

1 AN ACT concerning land use decisions.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 1. Short title. This Act may be cited as the Land
5 Use Decisions Act.

6 Section 5. Definitions. In this Act:

7 "Administrative review" means a review of an application
8 for a development permit based on documents, materials, and
9 reports with no testimony or submission of evidence that
10 would be allowed at a record hearing.

11 "Adversely affected" means that a land use decision has
12 or is expected to cause special harm or injury to a person,
13 neighborhood planning council, neighborhood organization, or
14 governmental unit over and above any harm of injury caused to
15 the public generally and that the asserted interests of the
16 person, organization, or governmental unit are among those
17 the unit of local government will be required to consider
18 when it makes the land use decision.

19 "Aggrieved" means that a land use decision may prejudice
20 or is likely to prejudice a person, neighborhood planning
21 council, neighborhood organization, or governmental unit and
22 that the asserted interests of the person, organization, or
23 governmental unit are among those the unit of local
24 government is required to consider when it makes the land use
25 decision.

26 "Appeals Board" means any officer or body designated by
27 the corporate authorities of a unit of local government to
28 hear appeals from land use decisions, including but not
29 limited to the Land Use Review Board, the planning
30 commission, a hearing examiner, or any other official or
31 agency that makes a land use decision on a development

1 permit.

2 "Certificate of Appropriateness" means the written
3 decision by a historic preservation or design review board
4 that a proposed development is in compliance with a historic
5 preservation or design review ordinance.

6 "Certificate of compliance" means the written
7 determination by a unit of local government that a completed
8 development complies with the terms and conditions of a
9 development permit and that authorizes the initial or changed
10 occupancy and use of the building, structure, or land to
11 which it applies. "Certificate of compliance" also includes
12 a temporary certificate issued by the unit of local
13 government during the completion of development that allows
14 partial use or occupancy for a period not to exceed 2 years
15 and under any conditions and restrictions that will
16 adequately assure the safety of the occupants and substantial
17 compliance with the terms of the development permit.

18 "Development permit" means any written approval or
19 decision by a unit of local government under its land
20 development regulations that gives authorization to undertake
21 some category of development, including, but not limited to,
22 a building permit, zoning permit, final subdivision plat,
23 minor subdivision, resubdivision, conditional use, variance,
24 appeal decision, planned unit development, site plan, and
25 certificate of appropriateness. "Development permit" does not
26 mean the adoption or amendment of a a comprehensive plan or
27 any subplan, the adoption or amendment of the text of land
28 development regulations, or a liquor license or other type of
29 business license.

30 "Hearing" means a hearing held under this Act.

31 "Issued" or "issuance" means (i) 3 days after a written
32 decision on a development permit is mailed by the unit of
33 local government or, if not mailed, the date on which the
34 unit of local government provides notice that the written

1 decision is publicly available or (ii) if the land use
2 decision is made by ordinance or resolution of the corporate
3 authorities of a unit of local government, the date the
4 corporate authorities adopt the ordinance or resolution.

5 "Land use decision" means a decision made by a local
6 government officer or body, including the corporate
7 authorities of a unit of local government, on a development
8 permit application, an application for a conditional use,
9 variance, or remedial measure, or a formal complaint and
10 includes decisions made following a record hearing or record
11 appeal. "Land use decision" also means an enforcement order
12 or supplemental enforcement order, but only for purposes of
13 judicial review under this Act. A completeness decision,
14 development permit, and master permit are land use decisions
15 for purposes of this Act.

16 "Master permit" means the development permit issued by a
17 unit of local government under its land development
18 regulations and any other applicable ordinances, rules, and
19 statutes that incorporates all development permits together
20 as a single permit and that allows development to commence.

21 "Planning commission" means a municipal plan commission
22 or planning department, a regional planning commission
23 established under Section 5-14001 of the Counties Code, or a
24 township plan commission.

25 "Record" means the written decision on a development
26 permit application and any documents identified in the
27 written decision as having been considered as the basis for
28 the decision.

29 "Record appeal" means an appeal to a local government
30 officer or body from a record hearing on a development permit
31 application.

32 "Record hearing" means a hearing, conducted by a hearing
33 officer or body authorized by a unit of local government to
34 conduct hearings, that creates the unit of local government's

1 record through testimony and submission of evidence and
2 information under the procedures required by this Act.
3 "Record hearing" also means a record hearing held in an
4 appeal when no record hearing was held on the development
5 permit application.

