

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: William T. Lichter, Village Manager

DATE: May 9, 2007 (BOT) Date: May 17, 2007

TITLE: PC 07-07: Text Amendments to Title 15, Chapter 155 of the Lombard Zoning Ordinance and Title 9, Chapter 97 of the Village Code (Utility Cabinets)

SUBMITTED BY: Department of Community Development *cat*

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 Title 15, Chapter 155 of the Lombard Zoning Ordinance as follows:
A. Amend Section 155.210 (and other sections as needed for clarity) to establish regulations for the placement of Above Ground Utility Cabinets.
B. Amend Section 155.212 to establish Above Ground Utility Cabinets as permitted obstructions in certain required yards.
C. Amend Section 155.803 to establish and/or amend definitions for Private Utilities, Above Ground Utility Cabinet, and Service Entry.

The Plan Commission recommended approval of this request.

The Transportation & Safety Committee and the Public Works Committee also reviewed this request and recommended additional provisions for locating AGUCs within the public right of way.

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: William T. Lichter, Village Manager

FROM: David A. Hulseberg, AICP,
Assistant Village Manager, Director of Community Development

DATE: May 17, 2007

SUBJECT: PC 07-07: Text Amendment to the Zoning Ordinance and Amendments to Chapter 97 of the Village Code – Above Ground Utility Cabinets

Attached please find the following items for Village Board consideration as part of the May 17, 2007 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 07-07;
3. Memoranda provided to the Public Works and Transportation & Safety Committees relative to amendments to Section 97 of the Village Code.
4. An Ordinance granting approval of text amendments defining and establishing provisions for Above Ground Utility Cabinets (AGUCs). This Ordinance is based upon the recommendation of approval by the Plan Commission of the Zoning Ordinance text amendments.
5. An Ordinance granting approval of text amendments to Chapter 97 of the Village Code. This Ordinance establishes additional provisions for locating AGUCs within the public right of way. The Public Works Committee (at their April 10 meeting) and the Transportation and Safety Committee (at their May 7 meeting) both unanimously recommended approval of the amendments set forth within this Ordinance.



VILLAGE OF LOMBARD
255 E. Wilson Avenue
Lombard, IL 60148-3926
(630) 620-5700 FAX: (630) 620-8222
TDD: (630) 620-5812
www.villageoflombard.org

May 17, 2007

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

Subject: PC 07-07: Text Amendments to the Lombard Zoning Ordinance

Dear President and Trustees:

Your Plan Commission transmits for your consideration its recommendation regarding the above-referenced petition. Village staff requests Zoning Ordinance text amendments to Section 155.210 establishing regulations pertaining to the size and location of Above Ground Utility Cabinets (AGUC). The intent would be to establish regulations for the size and placement of Above Ground Utility Cabinets as well as establish definitions for 'Above Ground Utility Cabinet', 'Service Entity', and amend the definition of 'Private Utilities'.

After due notice and as required by law, the Plan Commission conducted a public hearing for this petition on March 19, 2007. Michael Toth, Associate Planner, presented the petition. He provided a general description of the cause for concern regarding this issue. Toth provided background information pertaining to Project Lightspeed, which is a generic example as to why the text amendment is being proposed. Toth then presented pictures and pointed out the mock AGUC that was displayed in the Board Room. While showing examples, Toth discussed the intent of the text amendment. Toth then continued with the staff report by discussing the rationale for regulating AGUC as accessory structures. He continued with the staff report by discussing Public Works portion of the project and the proposed text amendments being presented to the Plan Commission. Toth also added that both petitions (Planning Services & Public Works) will be submitted together to the Board of Trustees. He ended his presentation by mentioning the revisions that were made to the proposed text amendments by counsel.

Staff recommended approval of the staff report and additional comments made by Counsel.

Chairperson Ryan opened the meeting for public comment. No one spoke in favor or against this petition. He then opened the meeting for comments from the Plan Commission members.

"Our shared Vision for Lombard is a community of excellence exemplified by its government working together with residents and business 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."

Village President
William J. Mueller

Village Clerk
Brigitte O'Brien

Trustees

Greg Alan Gron, Dist. 1
Richard J. Tross, Dist. 2
John "Jack" T. O'Brien, Dist. 3
Steven D. Seby, Dist. 4
Kenneth M. Florey, Dist. 5
Rick Soderstrom, Dist. 6

Village Manager
William T. Lichter

Commissioner Olbrysh stated that these Above Ground Utility Cabinets are ugly and obnoxious. He also declared that these are not compatible in the front yard, but in the back yard they should not be a problem. He then referenced the illustrations from Appendix B of the staff report.

