

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

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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: David A. Hulseberg, Village Manager

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

TITLE: PC 09-21: Text Amendments to the Lombard Zoning Ordinance

SUBMITTED BY: Department of Community Development *MM*

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 Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8) in height along property lines that adjoin and parallel railroad right-of-way.

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.

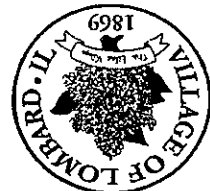
Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_  
Finance Director X \_\_\_\_\_  
Village Manager X \_\_\_\_\_  
Date \_\_\_\_\_  
Date \_\_\_\_\_  
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 09-21; 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 09-21;
3. An ordinance granting approval of a text amendment to the Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

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**  
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Village President  
William J. Mueller

Village Clerk  
Brigitte O'Brien

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

**Subject: PC 09-21; Text Amendments to the Zoning Ordinance**

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

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 Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

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.

Christopher Stilling, Assistant Director, presented the staff report. The Planning Services Division is proposing text amendments to Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

Mr. Stilling stated that the Zoning Ordinance already allows residential fences that abut commercially-zoned properties (those in a B, O, or I District) to be up to eight feet in height. Staff believes that the same logic that allows for a higher fence adjacent to a commercial property (presumably to screen the residence from noise and an undesirable view) would justify the need for a higher fence adjacent to a railroad.

*"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."*

Village Manager  
David A. Hulseberg

Referring to the standards for text amendments, Mr. Stilling stated that the proposed amendments would not create additional nonconformity, but rather allow existing nonconforming fences to be replaced, without requiring a variation. He then stated that this amendment would be consistent with staff and Board policies.

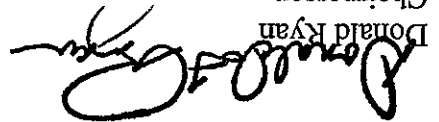
Chairperson Ryan opened the meeting for discussion and questions by the Plan Commission.

Commissioner Olbrysh asked if the code addresses using a specific type of fence. Mr. Stilling answered that the code is not material specific but it does specify that fences cannot cause bodily injury so nothing that is dangerous or sharp can be used.

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 09-21.

Respectfully,

**VILLAGE OF LOMBARD**



Donald Ryan  
Chairperson  
Lombard Plan Commission

att-

c. Petitioner  
Lombard Plan Commission

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

**TO:** Lombard Plan Commission

**HEARING DATE:** July 20, 2009

**FROM:** Department of Community Development  
PREPARED BY: Jennifer Henaghan, AICP  
Senior Planner

**TITLE**

**PC 09-21; Text Amendments to the Lombard Zoning Ordinance:** The Village of Lombard is proposing text amendments to Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

**GENERAL INFORMATION**

**Petitioner:** Village of Lombard

**ANALYSIS**

**DESCRIPTION**

The Village of Lombard is proposing text amendments to Section 155.205 (A) (1) (c) of the Lombard Zoning Ordinance to allow fences in residential districts to be up to eight (8') in height along property lines that adjoin and parallel railroad right-of-way.

This text amendment will allow residential properties abutting the Union Pacific Railroad (or any other railroad rights of way) to erect fences up to eight feet in height along their rear property lines. The Zoning Ordinance currently limits such fences to no more than six feet in height.

**INTER-DEPARTMENTAL REVIEW COMMENTS**

**PUBLIC WORKS**

Public Works has no objections, comments or changes.

**PRIVATE ENGINEERING SERVICES**

From an engineering or construction perspective, PES has no comments.

**BUILDING & FIRE**

The Fire Department/Bureau of Inspectional Services has no comments regarding the proposed text amendments.