6 "Unit of local government" means any county or
7 municipality. "Unit of local government" also includes a
8 township that is authorized to exercise planning and zoning
9 powers under the Township Code.

10 Section 10. Purposes. The purposes of this Act are to:

11 (1) Provide for the timely consideration of
12 development permit applications.

13 (2) Provide a unified development permit review
14 process for land use decisions by units of local
15 governments.

16 (3) Authorize a consolidated development permit
17 review process for land use decisions by units of local
18 governments.

19 (4) Provide for the appointment of hearing
20 examiners.

21 (5) Provide for a Land Use Review Board.

22 (6) Authorize conditional uses, variances, and
23 remedial measures in land development regulations.

24 (7) Provide a judicial review process for land use
25 decisions.

26 Section 15. Exemption of corridor maps. This Act does
27 not apply to applications for and decisions on development on
28 land reserved in corridor maps.

29 Section 20. Development permits.

30 (a) The corporate authorities of a unit of local
31 government must adopt, as part of its land development

1 regulations, an ordinance that establishes a unified
2 development permit review process for applications for
3 development permits.

4 (b) The ordinance establishing a unified development
5 permit review process must contain a list of all development
6 permits required by the unit of local government. For each
7 development permit, the list must include:

8 (1) Citation to the land development regulations,
9 statute, rule, or other legal authority under which the
10 development permit is required.

11 (2) The category of development to which the permit
12 applies.

13 (3) The stage or sequence of the development
14 process at which the permit must be obtained.

15 (4) The designation of the officer or body of the
16 unit of local government responsible for reviewing and
17 granting the development permit and the subsequent
18 certificate of compliance.

19 (5) Whether a record hearing is required.

20 (6) The approximate time necessary for review and
21 grant of the development permit.

22 (c) The ordinance establishing a unified development
23 permit review process may provide for no more than one record
24 hearing for each development permit and one record appeal.
25 The ordinance may also authorize the administrative review of
26 development permit applications without a hearing as provided
27 by Section 35 and one appeal for each development permit in
28 the form of a record hearing. The ordinance may assign the
29 responsibility for record hearings, record appeals, and
30 administrative reviews to the the corporate authorities of
31 the unit of local government, the planning commission, or any
32 other officers or bodies that the corporate authorities of
33 the unit of local government determine.

34 (d) The ordinance establishing a unified development

1 permit review process must establish a reasonable time limit
2 on the validity of a development permit.

3 The ordinance may provide for the extension of the time
4 limits whenever a change in circumstances precludes or
5 precluded the landowner from completing the development
6 according to the terms and conditions of the permit within
7 the time limit established by the permit despite the
8 landowner's reasonable efforts to complete the development
9 within that time limit.

10 The ordinance may provide for the extension of time
11 limits under other circumstances that the unit of local
12 government sees fit.

13 An extension of time limits (i) must provide reasonable
14 time to complete the development authorized by the original
15 development permit and (ii) does not by itself preclude or
16 prohibit further extensions as necessary.

17 An application for extension of time limits is a
18 development permit application.

19 (e) For the purposes of this Act, the ordinance
20 establishing the unified development permit review process
21 may define the amendment of the zoning map by the corporate
22 authorities of a unit of local government as a development
23 permit.

24 Section 25. Development permit applications.

25 (a) As part of the ordinance establishing the unified
26 development permit review process, the corporate authorities
27 of a unit of local government must specify in detail the
28 information required in every application for a development
29 permit and the criteria it will apply to determine the
30 completeness of any application. The ordinance must require
31 the unit of local government to notify applicants for
32 development permits, at the time they make application, of
33 the completeness determination, notice, and time limit

1 requirements required by this Article for the review and
2 approval of development permits.

3 (b) No unit of local government may require a waiver of
4 the time limits on a completeness determination or a decision
5 on a development permit as a condition of accepting or
6 processing an application for a development permit, nor may a
7 unit of local government find an application incomplete
8 because it does not include a waiver of these time limits.

9 Section 30. Completeness determination.

10 (a) Within 28 days after receiving a development permit
11 application, the unit of local government must mail or
12 provide in person a written determination to the applicant
13 stating either that the application is complete or that the
14 application is incomplete and what is necessary to make the
15 application complete.