Commissioner Nelson pointed out that in the bottom two pictures (from the staff report) the AGUC are right in middle of the right of way. He said that he wouldn't want those in front of his house. Michael Toth replied that one of the main reasons for the text amendment is to force AGUC into the rear yard where they can be screened by fencing and vegetation (to avoid the 2nd and 3rd picture).

Commissioner Sweetser mentioned that this should work because some people might be willing to place AGUC on their property because they can accommodate the size requirement in exchange for the location discretion on their property. William Heniff added that there could potentially be 35-40 AGUC in the community and future technology. He also said that they should be in rear yards and treated as sheds.

Commissioner Sweetser asked the hypothetical question - suppose that there weren't enough backyards for these AGUC, does the Village have any liability? William Heniff responded, no direct liability; we will only be trying to minimize the number of AGUC in the public rights of way. Also, because of the pending legislation with AT&T, we are looking to relax the standards for Project Lightspeed. Regardless, we want to be proactive and begin to designate where the utility companies can place the AGUC.

Commissioner Sweetser shared her thoughts on technology advances pertaining to Project Lightspeed. She said that there may be the need for these kinds of things but not at the size they desire. Any thoughts of how that might be handled? William Heniff stated that we are addressing what is being built now, but trying to keep discretion in regards to location and keeping them out of the rights of way.

Commissioner Olbrysh stated that this text amendment would allow location discretion to keep the AGUC out of the public view. William Heniff responded that by relaxing the standards for rear yard placement, they can be more discreetly placed throughout the Village. Commissioner Sweetser replied that there could be a number of structures in the backyard and that would be okay. William Heniff then added - based on technology, each cabinet would feed 300-400 residential units whereby there could be two cabinets in one yard. The Above Ground Utility Cabinets will be considered accessory structures by the Zoning Ordinance provisions in regards to lot area and coverage.

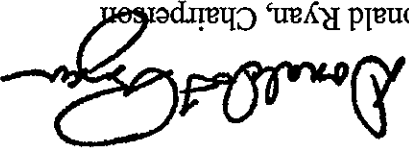
Chairperson Ryan asked if it's structurally capable to place one of top of each other. William Heniff responded that they could be next to each other, but not on top of each other.

William Heniff mentioned that we want to bring this item to the Transportation & Safety Committee and to allow sufficient time will bring to the April 19, 2007 Board of Trustees meeting.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed text amendment complies with the standards of the Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 4 to 0, recommended to the Corporate Authorities, **approval** of the petition associated with PC 07-07.

Respectfully,

VILLAGE OF LOMBARD


Donald Ryan, Chairperson

Lombard Plan Commission

att-

c. Petitioner

Lombard Plan Commission

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VILLAGE OF LOMBARD
INTER-DEPARTMENTAL REVIEW GROUP REPORT

TO: Lombard Plan Commission
FROM: Department of Community Development
PREPARED BY: Michael S. Toth
HEARING DATE: March 19, 2007
Associate Planner

TITLE

PC 07-07: Text Amendments to the Zoning Ordinance: The Village of Lombard is proposing text Amendments to the Lombard Zoning Ordinance, as follows:

- A. Amend Section 155.210 (and other sections as needed for clarity) to establish regulations for the placement of Above Ground Utility Cabinets.
- B. Amend Section 155.212 to establish Above Ground Utility Cabinets as permitted obstructions in certain required yards.
- C. Amend Section 155.803 to establish and/or amend definitions for Private Utilities, Above Ground Utility Cabinet, and Service Entry.

DESCRIPTION

The Planning Services Division is proposing code amendments to address the issue of Above Ground Utility Cabinets (AGUC) that may potentially be placed on private property or within the public rights of way. The Plan Commission will consider amendments pertaining to AGUC on private property while the Transportation and Safety Committee will address the issue in regard to the public rights of way. The Zoning Ordinance amendments must be addressed through the public hearing process.

INTER-DEPARTMENTAL REVIEW COMMENTS

ENGINEERING

The Private Engineering Services Division has no comment on the subject case.

Public Works Engineering noted that they have a number of utility structures within the public right of way that are similar in height to the proposed cabinets. This issue will be addressed as part of the review of Section 97 of the Village Code, pertaining to Streets and Sidewalks.

BUILDING AND FIRE

Building and Fire does not have any comments on the petition at this time.

PLANNING

Background

Currently, Zoning Ordinance regulations pertaining to private utilities can be found in Section 155.217(B) as well as the specific zoning district regulations. Section 155.217 reads as follows:

§155.217 EXEMPTION OF ESSENTIAL

SERVICES

Certain public and private activities intended and used to promote the public health, safety and welfare shall be exempt from the regulations of this ordinance. Provided, however, the equipment erected or installed for such uses shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and to those of other authorities having jurisdiction. Exempted activities are as follows:

(A) Municipal Uses and Facilities
All municipal uses and facilities, as defined in Section 155.800 of this ordinance, reasonably necessary for the furnishing of adequate municipal services for the public health, safety and welfare including sewer and water transmission lines and facilities, fire stations, governmental buildings, trash collection and disposal facilities, communication facilities, storage yards, and traffic signals and signs.

