

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: William T. Lichter, Village Manager  
DATE: May 25, 2005 (BOT) Date: June 2, 2005  
TITLE: PC 05-11: Text Amendments/Fences in Corner Side Yards  
SUBMITTED BY: Department of Community Development *DLT*

BACKGROUND/POLICY IMPLICATIONS:

Your Plan Commission transmits for your consideration a petition requesting a text amendment to the following sections of the Lombard Zoning Ordinance:

1. Amend Section 155.205 to increase fence height to six feet in corner side yards.
2. Amend Section 155.205 to address fence posts, ornamentation, and drainage allowance areas when measuring fence height.
3. Amend Section 155.802, Definitions amending the definition of "Fence-Solid Construction" (ALL DISTRICTS)

Staff is requesting waiver of first reading.

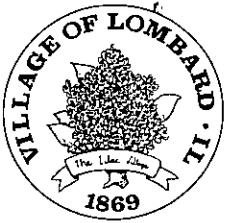
The Plan Commission recommended approval of this petition.

Fiscal Impact/Funding Source:

Review (as necessary):

Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X *W.T. Lichter* \_\_\_\_\_ Date *5/25/05*

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

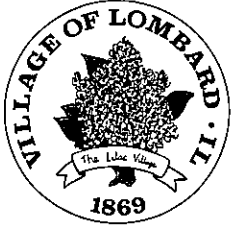
**FROM:** David A. Hulseberg, AICP, Director of Community Development *Datt*

**DATE:** June 2, 2005

**SUBJECT:** **PC 05-11: Fence Height Text Amendments**

Attached please find the following items for Village Board consideration as part of the June 2, 2005 Village Board meeting:

1. Plan Commission referral letter;
2. IDRC report for PC 05-11;
3. An Ordinance granting approval of text amendments to the Lombard Zoning Ordinance.



## VILLAGE OF LOMBARD

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**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. Sebby, Dist. 4  
Kenneth M. Florey, Dist. 5  
Rick Soderstrom, Dist. 6

**Village Manager**  
William T. Lichter

June 2, 2005

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

**Subject: PC 05-11; 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. The petitioner, the Village of Lombard, Lombard requests text amendments to the following sections of the Lombard Zoning Ordinance:

1. Amend Section 155.205 to increase fence height to six feet in corner side yards.
2. Amend Section 155.205 to address fence posts, ornamentation, and drainage allowance areas when measuring fence height.
3. Amend Section 155.802, Definitions amending the definition of "Fence-Solid Construction"

"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."

The Plan Commission conducted a public hearing for this petition on May 16, 2005. Angela Clark, Planner II, presented the petition. Ms. Clark noted that previous workshops were conducted before the Plan Commission and Zoning Board of Appeals at the direction of the Board of Trustees. She outlined the current fence height regulations in a PowerPoint presentation. Ms. Clark stated that the current fence regulations restrict fence height on corner lots to four feet. She stated that both the Plan Commission and Zoning Board of Appeals favored an increase in fence height up to six feet provided that fences were at least seventy-five percent open and were decorative in nature consisting of wrought iron or a comparable material. She stated that the proposed amendments would only apply to abutting corner yards and not reverse corner yards. She then discussed the differences in the yard types.

Ms. Clark noted that two other items were included in the amendments. She stated that language was included to allow three inches for decorative finials, posts or grade changes. She stated that fence height is currently measured from grade to the highest point on the fence. She stated that language was also included to allow three inches to provide for drainage. Ms. Clark stated that the staff report included the proposed changes.

William Heniff, Senior Planner, stated that language was also included to preclude slats from being considered solid fencing.

Chairperson Ryan then opened the meeting for questions from the Plan Commission members. Commissioner Sweetser wanted clarification that cyclone fences would not be considered decorative. Ms. Clark stated that chainlink fences were specifically prohibited.

Chairperson Ryan opened the meeting for public comment. No one spoke for the petition. Pat DiMateo, 916 E. Division, stated that her fence appeared before the Zoning Board and was subsequently denied. She stated that she spoke to Ms. Clark regarding the issue and didn't feel that a seventy-five percent open fence would solve the issue of privacy. Mrs. DiMateo stated that there would not be any protection from dogs or for people to enjoy their backyards. She stated that her neighborhood was undergoing many changes. She noted that eighty parking spots were going to be installed on East South Broadway. She stated that the parking spaces would resemble a commuter parking lot outside of their backyard. She stated that she doesn't understand why people cannot be allowed privacy.