16 (b) If the unit of local government determines that the
17 application is incomplete, it must identify in its
18 determination the parts of the application that are
19 incomplete and must indicate the manner in which they can be
20 made complete, including a list and specific description of
21 the additional information needed to complete the
22 application. The applicant must then submit this additional
23 information to the unit of local government.

24 (c) The unit of local government must determine in
25 writing that an application is complete within 28 days after
26 receipt of the additional information indicated in the list
27 and description provided to the applicant under subsection
28 (b).

29 (d) A development permit application is deemed complete
30 under this Section if the unit of local government does not
31 provide a written determination to the applicant that the
32 application is incomplete within 28 days after the receipt of
33 an application under subsection (a) or within 28 days after

1 the receipt of any additional information submitted under
2 subsection (b).

3 (e) A development permit application is complete for
4 purposes of this Section when it meets the completeness
5 requirements of, or is deemed complete under, this Section
6 even though additional information may be required or
7 modifications in the development may occur subsequently. The
8 completeness determination does not preclude the unit of
9 local government from requesting additional information or
10 studies either at the time of the notice of completeness or
11 subsequently if new information is required or substantial
12 changes in the proposed development occur.

13 Section 35. Administrative review.

14 (a) When required. The ordinance establishing the
15 development permit review process may authorize local
16 government officers and bodies to conduct an administrative
17 review of development permit applications without a record
18 hearing. The ordinance must designate the development permits
19 that are subject to an administrative review.

20 (b) Participation. Documents and materials concerning a
21 development permit application may be submitted to the
22 officer or body that will conduct the administrative review
23 by (i) the applicant and (ii) any person, neighborhood
24 planning council or neighborhood organization, or
25 governmental unit, if it would be aggrieved or adversely
26 affected by a decision on the development permit application.

27 (c) Conflicts. Any decision-making officer or member of
28 a decision-making body who has a direct or indirect financial
29 interest in property that is the subject of an administrative
30 review; who is related by blood, adoption, or marriage to the
31 owner of property that is the subject of an administrative
32 review or to a person who has submitted documents and
33 materials concerning an application; or who resides or owns

1 property within 1,000 feet of property that is the subject of
2 an administrative review must recuse himself or herself from
3 the matter and must state in writing the reasons for the
4 recusal.

5 (d) Findings, decision, and notice. A unit of local
6 government may approve or deny a development permit
7 application or may approve an application subject to
8 conditions. Any approval, denial, or conditions attached to a
9 development permit approval must be based on and implement
10 the land development regulations, and the goals, policies,
11 and guidelines of the comprehensive plan. Any decision on a
12 development permit application must be based upon and
13 accompanied by a written statement that:

14 (1) States the land development regulations and
15 goals, policies, and guidelines of the comprehensive plan
16 relevant to the decision.

17 (2) States the facts relied upon in making the
18 decision.

19 (3) Explains how the decision is based on the land
20 development regulations, the goals, policies, and
21 guidelines of the comprehensive plan (including the
22 future land use plan map), and the facts set forth in the
23 written statement of the comprehensive plan.

24 (4) Responds to all relevant issues raised by
25 documents and materials submitted to the administrative
26 review.

27 (5) States the conditions that apply to the
28 development permit, the conditions that must be satisfied
29 before a certificate of compliance can be issued, and the
30 conditions that are continuing requirements and apply
31 after a certificate of compliance is issued.

32 A unit of local government must give written notice of
33 its decision to the applicant and to all other persons,
34 neighborhood planning councils or neighborhood organizations,

1 and governmental units that submitted documents and
2 materials. The unit of local government must publish its
3 decision in a newspaper of general circulation within the
4 unit of local government and may publish the decision on a
5 computer-accessible information network.

6 (e) Request for final decision. If a unit of local
7 government denies a development permit application, or
8 approves it with conditions, the applicant for the
9 development permit may request a written final decision on
10 the application. Within 30 days after a request, the unit of
11 local government must issue a final decision identifying the
12 allowable uses, densities, and intensities to which the
13 subject property may be put. A final decision issued under
14 this subsection is a final decision for purposes of judicial
15 review under this Act.

16 If a unit of local government does not issue a final
17 decision within 30 business days after a request for a final
18 decision, any prior decision on the development permit
19 application made under subsection (d) must be considered ripe
20 for purposes of judicial review under this Act.