(B) Private Utilities

The erection, construction, alteration, or maintenance by private utilities of overhead, surface or underground gas, electrical, telephone, steam, or water distribution systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, and poles used to provide direct service to individual properties shall be exempted. However, larger distribution facilities such as electrical substations, gas regulator stations, pumping stations, satellite communications receiving and transmitting stations and other similar facilities used to relay services to individual customers shall be considered a conditional use in all zoning districts and shall conform to the provisions of Section 155.103 (F) of this ordinance. Private utilities are defined in Section 8 of this ordinance.

The aforementioned regulations provide for the general location of public utilities on private property. However, should the utility infrastructure constitute the primary use of the property (such as an electrical or pumping station), the Ordinance would consider such facilities as permissible only through the conditional use process.

Project Lightspeed

Recently, there have been several Chicago area municipalities that have challenged the authority of AT&T to place selected equipment infrastructure in their respective communities as it pertains to their Project Lightspeed. Project Lightspeed is an AT&T plan to upgrade its telecommunications network and distribute video to customers over a fiber-optic network. One of the major issues associated with Project Lightspeed (in regard to land use) is the placement of the AGUC that are intended to house the necessary components to complete the task. AGUC measure approximately 63 inches high, 43 inches wide and 25 inches deep. AT&T officials have said that they would need to install one utility box for every 300 to 400 customers throughout the community. Appendix A depicts sample photographs of AGUC located in other municipalities.

Currently, Village regulations do not specifically address AGUC size and location. Some arguments by municipalities have challenged AT&T's right to claim a blanket exemption for their project (and their associated infrastructure) under the basic municipal franchise agreement, espousing that this project is beyond the scope of services covered under the respective agreements. AT&T has argued that Project Lightspeed is simply a modernization of their existing telecommunication capabilities.

While pending state legislation and ongoing litigation is attempting to provide clarity to this issue. Staff believes it is important to review the land use impacts of AGUC on the Village should the project proceed as proposed. If such an influx of these cabinets were to be proposed, the best course of action would be to have regulations in place that would not allow for such structures to cause a negative visual impact or affect public health and safety.

In order to avoid litigation as well as providing reasonable regulations pertaining to the placing of AGUC equipment, Planning Services wishes to address the issue by accommodating these devices, but only allowing them in desired locations at a maximum allowable size.

The Community Development Department staff has been working with the Public Works staff to create text amendments that would allow each department to regulate AGUC in regard to size and location. The intent of the amendments is as follows:

1. To minimize the visual impacts of the cabinets along the public rights of way;
2. To prevent visual obstructions created by the cabinets;
3. To prevent conflicts with other underground utilities;
4. To develop regulations that would promote the location of AGUC on private properties (preferable within rear yards) rather than within the public rights of way; and
5. To provide a means of compensation to those parties most affected by the placement of the cabinets near their respective properties

To minimize visibility, the proposed text amendments would regulate AGUC on private property as accessory structures in regard to size, location, and coverage. To avoid the placement of AGUC in undesirable locations across the community, the Village is proposing to accommodate the aforementioned size requirements in return for location discretion. The rationale for providing a proposed six-foot (6') height requirement in private property is to allow the proper screening through fencing or other screening [as a matter of right], while still accommodating their height needs. If the utility company desires to construct a utility cabinet greater in size or height than what is being proposed through this text amendment; they have the option to seek approval as a conditional use. This approach has been previously applied to relief associated with cellular towers.

With regard to the Village right of way, Public Works will amend a portion of their Code to have the authority to regulate the size and location of AGUC. The proposed text amendments set a standard for the spacing of AGUC within the public right of way to avoid potential clustering.

Clustering within the public rights of way is viewed in a negative manner because it not only creates an unappealing aesthetic environment, but also would be a potential visual obstruction for motor vehicles and pedestrians. Because of the size of the AGUC, proper placement of the structures is crucial to ensuring neighborhood compatibility. The text amendments proposed by Public Works will address the location of AGUC in the rights of way as they pertain to the clear line of sight provisions. Appendix B contains sample language from the proposed text amendment to Chapter 97 of the Village Code, which pertains to AGUC in the Village right of way.