Ms. Clark stated that the fence height issue had been workshopped before both the Plan Commission and Zoning Board of Appeals. She stated that the direction staff received from both bodies was that they would like to see the open areas maintained. She stated that corner lots differ from interior lots. She stated that the regulations were in place when the home was purchased. Ms. Clark stated that the fence in question was installed without a permit although they were advised that the maximum height was four feet.

Mr. Heniff stated that the text amendments being proposed by staff do not make it more restrictive. He stated that the proposed changes would give property owners more flexibility than the current regulations. He stated that this amendment would allow for up to six foot fences in some corner side yards, provided that they are ornamental open fences. He stated that you could see through the fence, but it balances the interest of the property owner versus the neighborhood.

Chairperson Ryan then opened the meeting for discussion among the Plan Commission members.

Commissioner Flint stated that Mrs. DiMateo's situation had gone to the Board two times. He asked if her situation was unique. Mr. Heniff stated that if the amendments were approved it would have no bearing on her petition. He stated that she has a solid six foot fence in the corner side yard. He stated that the Board of Trustees did not find a hardship associated with the property.

Re: PC 05-11

June 2, 2005

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side yard. He stated that the Board of Trustees did not find a hardship associated with the property.

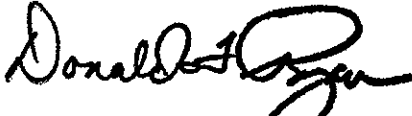
Commissioner Sweetser stated that the Village does try to provide information so that owners are aware of regulations, but sometimes that doesn't happen.

Ms. Clark noted that someone called and asked what the regulations were for the lot and staff informed them of the four-foot restriction.

After due consideration of the petition and the testimony presented, the Plan Commission found that the proposed text amendments comply with the standards of the Zoning Ordinance. Therefore, the Plan Commission, by a roll call vote of 5 to 0, recommended to the Corporate Authorities, **approval** of the proposed text amendments to the Lombard Zoning Ordinance.

Respectfully,

**VILLAGE OF LOMBARD**

A handwritten signature in black ink, appearing to read "Donald Ryan", written over the typed name below.

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

HEARING DATE: April 18, 2005

FROM: Department of Community  
Development

PREPARED BY: Angela Clark, AICP  
Planner II

**TITLE**

**PC 05-11; Text Amendments to the Lombard Zoning Ordinance:** The Village of Lombard requests a text amendment to the following sections of the Lombard Zoning Ordinance:

1. Amend Section 155.205 to increase fence height to six feet in corner side yards.
2. Amend Section 155.205 to address fence posts, ornamentation, and drainage allowance areas when measuring fence height.
3. Amend Section 155.802, Definitions amending the definition of "Fence-Solid Construction"

**ANALYSIS**

In response to the direction provided to staff in workshop sessions from the Plan Commission and the Zoning Board of Appeals as well as Village Board discussion earlier this year, staff is bringing forward text amendments for corner side yard fences. Staff has drafted language to reflect the direction provided by the Zoning Board and Plan Commission.

As a companion to these amendments, staff is also bring forward amendments that would modify fence height calculations and would modify the definition of solid fences to preclude chain link fences with slats from the definition.

Attachment A includes the responses to standards for text amendments.

**INTER-DEPARTMENTAL REVIEW COMMENTS**

**Private Engineering Services**

The Private Engineering Services Division has no comments.

**Engineering - Public Works**

The Department of Public Works has no comments or changes to the petition.

**Fire and Building**

The Fire Department/Bureau of Inspectional Services has no comments regarding this petition.

## Planning

### Current Corner Side Yard Fence Regulations

Fences or walls in required front and corner side yards are generally not permitted to exceed four feet in height. The four foot corner side yard fence requirements apply to traditional corner side yards (where two rear and corner side yards abut each other) as well as reverse corner lots (where the rear yard of a lot abuts the front yard of an adjacent lot). Fences within clear line of sight areas are limited to two feet in height unless they are at least 75% open.