21 (f) Certificate of compliance. The officer or body that
22 grants a development permit must issue a certificate of
23 compliance if the completed development is in accordance with
24 the conditions of the development permit that must be
25 satisfied before a certificate of compliance can be issued.
26 The officer or body may delegate the responsibility of
27 issuing the certificate of compliance to another officer.

28 The ordinance establishing the unified development permit
29 review process may describe the type and sequence of
30 inspections regarding a development authorized by a
31 development permit in order that a certificate of compliance
32 may be issued at the completion of the development.

33 An owner of land for which a development permit has been
34 issued may apply upon completion of the development for a

1 certificate of compliance and may introduce documentation and
2 evidence, including the written reports of inspections
3 performed according to this subsection, and if the agency
4 that issued the development permit finds that the completed
5 development was in accordance with the terms and conditions
6 of the development permit on a particular date, the
7 certificate of compliance shall be effective as of that date.

8 The ordinance establishing the development review process
9 may also provide for the periodic review of compliance with
10 development permits. A unit of local government may bring
11 enforcement proceedings to remedy a violation of this
12 subsection.

13 Section 40. Notice of record hearing.

14 (a) Notice required. If a unit of local government holds
15 a record hearing on a development permit application, it must
16 provide notice of the date of the record hearing within 15
17 days after a completeness determination on the application
18 under Section 30 of this Act or within 15 days after the date
19 an application is deemed complete under subsection (e) of
20 Section 30. Notice of the record hearing must be mailed at
21 least 20 days before the record hearing and the record
22 hearing must be held no later than 30 days after the date
23 that notice of the record hearing is mailed. A unit of local
24 government may hold a record hearing at a later date, but no
25 more than 60 days after the date that notice of the record
26 hearing was mailed, if State agencies or other units of local
27 government must approve or review the development application
28 or if the applicant for a development permit requests an
29 extension of the time at which the record hearing will be
30 held.

31 (b) Contents of notice. The notice of the record hearing
32 must:

33 (1) State the date, time, and location of the

1 record hearing.

2 (2) Explain the nature of the application and the
3 proposed use or uses that could be authorized.

4 (3) List the land development regulations and any
5 goals, policies, and guidelines of the comprehensive plan
6 that apply to the application.

7 (4) Set forth the street address or other easily
8 understood geographical reference to the subject
9 property.

10 (5) State that a failure to raise an issue at a
11 record hearing, in person or by letter, or the failure to
12 provide statements or evidence sufficient to afford the
13 unit of local government an opportunity to respond to the
14 issue precludes an appeal to the Appeals Board based on
15 that issue, unless the issue could not have been
16 reasonably known by any party to the record hearing at
17 the time of the record hearing.

18 (6) State that a copy of the application, all
19 documents and evidence submitted by or on behalf of the
20 applicant, and any applicable land development
21 regulations or goals, policies, and guidelines of the
22 comprehensive plan are available for inspection at no
23 cost and will be provided at reasonable cost.

24 (7) State that a copy of any staff reports on the
25 application will be available for inspection at no cost
26 at least 7 days before the record hearing and will be
27 provided at actual cost.

28 (8) State that a record hearing will be held and
29 include a general explanation of the requirements for the
30 conduct of the record hearing.

31 (9) Identify, to the extent known by the unit of
32 local government, any other governmental units that may
33 have jurisdiction over some aspect of the application.

1 Section 45. Method of notice.

2 (a) A unit of local government must use reasonable
3 methods to give notice of a development permit application to
4 the public, including neighborhood planning councils and
5 neighborhood organizations, and to units of local government
6 or State agencies with jurisdiction over the land. A unit of
7 local government must specify the methods of public notice it
8 will use in its development permit review ordinance and may
9 specify different types of notice for different categories of
10 development permits. Any ordinance adopted under this
11 subsection, however, must at least specify all of the
12 following methods:

13 (1) conspicuous posting of the notice on the
14 property, for site-specific development proposals;

15 (2) publishing the notice, including at least the
16 development location, description, type of permits
17 required, and location where the complete application may
18 be reviewed, in a newspaper of general circulation in the
19 jurisdiction of the unit of local government and giving
20 notice by publication on a computer-accessible
21 information network;

22 (3) posting the notice on a bulletin board in a
23 conspicuous location in the principal offices of the unit
24 of local government; and

25 (4) mailing notice to all adjacent units of local
26 government and to all State agencies that have
27 jurisdiction over the development application.

