Aluminum, wrought iron, cast iron or welded steel; pillars may be constructed of masonry materials
- b. Solid Fences: Brick, masonry or pre-cast materials with a decorative side facing the exterior of the property in which it is located.
- c. Chain link fencing shall only be permitted for construction fencing purposes, as required by Section 150 of the Village Code.

- d. Solid fencing made of wood or PVC shall only be permitted as required by Section 155.707 (transitional yard requirements) or 155.710 (refuse screening) of the Zoning Ordinance.
- e. Landscape hedgerows shall be permitted within the B5 District
- f. Barbed wire or razor wire is expressly prohibited.

2. Permitted Location

Fences or walls may be erected, placed, or maintained along a lot line or within the property. Walls or fencing of parking spaces within parking lots shall only be permissible if said spaces were granted a conditional use, as set forth within Section 155.418 (C)(14) or (15) of the Zoning Ordinance.

3. Permitted Height

No fence or wall shall be erected, placed, or maintained to a height exceeding six feet (6') in the B5 District.

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 ____ day of _____, 2013.

First reading waived by action of the Board of Trustees this ____ day of _____, 2013.

Passed on second reading this ____ day of _____, 2013.

Ayes: _____

Nays: _____

Absent: _____

Approved this ____ day of _____, 2013.

Ordinance No. _____

Re: PC 13-11

Page 5

Keith T. Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this ____ day of _____, 2013.

Sharon Kudrna, Village Clerk