Proposed Text Amendments

The proposed text amendment will add various regulations pertaining to Above Ground Utility Cabinets. In addition to the new text, the amendment will only alter one definition - "Private Utilities" in the existing Ordinance text. For regulatory purposes Planning Services will treat Above Ground Utility Cabinets as accessory structures. Section 155.210, which regulates accessory uses, activities, buildings, and structures, currently has no language addressing Above Ground Utility Cabinets. In order to address any potential swell in the number of Utility Cabinets, Section 155.210 "Accessory Uses, Activities, Buildings, and Structures" will now recognize "Above Ground Utility Cabinets" as an accessory structure and regulate it accordingly.

The proposed text amendments are noted below. **Proposed additions to the Zoning Ordinance are underlined and portions that will be extracted are shown with strikethrough.** The Standards for Text Amendments are also included below.

SECTION 2: GENERAL PROVISIONS

155.210 "Accessory Uses, Activities, Buildings, and Structures"

(3) Height of Accessory Buildings and Structures

Unless otherwise provided for in this ordinance, the height of accessory buildings and structures shall meet the following requirements:

- (a) No detached accessory building or structure shall exceed the height of the principal structure or use, and
- (b) The vertical distance measured from the average grade to the highest point on the roof or Parapet for any detached accessory building or structure shall not exceed seventeen (17) feet.
- (c) ~~The vertical distance of any above ground utility cabinet shall not exceed six (6) feet in height above grade.~~

155.212 "Permitted Obstructions In Required Yards"

Types of Structure or Use Obstruction				Above Ground Utility Cabinet, less than six (6) feet in height.
Front & Corner	Interior	Side Yards	Rear Yard	
X	X	X	X	

SECTION 2: GENERAL PROVISIONS

155.217 "Exemptions of Essential Services"

Certain public and private activities intended and used to promote the public health, safety and welfare shall be exempt from the regulations of this ordinance. Provided, however, the equipment erected or installed for such uses shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and to those of other authorities having jurisdiction. Exempted activities are as follows:

(A) Municipal Uses and Facilities

All municipal uses and facilities, as defined in Section 155.800 of this ordinance, reasonably necessary for the furnishing of adequate municipal services for the public health, safety and welfare including sewer and water transmission lines and facilities, fire stations, governmental buildings, trash collection and disposal facilities, communication facilities, storage yards, and traffic signals and signs.

(B) Private Utilities

The erection, construction, alteration, or maintenance by private utilities of overhead, surface or underground gas, electrical, telephone, steam, or water distribution systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, and poles used to provide direct service to individual properties shall be exempted. However, larger distribution facilities such as electrical substations, gas regulator stations, pumping stations, satellite communications receiving and transmitting stations and other similar facilities used to relay services to individual customers shall be considered a conditional use in all zoning districts and shall conform to the provisions of Section 155.103 (F) of this ordinance. Private utilities are defined in Section 8 of this ordinance.

(C) Above Ground Utility Cabinets

Above ground utility cabinets on private property shall be permitted in all zoning districts and shall be considered as accessory structures, subject to the provisions of Section 155.210. Above ground utility cabinets shall have not exceed six feet (6') in height above grade. Any structure not meeting this provision shall be considered a conditional use and shall conform to the provisions of Section 155.103(F) of this ordinance. Above ground utility cabinets within the public right of way shall be subject to the provisions set forth in Section 97 of the Village Code.

SECTION 8: RULES AND DEFINITIONS

155.802 Rules and Definitions

~~Private Utilities are facilities for the transmission of gas, electric, telephone, and private sewer and water service located either within public rights-of-ways, dedicated easements or on private property.~~

~~Private Utilities – utilities that are not subject to Village acceptance for operation or maintenance. For purposes of this code, private utilities include, but are not limited to, natural gas lines, electric lines, telecommunication lines, cable television lines, and other communication lines, their appurtenances and any component part(s) thereof.~~

~~Above Ground Utility Cabinet – an above ground utility structure, used by a Service Entity to provide communication service to the public, which has a volume above the ground surface of greater than 24 cubic feet, or linear size greater than four feet in any one dimension.~~

~~Service Entity – a person owning or operating any Private Utilities and/or Above Ground Utility Cabinets, as defined in this Section.~~

RECOMMENDATION

The Inter-Departmental Review Report includes a response to the standards for text amendments and finds that the petition meets the standards. Based on the above considerations, the Inter-Departmental Review Committee recommends that the Plan Commission make the following motion recommending **approval** of the request as proposed:

Based on the submitted petition and the testimony presented, the proposed text amendments comply with the standards required by the Lombard Zoning Ordinance; and, therefore, I move that the Plan Commission find that the findings included as part of the Inter-department Review Report be the findings of the Plan Commission and therefore, I recommend to the Corporate Authorities **approval** of the text amendments described in PC 07-07.