28 (b) Reasonable methods of notice that a unit of local
29 government may include in its development permit review
30 ordinance are:

31 (1) Notifying public or private groups with known
32 interest in a certain proposal or in the type of proposal
33 being considered.

34 (2) Notifying the news media.

1 (3) Publishing notices in appropriate regional or
2 neighborhood newspapers or trade journals.

3 (4) Publishing notice in local government agency
4 newsletters or sending notice to agency mailing lists,
5 either general lists or lists for specific proposals or
6 subject areas.

7 (5) Mailing notice to abutting and confronting
8 property owners.

9 Section 50. Record hearings.

10 (a) When required. This Section applies when a unit of
11 local government holds a record hearing on a development
12 permit application.

13 (b) Availability of materials. The applicant, or any
14 person who will be a party to or who will testify or would
15 like to testify in any record hearing, must submit all
16 documents or evidence on which he or she intends to rely to
17 the unit of local government which must make them available
18 to the public at least 7 days before the record hearing.

19 (c) Availability of staff reports. The unit of local
20 government must make any staff report it intends to use at
21 the record hearing available to the public at least 7 days
22 before the record hearing.

23 (d) Record bearing rules. As part of its unified
24 development permit review process, the corporate authorities
25 of a unit of local government must specify rules for the
26 conduct of record hearings. The rules, at a minimum, must
27 include the requirements for record hearings contained in
28 this Section and may supplement, but may not conflict with,
29 these requirements. This subsection is a limitation under
30 subsection (i) of Section 6 of Article VII of the Illinois
31 Constitution on the concurrent exercise by home rule units of
32 powers and functions exercised by the State.

33 (e) Parties. Any governmental unit that has jurisdiction

1 over the development application and any abutting or
2 confronting owner or occupant may be a party to a record
3 hearing held under this Section. Any other person or
4 governmental unit, including a neighborhood planning council
5 or neighborhood organization, may be a party to any record
6 hearing held under this Section, if it would be aggrieved or
7 adversely affected by a land use decision on the development
8 permit application.

9 (f) Conduct of record hearing. The officer presiding at
10 a record hearing, or any person that he or she may designate,
11 has the power to conduct discovery and to administer oaths
12 and issue subpoenas to compel the attendance of witnesses and
13 the production of relevant evidence, including witnesses and
14 documents presented by the parties. The presiding officer may
15 call any person as a witness whether or not he or she is a
16 party.

17 The presiding officer must take the testimony of all
18 witnesses relating to a development permit application under
19 oath or affirmation and must permit the right of
20 cross-examination of all parties through their attorneys, if
21 represented, or directly, if not represented, subject to the
22 discretion of the presiding officer and to reasonable
23 limitations on the time and number of witnesses.

24 Technical rules of evidence do not apply to the record
25 hearing, but the presiding officer may exclude irrelevant,
26 immaterial, or unduly repetitious evidence.

27 If a party to the record hearing provides additional
28 documents or evidence, the presiding officer may allow a
29 continuance of the record hearing or leave the record open to
30 allow other parties a reasonable opportunity to respond.

31 The unit of local government must provide for the
32 verbatim recording of the record hearing and must furnish a
33 copy of the recording, on request, to any interested person
34 at the unit of local government's expense.

1 (g) Ex parte communications. A land use decision based
2 on a record hearing is void if a decision-making officer, or
3 a member of a decision-making body, engages in a substantial
4 ex parte communication concerning issues related to the
5 development permit application with a party to the record
6 hearing, or a person who has a direct or indirect interest in
7 any issue in the record hearing, unless the official or
8 member who engages in the ex parte communication provides an
9 opportunity to rebut the substance of any written or oral ex
10 parte communication by promptly putting it on the record and
11 promptly notifying all parties to the record hearing of the
12 contents of the communication.

13 An oral communication between local government staff and
14 the decision-making officer or a member of a decision-making
15 body is not a substantial ex parte communication under this
16 subsection.

17 (h) Conflicts. Any decision-making officer or member of
18 a decision-making body having a direct or indirect financial
19 interest in property that is the subject of a record hearing;
20 who is related by blood, adoption, or marriage to the owner
21 of property that is the subject of a record hearing or to a
22 party to the record hearing; or who resides or owns property
23 within 500 feet of property that is the subject of a record
24 hearing must recuse himself or herself from the matter before
25 the commencement of the record hearing and must state the
26 reasons for such recusal.