The Zoning Board of Appeals discussed the current fence regulations at its December 2004 meeting. The members recommended that the requirements should remain unchanged for fences less than four feet in height. The ZBA stated that solid six-foot fences on reverse corner side yards would be unacceptable due to the impact they would have on the front yard of neighboring properties. The ZBA suggested that fences located in corner side yards could be permitted to be greater than four feet, but less than six feet in height provided that the entire fence consists of open construction and was decorative or ornate in nature. Staff was directed to compose a definition for decorative or ornate that would incorporate a 75% open component as well as reflect wrought iron or comparable materials.

The Plan Commission discussed the current fence regulations at their February 21, 2005 meeting. The Plan Commission noted that this item had been discussed previously and the Commission felt that the fence requirements should remain unchanged. The members concurred with the ZBA comments stating that solid six-foot fences are inappropriate on reverse corner lots. The Plan Commission recommended that the regulations for fences that are four feet in height or less remain unchanged. They did concur with the ZBA recommendation that if the code was to be changed, they could support a text amendment to allow for fences up to six feet in height, provided that the fence was a decorative or ornate open fence that would incorporate a 75% open component as well as reflect wrought iron or comparable materials.

The proposed text amendments are intended to provide additional flexibility for abutting corner yards only. Reverse corner yards would be held to the four-foot requirement already existing within Code. Staff is suggestion this distinction so as to minimize any visual impact of the fences on the front yard of adjacent residences.

### Other Fence Amendments

While not previously discussed by the Village Board, staff offers two additional text amendments. The first amendment provides for a small amount of flexibility in the fence height calculation to account for minor grade changes, installer error or drainage concerns. This amendment would also allow property owners to install decorate fence caps on solid fences to break up a "solid wall effect".

The last item would also change the definition of solid fence construction to specifically exclude chain link fences with slats as a solid fence. Past experience finds that plastic slate deteriorate after a few years. Over time, what was constructed as a solid fence becomes functionally an open fence

and the screening element is lost. This amendment would preclude the use of chain link fencing with slats from being used for trash enclosure and other solid screening activities.

### **Proposed Text Amendments**

The following are the proposed text amendments for the Zoning Ordinance. **Proposed changes to the ordinances are denoted by striking out old text and underlining new text.**

## **155.205 FENCES, WALL, AND HEDGES**

### **A. Fences and Walls**

#### **1. Fences or Walls in Residential Districts**

##### **c. Permitted Height**

- 1) 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 property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such business, office or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height.
- 2) 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.

- 3) 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').
- 4) 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.



## 155.802 RULES AND DEFINITIONS

FENCE is a free-standing structure made of metal, wire, wire mesh, masonry, plastic, wood, vinyl or a combination thereof, including gates, rising above ground level, measured from the grade at the location of the fence to the highest point of any component of the fence construction, including posts or any decorative elements, and used to delineate a boundary or as a barrier or means of protection, confinement, or screening.

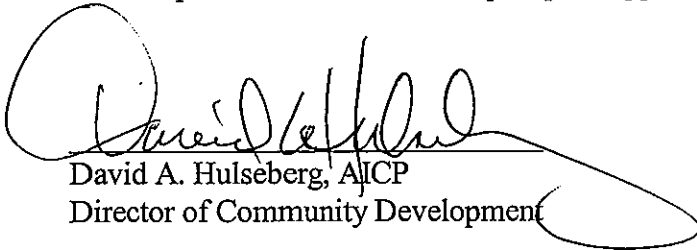
**FENCE – SOLID CONSTRUCTION** is a fence which has over its entirety less than a minimum of seventy-five (75%) open space in total for every one (1) foot of linear dimension of its surface area in open space or does not afford a direct view through the fence. Chain link fences with slats do not constitute a solid fence.

### RECOMMENDATION:

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 05-11.