Inter-Departmental Review Group Report Approved By:

David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

Appendix A

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 amendment would be uniformly applied to all properties 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 amendment is intended to give the Village authority to regulate Above Ground Utility Cabinets in all zoning districts to maintain the aesthetic value of neighborhoods within the Village. The proposed amendments are intended to prevent a significant increase in the number of Above Ground Utility Cabinets without considering the land use impacts of the structures in the community.

3. *The degree to which the proposed amendment would create nonconformity;*
The Ordinance would not create any nonconformities, as the cabinets are emerging technology and have not been located in the Village to date.

4. *The degree to which the proposed amendment would make this ordinance more permissive*
Assuming that the cabinets are not permitted as part of the blanket exemption of utility services within Section 155.207 of the Zoning Ordinance, the proposed additions would actually provide greater flexibility to locate such structures within required interior side and rear yards (as well as the buildable area of the lot) by treating the structures as another type of accessory structure. The only limitation would be upon the overall height limitation of six feet, which is intended to ensure that the structure could be effectively screened from adjacent properties, if so desired.

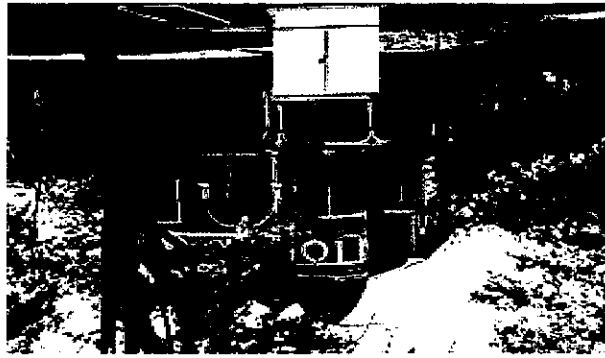
5. *The consistency of the proposed amendment with the Comprehensive Plan*
The Comprehensive Plan offers a number of recommendations pertaining to property maintenance as well as the protection/enhancement of identity and character of residential neighborhoods. The addition of the aforementioned regulations will further increase the Village's ability to keep 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.*

This amendment would be consistent with staff and Board policies. The Village has adopted previous amendment regulating the location of accessory structures within the front yard or within clear line of sight areas. Moreover, this regulation attempt to address the potential impact of a plethora of such cabinets being located throughout the Village without regard to their ultimate location and impact on neighboring properties. This amendment is intended to be consistent with past Board actions to ensure that the public rights of way present a favorable appearance in the community.

Appendix B

Pictures of Above Ground Utility Cabinets



Appendix C

Draft Amendment to Chapter 97 of the Village Code

Chapter 97: Streets and Sidewalks

97.005 "Items on Village Right-of-Way"

97.005(D) "Above Ground Utility Cabinet"

(D) All Above Ground Utility Cabinets shall be located so as to not be unsightly or hazardous to the public. Above Ground Utility Cabinets are permitted in the public right-of-way under the following condition:

1) Above Ground Utility Cabinets located on public right-of-way shall be located a distance no less than three hundred (300') linear feet from any adjacent Above Ground Utility Cabinets.

a. If engineering techniques as approved by the Village do not allow a distance of three hundred (300') linear feet, the village may approve a shorter distance.

2) Above Ground Utility Cabinets shall be located a distance of no less than twenty (20) feet from any residential driveway and no less than thirty (30) feet from any commercial driveway.

MEMORANDUM

TO: Richard Tross, Chairperson, Public Works Committee
and Trustee District #2

FROM: David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

DATE: April 10, 2007

RE: Text Amendments to Chapter 97 of the Village Code:
Above Ground Utility Cabinets

The Community Development Department has been working in conjunction with the Public Works Department to address the issue of Above Ground Utility Cabinets (AGUC) that may potentially be placed on private property or within the public rights of way. Recognizing that these cabinets may be installed throughout the Village in the near future, Village staff is attempting to be pro-active in establishing regulations that provide greater flexibility to locate the cabinets within rear and interior side yards on private property, but limiting their placement within the public right of way.

The Community Development Department brought forward text amendments pertaining to placement of the cabinets on private property to the Plan Commission at their March 19, 2007 meeting. The Commissioners voted 4-0 to recommend approval of the Zoning Ordinance amendments. A copy of the staff report presented to the Plan Commission which also outlines the need for the proposed regulations is attached.

Before the Village Board considers the amendments recommended for approval by the Plan Commission, staff also sought a recommendation from the Transportation and Safety Committee pertaining to amendments to Chapter 97 of the Village Code regulation Street and Sidewalks. The proposed amendments to this chapter is to establish regulations that will promote the placement of AGUC on private property (with location discretion) while discouraging AGUC on public rights of way, specifically near intersections and driveways.