**PLANNING**

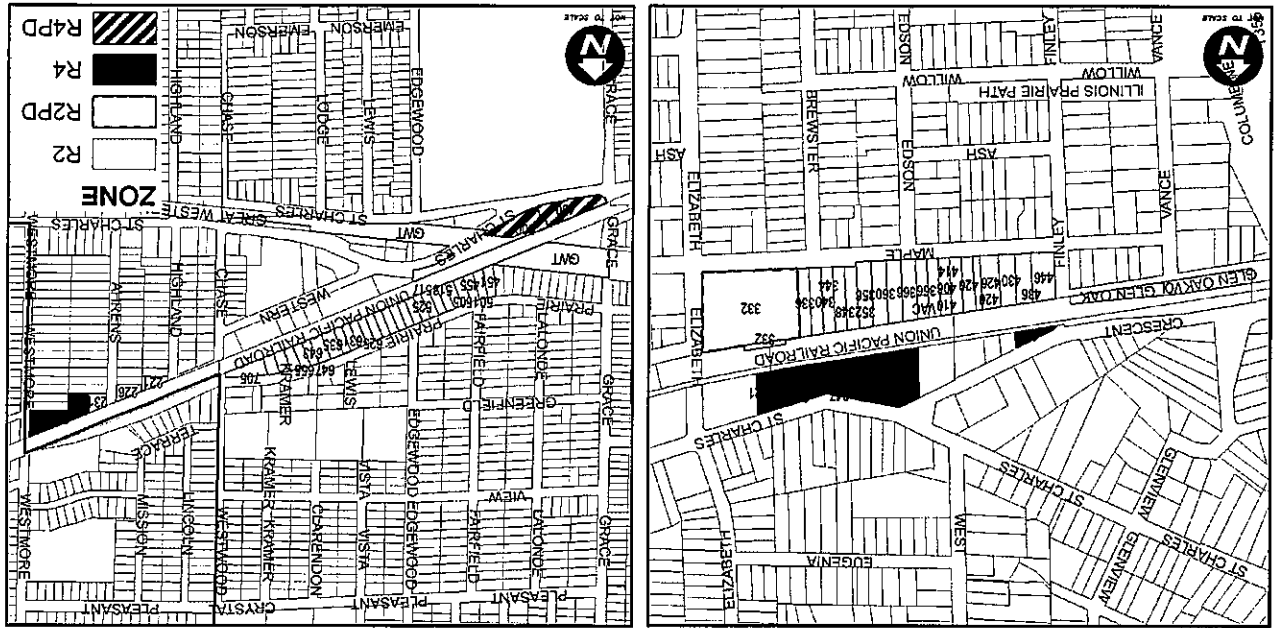
Standards for Text Amendments

For any change to the Zoning Ordinance, the standards for text amendments must be affirmed. The standards 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 amendment be approved, it would apply to all properties with R zoning, specifically those properties adjacent to a railroad. There are 51 R2-zoned parcels (not including the Great Western Trail or parcels owned by the Village) and 14 R4-zoned parcels that abut the Union Pacific Railroad right-of-way. There are no residentially-zoned properties within the Village that abut the Canadian National Railway.

**Residentially-zoned properties abutting the Union Pacific Railroad**



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

The Zoning Ordinance already allows residential fences that abut commercially-zoned properties (those in a B, O, or I District) to be up to eight feet in height. Staff believes that the same logic that allows for a higher fence adjacent to a commercial property (presumably to screen the residence from noise and an undesirable view) would justify the need for a higher fence adjacent to a railroad.



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

The proposed amendment creates no nonconformities; rather, it will address existing nonconformities. Prior to 1990, the Zoning Ordinance allowed fences along any rear lot line (except those abutting front or side yards) to be up to eight feet in height. It is likely that many of the properties that would be impacted by these text amendments already have older fences that are eight feet in height.

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

The proposed amendment would make the Zoning Ordinance more permissive only to the extent that it would allow the aforementioned 65 residential parcels adjoining railroad right-of-way to erect fences an additional two feet higher than what is currently allowed by code.

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

Staff believes that the proposed amendment would be consistent with the Comprehensive Plan. The Plan includes goals and objectives related to ensuring compatibility between residential and other areas, improving the quality of life for residents, and protecting residential areas from land uses that are incompatible or that may create adverse impacts.

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 petition or otherwise. The proposed amendments are consistent with established Village policy in this regard. There is no record of any residential property adjacent to the railroad having applied for a fence height variation; however, the Village has historically considered grade changes as a reasonable justification for zoning relief. The Union Pacific tracks are, in general, elevated significantly above the grade of the adjacent properties. The grade differential ranges from roughly one foot to more than six feet in some locations.

