

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


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

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE: November 24, 2015 (B of T) Date: December 3, 2015

TITLE: Amendment to Chapter 151 of the Village Code – Lien Provisions for Stormwater Variances

SUBMITTED BY: Department of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Department of Community Development transmits for your consideration an Ordinance amending Title XV, Chapter 151, Section 151.57 of the Lombard Village Code in regard to the stormwater detention variance fee program.

Staff recommends a waiver of first reading.


Fiscal Impact/Funding Source:

Review (as necessary):  
Village Attorney X \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director X \_\_\_\_\_ Date \_\_\_\_\_  
Village Manager X \_\_\_\_\_ Date \_\_\_\_\_

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

## MEMORANDUM

**TO:** Scott R. Niehaus, Village Manager

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

**DATE:** December 3, 2015

**SUBJECT:** **Ordinance Amendment to Chapter 151 of the Village Code – Lien Provisions for Stormwater Variances**

In October, 2002, the Lombard Village Board adopted Ordinance No. 5211 approving a variation from the stormwater detention provisions for property located at 451 E. North Avenue. This variation was granted to the owner of Casey's Restaurant so that they could build a temporary driveway access to the restaurant from Joyce Street as their access that was being removed as part of the North Avenue widening project. The variation granted allowed the driveway to be built without having the owner compensate for additional stormwater impact, as it was intended to be a temporary improvement. As part of the variation ordinance, the Village required the property owner to pay \$14,700 into an escrow account in order to provide the Village with the ability to remove the driveway at a later date if necessary.

Per the ordinance, the escrow funds were to be held until the driveway was removed or until 2005, when they would be used to remove the driveway. However, given construction delays with the north Avenue project, the initial ordinance was extended to 2010. A further five-year time extension to December 31, 2015 was offered, given the downturn in the market at that time.

Casey's ownership approached the Village to determine if the funds could be released while keeping the exiting driveway access to Joyce Avenue. Through a number of discussions over the past year and a half, the option of establishing a lien on the vacant 451 E. North Avenue property was explored. Staff was informed that the owners are acceptable to this arrangement. However, before such an action is taken the Village would need to adopt an Ordinance that would provide for a lien in lieu of escrow for stormwater improvements that would be associated with a local ordinance variation for a temporary structure. While this matter pertains to one particular property, should this Ordinance be approved, the lien provision could be available to all eligible properties in the Village.

### **ACTION REQUESTED**

Please place this item on the December 3, 2015 Village Board agenda for consideration and approval of the attached Ordinance amending Section 151.57 of the Lombard Village Code to provide for the option of lien provisions in cases of temporary variances from the Village's Stormwater Detention requirements. Should this Ordinance be approved, staff will bring

forward a companion amendment to the Village Board for consideration at the December 17, 2015 meeting to specifically address the vacant Casey's Restaurant property at 451 E. North Avenue.

To be consistent with the time periods noted above staff recommends a waiver of first reading.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE  
AMENDING TITLE XV, CHAPTER 151, SECTION 151.57  
OF THE LOMBARD VILLAGE CODE IN REGARD TO  
THE DETENTION VARIANCE FEE PROGRAM**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

**SECTION 1:** That Title XV, Chapter 151, Section 151.57(A) of the Lombard Village Code is amended to read in its entirety as follows:

“(A) In all cases where a variation from the site runoff storage requirements of § 151.55 of this Code is granted, it shall be a condition of said variation that:

- (1) if the variation is intended to be permanent, the payment of the applicable detention variance fee, as provided by subsection (C) below, shall be made prior to the issuance of a stormwater management permit; or
- (2) if the variation is intended to be temporary, a lien, as provided for in subsection (J) below, in the amount of the applicable detention variance fee, as provided by subsection (C) below, shall be recorded prior to the issuance of a stormwater management permit.”

**SECTION 2:** That Title XV, Chapter 151, Section 151.57 of the Lombard Village Code is amended by adding a new subsection (J) thereto, which shall read in its entirety as follows:

“(J) In the case of a variation from the site runoff storage requirements of § 151.55 of this Code, in which the variation is intended to be only temporary, in that the structure being constructed on the property is intended to only be temporary, a lien in lieu of the applicable detention variance fee may be recorded, in a form prepared by the Village, as a substitute for the payment of the applicable detention variance fee, as provided by subsection (C) above, provided that the following terms and conditions shall apply to said lien in lieu of the applicable detention variance fee:

- (1) The lien shall be in the amount of the applicable detention variance fee, as provided by subsection (C) above.
- (2) The lien shall provide as follows:
  - a. That, upon the payment of the applicable detention variance fee, the removal of the structure necessitating the variation, or the providing of the required site runoff storage requirements for the property, the lien will be released.
  - b. That, in the event that the property owner fails to remove the structure necessitating the variation, so as to eliminate the need for the variation, or fails to provide the site runoff storage requirements for the property, by a date certain in the future, the amount of the lien shall be due and payable to the Village, and no further building or other permits will be issued relative to said property, or in relation to any other property served by the structure on the property, until the amount of the lien is paid.
  - c. That a sale of the property shall require the payment of the amount of the lien, the removal of the structure necessitating the variation or the provision of the required site runoff storage requirements for the property, before any building or other permits are issued by the Village relative to the property.
- (3) The lien shall be executed by both the property owner and the Village, and recorded with the DuPage County Recorder of Deeds, with the property owner paying the cost of the preparation of the lien and the recording thereof, prior to the issuance of any permits by the Village relative to the construction of the structure necessitating the variation.

Said lien in lieu of the applicable detention variance fee shall not be permitted in relation to those situations in which the DuPage County Stormwater and Floodplain Development Ordinance would not allow for the use thereof.”

**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 \_\_\_\_\_, 2015.

First reading waived by action of the Board of Trustees this 3rd day of December, 2015.

Passed on second reading this 3rd day of December, 2015.

AYES: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

**APPROVED** this 3rd day of December, 2015.

\_\_\_\_\_  
Keith Giagnorio, Village President

**ATTEST:**

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

Published by me in pamphlet form this 4th day of December, 2015.

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Sharon Kuderna, Deputy Village Clerk