Staff made a presentation to the Transportation & Safety Committee at its April 2, 2007 meeting. The Committee tabled final consideration of the draft amendments as they wanted to consider the amendments at the same time they discuss the general issue of sight line encroachments and general spacing requirements. The Committee members

also requested that this item should also be reviewed by the Public Works Committee at its April 10 meeting as well. As such, staff is bringing forward the proposed amendments for the Public Works Committee consideration.

PROPOSED AMENDMENTS

Listed below is a new subsection to be added to the existing provisions included in Chapter 97. Staff commentary, which will not be included within the final version of the amendment, is noted in *italics*. The proposed text amendments addressing AGUC in public rights of way are as follows:

Draft Amendment to Chapter 97 of the Village Code

Chapter 97: Streets and Sidewalks

97.012 ABOVE GROUND UTILITY CABINETS

Above Ground Utility Cabinets, as defined in Section 155.802 of this Code, shall be permitted in the public right-of-way under the following conditions:

(A) The Above Ground Utility Cabinet shall be located no less than three hundred (300) linear feet from any other Above Ground Utility Cabinet. Notwithstanding the foregoing, the owner of the proposed Above Ground Utility Cabinet can show that utility service cannot be provided if compliance with the foregoing distance restriction is required, a shorter distance, sufficient to allow the provision of utility service, shall be allowed.

The 300 foot linear distance is intended to ensure that clustering to cabinets within the right of way does not occur. Such clustering could create additional sight obstruction issues and could have a greater impact upon the overall use of the right of way for all other purposes. The 300 foot separation dimension was selected as that distance would generally provide for no more than one cabinet on a street or it would generally relegate the cabinets to the far ends of a particular block. The 300 foot distance can be considered appropriate as it is almost one-half the distance of the maximum length of a cul-de-sac street and one-fourth of the maximum block length within the Subdivision and Development Ordinance (Sections 154.503 (I) and 154.505 (B)) respectively. The length could also be considered legally defensible as it still would provide the communications provider(s) with the ability to serve a neighborhood without creating an excessive burden upon them.

(B) Above Ground Utility Cabinets shall be located no less than twenty (20) feet from any residential driveway, no less than thirty (30) feet from any non-residential driveway and no less than thirty (30) feet from the pavement of intersecting public or private streets. Traffic signal and street light cabinets shall be exempt from the provisions set forth in this subsection, but only to the extent that compliance herewith is not possible.

This subsection is intended to mirror the clear line of sight provisions set forth within the Zoning Ordinance. The intent of this provision would be to minimize the potential of conflicts between vehicles and pedestrians.

Village Counsel has reviewed the proposed amendments and notes the following:

- 1) Existing franchise agreements, to the extent they have provisions to the contrary in them, will supersede these regulations.
- 2) As to telecommunications, FCC regulations will supersede these regulations.

ACTION REQUESTED

Per the direction of the Transportation and Safety Committee, staff recommends that the Public Works Committee consider the proposed amendments to Chapter 97 of the Village Code at its April 10, 2007 meeting. The Public Works Committee recommendation, along with recommendations from the Plan Commission and the Transportation and Safety Committee, will be forwarded to the Village Board for consideration at it May 17, 2007 meeting.

MEMORANDUM

TO: Steve Sebb, Chairperson, Transportation & Safety Committee
Transportation & Safety Committee Members

FROM: David A. Hulseberg, AICP
Assistant Village Manager/Director of Community Development

DATE: May 2, 2007

RE: Text Amendments to Chapter 97 of the Village Code:
Above Ground Utility Cabinets

At the April 2, 2007 Transportation & Safety Committee meeting, staff presented proposed text amendments to Chapter 97 of the Village Code to address the issue of Above Ground Utility Cabinets (AGUC) that may potentially be placed within the public rights of way. The amendments establish regulations that will promote the placement of AGUC on private property (with location discretion) while discouraging AGUC on public rights of way, specifically near intersections and driveways. A copy of the proposed amendments to Chapter 97 is attached.

The Committee directed staff to present the text amendments to the Public Works Committee at its April 10, 2007 meeting. The Public Works Committee unanimously recommended approval of the proposed amendments.

The Transportation & Safety Committee also requested additional information from staff relative to the placement of the AGUCs. First, the Committee asked for the rationale for the proposed three-hundred foot separation distance. Staff notes that the 300 foot linear distance is intended to ensure that cabinet clustering within the right of way does not occur. Such clustering could create additional sight obstruction issues and could have a greater impact upon the overall use of the right of way for all other purposes. The 300 foot separation dimension was selected as that distance would generally provide for no more than one cabinet on a street or it would generally relegate the cabinets to the far ends of a particular block. The 300 foot distance can be considered appropriate as it is almost one-half the distance of the maximum length of a cul-de-sac street and one-fourth of the maximum block length within the Subdivision and Development Ordinance (Sections 154.503 (I) and 154.505 (B)) respectively. The length could also be considered legally defensible as it still would provide the communications provider(s) with the ability to serve a neighborhood without creating an excessive burden upon them.