Inter-Departmental Review Group Report Approved By:



David A. Hulseberg, AICP  
Director of Community Development

DAH: ADC

**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 corner side yard fence amendments be approved, it would apply to all residential corner side yard properties in the Village. The other amendments would be applicable 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 fence height regulations are intended to supplement the Zoning Ordinance building setback provisions. By establishing setbacks, the Ordinance ensures that the front yards of properties remain open and free from visual obstructions. The corner side yard fence amendments are intended to provide additional flexibility to property owners that are seeking additional fence height. However, by keeping the 75% opacity provision and establishing ornamental fence provisions for these fences, the desired effect of providing visible open space along residential block faces is maintained.

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

The proposed amendment will create non-conformities for those properties that are using chain link fences with slats as a type of solid fence. If a solid fence is required in the future, the property owner will be required to install a new fence type to meet the Village's screening requirements.

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

The proposed amendments would make the Zoning Ordinance more permissive in two respects. First, for corner side yards, property owners will be able to increase their fence height, but only if the fence is ornamental in nature.

As far as the calculation of overall fence height is concerned, the additional three inches is intended to remove an inconsistency that currently exists within the ordinance. Fence posts and boards are manufactured in six-foot segments. However, Village code also notes that fence shall not block drainage ways. As a result, if the property owner raises the fence a couple of inches to allow for proper drainage flow, they would be in violation of the height regulations. As such additional flexibility is proposed.

Additionally, the additional three inches of fence height for fence post caps and decorative elements is proposed to allow property owners to select posts with an ornamental element that may protrude above the fence line.

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 amendments will enhance the character of residential neighborhoods by providing additional flexibility for fencing while maintaining the fence opacity standards. Moreover, by removing chain link slat fences, which deteriorate over time, uses that are intended to be segregated will remain out of public view.

6. *The degree to which the proposed amendment is consistent with village policy as established in previous rulings on petitions involving similar circumstances.*

The proposed amendments are intended to mirror the actions and directions set forth by the Corporate Authorities. The Village has a history of amending its Zoning Ordinance to address newly evolving circumstances presented by petition or otherwise. The proposed amendments are consistent with established Village policy in this regard.

With the exception of one case, all of the 2004 petitions requesting variations to residential fence height originated from property owners who obtained permits that depicted a conforming fence or from property owners that did not obtain a permit at all. In 2003, there were four variation requests and all four were denied. The majority of property owners that apply for and obtain permits are complying with the existing zoning regulations. The recommendations as outlined by the ZBA and Plan Commission would keep the solid fence provisions as-is, but would provide property owners with the option to install taller fences while still maintaining the open environment intended by code.

ORDINANCE \_\_\_\_\_

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

(PC 05-11: Fence Height Amendments)

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, 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 May 16, 2005 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, Sections 155.205 and 155.802 of the Code of Lombard, Illinois are hereby amended to read in part as follows:

**155.205 FENCES, WALL, AND HEDGES**

A. Fences and Walls

1. Fences or Walls in Residential Districts

c. Permitted Height

- 1) 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 property(ies) in a business, office, or industrial district, the height of the fence or wall along the property line adjoining such business, office or industrial district on the residential lot may reach, but not exceed, eight feet (8') in height.

- 2) 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.

- 3) 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').
- 4) 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.

## **155.802 RULES AND DEFINITIONS**

**FENCE** is a free-standing structure made of metal, wire, wire mesh, masonry, plastic, wood, vinyl or a combination thereof, including gates, rising above ground level, measured from the grade at the location of the fence to the highest point of any component of the fence construction, including posts or any decorative elements, and used to delineate a boundary or as a barrier or means of protection, confinement, or screening.

**FENCE – SOLID CONSTRUCTION** is a fence which has over its entirety less than a minimum of seventy-five (75%) open space in total for every one (1) foot of linear dimension. Chain link fences with slats do not constitute a solid fence.

SECTION 2: That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

Passed on first reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

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

Re: PC 05-11

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First reading waived by action of the Board of Trustees this \_\_\_\_ day of \_\_\_\_\_, 2005.

Passed on second reading this \_\_\_\_ day of \_\_\_\_\_, 2005.

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

Nayes: \_\_\_\_\_

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

Approved this \_\_\_\_ day of \_\_\_\_\_, 2005

\_\_\_\_\_  
William J. Mueller, Village President

ATTEST:

\_\_\_\_\_  
Brigitte O'Brien, Village Clerk

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