Survey of Other Municipalities

The proposed text amendments would not be inconsistent with the regulations of surrounding communities that also have a large number of homes that directly abut the Union Pacific Railroad. Wheaton normally allows a maximum six-foot fence in the rear yard, but allows an eight-foot fence when a rear yard abuts the railroad. Similarly, Elmhurst raises its maximum rear yard fence height from five feet to eight feet when adjacent to railroads. (Glen Ellyn and Villa Park have no special regulations pertaining to fences that abut railroads – they limit fence heights to six and one-half feet and six feet, respectively.)

Other Issues

In 2007, the Village erected a six-foot high ornamental aluminum fence adjacent to several portions of the Union Pacific right-of-way. On the southern side of the railroad tracks, the fence blocks access to the tracks from the cul-de-sacs on Chase, Highland, Ahrens, and Westmore. On the north side, the fence creates a barrier between the tracks and the dead-end of Westwood Avenue. These fences were erected to discourage an ongoing problem of pedestrians trespassing and attempting to cross the tracks at unauthorized locations. Nothing in the Village Code prevents property owners from erecting privacy fencing on their own property in front of the Village's ornamental fence.

Proposed Text Amendments

The following are the proposed text amendments for the Zoning Ordinance and Code of Ordinances. Proposed changes to the Zoning Ordinance are denoted by underlining new text.

**§155.205 FENCES, WALLS, AND HEDGES**

(A) Fences and Walls

(1) Fences or walls in Residential Districts.

(c) Permitted Height.

(i.) Fences or walls in any residential district shall not exceed six feet (6') 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 (8') in height.

(ii.) Fences or walls in required front and corner side yards shall not exceed four feet (4') in height. Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six (6) 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 (chainlink fences being specifically excluded);  
b) The fence, in its entirety, must be a minimum of seventy-five percent (75%) open space in total for every one (1) 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 (6') in height in the required front or corner side yard.

(iii.) Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall be four feet (4').

(iv) Maximum height, as prescribed by this section, shall be permitted to vary by up to three (3) inches to allow for grade changes; clearance under fences for maintenance, footers or other obstacles customary to the use intended to be fenced; or reasonable human error. Fence posts

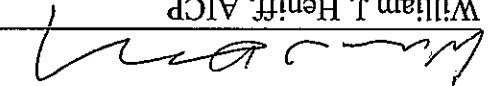
or decorative finials may not cause the fence to exceed the maximum height limitation by more than three (3) inches.

## FINDINGS AND RECOMMENDATIONS

Based on the above findings, the Inter-Departmental Review Committee recommends that the petition as presented does not meet the standards set forth in the Zoning Ordinance and recommends that 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 09-21.

Inter-Departmental Review Group Report Approved By:

  
William J. Heniff, AICP

Director of Community Development

WJH:JB

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ORDINANCE \_\_\_\_\_

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

(PC 09-21; 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 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

(1) Fences or walls in Residential Districts.

(c) Permitted Height.

(i.) Fences or walls in any residential district shall not exceed six feet (6') 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 (8') in height.

(ii.) Fences or walls in required front and corner side yards shall not exceed four feet (4') in height. Notwithstanding the foregoing, fences in a corner side yard, which abuts another corner side yard, may be increased to up to six feet (6) 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 (chainlink fences being specifically excluded);  
b) The fence, in its entirety, must be a minimum of seventy-five percent (75%) open space in total for every one (1) 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 (6') in height in the required front or corner side yard.

(iii.) Wherever the rear yard of a lot abuts the front yard of an adjacent lot, the maximum height for any fence or wall within the required rear yard shall be four feet (4').

(iv) Maximum height, as prescribed by this section, shall be permitted to vary by up to three (3) inches to allow for grade changes; clearance under fences for maintenance, footers or other obstacles customary to the use intended to be fenced; or reasonable human error. Fence posts or decorative finials may not cause the fence to exceed the maximum height limitation by more than three (3) inches.

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