The Committee also wanted to consider the issues addressed as part of the Clear Line of Sight White Paper being prepared by Community Development staff. Staff will present this report at the May 7, 2007 meeting, under separate cover, as well.

ACTION REQUESTED

Staff recommends that the Transportation and Safety Committee consider and recommend approval of the aforementioned amendments to Chapter 97 of the Village Code at its May 7, 2007 meeting.

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Chapter 97: Streets and Sidewalks

97.012 ABOVE GROUND UTILITY CABINETS

Above Ground Utility Cabinets, as defined in Section 155.802 of this Code, shall be permitted in the public right-of-way under the following conditions:

- (A) The Above Ground Utility Cabinet shall be located no less than three hundred (300) linear feet from any other Above Ground Utility Cabinet. Notwithstanding the foregoing, the owner of the proposed Above Ground Utility Cabinet can show that utility service cannot be provided if compliance with the foregoing distance restriction is required, a shorter distance, sufficient to allow the provision of utility service, shall be allowed.

- (B) Above Ground Utility Cabinets shall be located no less than twenty (20) feet from any residential driveway, no less than thirty (30) feet from any non-residential driveway and no less than thirty (30) feet from the pavement of intersecting public or private streets. Traffic signal and street light cabinets shall be exempt from the provisions set forth in this subsection, but only to the extent that compliance herewith is not possible.

- (C) Existing franchise agreements, to the extent they have provisions to the contrary in them, supersede these regulations set forth above. Additionally, regulations established by the Federal Communications Commission (FCC) shall also supersede the regulations set forth above.

ORDINANCE _____

**AN ORDINANCE APPROVING TEXT AND
TITLE 15, CHAPTER 155 OF THE CODE OF LOMBARD**

(PC 07-07: Above Ground Utility)

WHEREAS, the Village of Lombard maintains a Zoning Ordinance, Title 15, Chapter 155 of the Code of Lombard, Illinois; 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 a text amendment to the Zoning Ordinance has been conducted by the Village of Lombard Plan Commission on March 19, 2007 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 amendment 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 155.210(3)(c), of the Code of Lombard, Illinois is hereby added to read in its entirety as follows:

155.210 "Accessory Uses, Activities, Buildings, and Structures"

(3) Height of Accessory Buildings and Structures

Unless otherwise provided for in this ordinance, the height of accessory buildings and structures shall meet the following requirements:

- (a) No detached accessory building or structure shall exceed the height of the principal structure or use, and
- (b) The vertical distance measured from the average grade to the highest point on the roof or Parapet for any detached accessory building or structure shall not exceed seventeen (17) feet.

(c) The vertical distance of any above ground utility cabinet shall not exceed six (6) feet in height above grade.

SECTION 2: That Title 15, Chapter 155, Section 155.212, of the Code of Lombar, Illinois is hereby amended to read in part as follows:

155.212 "Permitted Obstructions In Required Yards"

Types of Structure or Use Obstruction X = Permitted Obstruction	Above Ground Utility Cabinet, less than six (6) feet in height.		
	Front & Corner Side Yard	Interior Side Yards	Rear Yard
	X	X	X

SECTION 3: That Title 15, Chapter 155, Section 155.217(C), of the Code of Lombar, Illinois is hereby amended to read in part as follows:

155.217 "Exemptions of Essential Services"

Certain public and private activities intended and used to promote the public health, safety and welfare shall be exempt from the regulations of this ordinance. Provided, however, the equipment erected or installed for such uses shall conform to Federal Communications Commission and Federal Aviation Agency rules and regulations, and to those of other authorities having jurisdiction. Exempted activities are as follows:

(A) Municipal Uses and Facilities

All municipal uses and facilities, as defined in Section 155.800 of this ordinance, reasonably necessary for the furnishing of adequate municipal services for the public health, safety and welfare including sewer and water transmission lines and facilities, fire stations, governmental buildings, trash collection and disposal facilities, communication facilities, storage yards, and traffic signals and signs.

(B) Private Utilities

The erection, construction, alteration, or maintenance by private utilities of overhead, surface or underground gas, electrical, telephone, steam, or water distribution systems including mains, drains, sewers, pipes, conduits, tunnels, wires, cables, and poles used to provide direct service to individual properties shall be exempted. However, larger distribution facilities such as electrical substations, gas regulator stations, pumping stations, satellite communications receiving and transmitting stations and other similar facilities used to relay services to individual customers shall be considered a conditional use in all zoning districts and shall conform to the provisions of Section 155.103 (F) of this ordinance. Private utilities are defined in Section 8 of this ordinance.

(C) Above Ground Utility Cabinets

Above ground utility cabinets on private property shall be permitted in all zoning districts and shall be considered as accessory structures, subject to the provisions of Section 155.210. Above ground utility cabinets shall have not exceed six feet (6') in height above grade. Any structure not meeting this provision shall be considered a conditional use and shall conform to the provisions of Section 155.103(F) of this ordinance. Above ground utility cabinets within the public right of way shall be subject to the provisions set forth in Section 97 of the Village Code.

SECTION 4: That Title 15, Chapter 155, Section 155.802, of the Code of Lombard, Illinois is hereby amended to read in part as follows:

155.802 Rules and Definitions

~~Private Utilities are facilities for the transmission of gas, electric, telephone, and private sewer and water service located either within public rights of ways, dedicated easements or on private property.~~

~~Above Ground Utility Cabinet - an above ground structure, used by a Service Entity to provide service to the public, which has an above ground volume of greater than twenty-four (24) cubic feet within ten (10) feet of ground level.~~

~~Private Utilities - utilities that are not subject to Village acceptance for operation or maintenance. For purposes of this code, private utilities include, but are not limited to, natural gas lines, electric lines, telecommunication lines, cable television lines, and other communication lines, their appurtenances and any component part(s) thereof.~~

~~Service Entity - a person, firm, or corporation owning or operating any Private Utilities and/or Above Ground Utility Cabinets, as defined in this Section.~~

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 _____, 2007.

First reading waived by action of the Board of Trustees this _____ day of _____, 2007.
Passed on second reading this _____ day of _____, 2007.

Ayes: _____

Nayes: _____

Absent: _____

Approved this _____ day of _____, 2007

William J. Mueller, Village President

ATTEST:

Brigitte O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2007

Brigitte O'Brien, Village Clerk

ORDINANCE NO. _____

AN ORDINANCE AMENDING TITLE 9, CHAPTER 97,
SECTION 97.012 OF THE LOMBARD VILLAGE CODE RELATIVE TO LOCATING
OF ABOVE GROUND UTILITY CABINETS WITHIN PUBLIC RIGHTS OF WAY

WHEREAS, the Village of Lombard maintains a Code of Ordinances, which is found in the Code of Lombard, Illinois; and,

WHEREAS, Title 9, Chapter 97 of the Code of Lombard, Illinois includes provisions regulating the public rights of way within the Village; and,

WHEREAS, the Board of Trustees deems it reasonable to periodically review said Code and make necessary changes pertaining to said Code; and

WHEREAS, the Village deems it to be necessary and appropriate to establish reasonable regulations pertaining to the placement of Above Ground Utility Cabinets within public rights of way within the Village; and

WHEREAS, the regulations set forth herein are intended to meet the Village goal of ensuring that the placement of such structures are located in a manner that provides for the health, safety and welfare of the general public; and

WHEREAS, the regulations set forth herein are also intended to minimize the visual impact of the structures on neighboring properties within the Village.

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 9, Chapter 97 of the Lombard Village Code is hereby amended to add Section 97.012, to read in its entirety as follows:

97.012 ABOVE GROUND UTILITY CABINETS

Above Ground Utility Cabinets, as defined in Section 155.802 of this Code, shall be permitted in the public right-of-way under the following conditions:

(A) The Above Ground Utility Cabinet shall be located no less than three hundred (300) linear feet from any other Above Ground Utility Cabinet. Notwithstanding the foregoing, the owner of the proposed Above Ground Utility Cabinet can show that utility service cannot be provided if compliance with the foregoing distance

restriction is required, a shorter distance, sufficient to allow the provision of utility service, shall be allowed.

- (B) Above Ground Utility Cabinets shall be located no less than twenty (20) feet from any residential driveway, no less than thirty (30) feet from any non-residential driveway and no less than thirty (30) feet from the pavement of intersecting public or private streets. Traffic signal and street light cabinets shall be exempt from the provisions set forth in this subsection, but only to the extent that compliance herewith is not possible.

- (C) Existing franchise agreements, to the extent they have provisions to the contrary in them, supersede these regulations set forth above. Additionally, regulations established by the Federal Communications Commission (FCC) shall also supersede the regulations set forth above.

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 _____, 2007.

First reading waived by action of the Board of Trustees this _____ day of _____, 2007.

Passed on second reading this _____ day of _____, 2007.

Ayes: _____

Nays: _____

Absent: _____

Approved by me this _____ day of _____, 2007.

William J. Mueller, Village President

ATTEST:

Bridget O'Brien, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2007.

Bridget O'Brien, Village Clerk