27 (i) Findings, decision, and notice. A unit of local
28 government may approve or deny a development permit
29 application or may approve an application subject to
30 conditions. Any decision on a development permit application
31 must be based upon and accompanied by a written statement
32 that:

33 (1) States the land development regulations and
34 goals, policies, and guidelines of the comprehensive plan

1 relevant to the decision.

2 (2) States the facts relied upon in making the
3 decision.

4 (3) Explains how the decision is based on the land
5 development regulations, the goals, policies, and
6 guidelines of the comprehensive plan (including the
7 future land use plan map), and the facts set forth in the
8 written statement of the comprehensive plan.

9 (4) Responds to all relevant issues raised by the
10 parties to the record hearing.

11 (5) States the conditions that apply to the
12 development permit, the conditions that must be satisfied
13 before a certificate of compliance can be issued, and the
14 conditions that are continuing requirements and apply
15 after a certificate of compliance is issued.

16 A unit of local government must give written notice of
17 its decision to all parties to the proceeding. The unit of
18 local government must publish its decision in a newspaper of
19 general circulation within the unit of local government and
20 may publish the decision on a computer-accessible information
21 network.

22 (j) Request for final decision. If a unit of local
23 government denies a development permit application, or
24 approves it with conditions, the applicant for the
25 development permit may request a written final decision on
26 the application. Within 30 days after a request, the unit of
27 local government must issue a final decision identifying the
28 allowable uses, densities, and intensities to which the
29 subject property may be put. A final decision issued under
30 this subsection is a final decision for purposes of judicial
31 review under this Act.

32 If a unit of local government does not issue a final
33 decision within 30 days after a request for a final decision,
34 any prior decision on the development permit application made

1 under subsection (i) must be considered ripe for purposes of
2 appeal under this Article.

3 (k) Certificate of compliance. The officer or body that
4 grants a development permit must issue a certificate of
5 compliance if the completed development is in accordance with
6 the conditions of the development permit that must be
7 satisfied before a certificate of compliance can be issued.
8 The officer or body may delegate the responsibility of
9 issuing the certificate of compliance to another officer.

10 The ordinance establishing the unified development permit
11 review process may describe the type and sequence of
12 inspections regarding development authorized by a development
13 permit in order that a certificate of compliance may be
14 issued at the completion of the development.

15 An owner of land for which a development permit has been
16 issued may apply upon completion of the development for a
17 certificate of compliance and may introduce documentation and
18 evidence, including the written reports of inspections
19 performed according to this subsection. If the agency that
20 issued the development permit finds that the completed
21 development was in accordance with the terms and conditions
22 of the development permit on a particular date, the
23 certificate of compliance shall be effective as of that date.

24 The ordinance establishing the development review process
25 may also provide for the periodic review of compliance with
26 development permits.

27 A unit of local government may bring enforcement
28 proceedings to remedy a violation of this subsection.

29 Section 55. Consolidated permit review process.

30 (a) As part of the ordinance establishing the unified
31 development permit review process, the corporate authorities
32 of a unit of local government may establish a consolidated
33 permit review process in which an applicant for a development

1 permit may apply at one time for all development permits or
2 zoning map amendments needed for a development.

3 (b) If an applicant for a development permit applies for
4 a master permit, the unit of local government must determine
5 what procedures apply to the review of the development and
6 must designate a permit coordinator who shall coordinate the
7 consolidated permit review process. A consolidated permit
8 review process may provide different procedures for different
9 categories of development permits. If a development requires
10 permits from more than one category of development permit as
11 well as zoning map amendments, the unit of local government
12 may provide for a consolidated permit review process with one
13 record hearing and no more than one record appeal.

14 (c) The unit of local government may authorize the
15 permit coordinator to issue a master permit. The permit
16 coordinator must issue a master permit if all the required
17 development permits have been granted.

18 Section 60. Appeals.

19 (a) An appeal of a decision on a development permit
20 application may be taken to an Appeals Board within 30 days
21 after the decision is issued or within 30 days after the date
22 the decision is deemed approved under Section 65 (1) by the
23 applicant for the development permit, and by any party to the
24 record hearing, if there has been a record hearing or (2) if
25 there has been an administrative review, by the applicant for
26 the development permit or by any person, neighborhood
27 planning council, neighborhood organization, or governmental
28 unit if he, she, or it is aggrieved or adversely affected by
29 the land use decision.

30 (b) The party appealing must file a notice of appeal
31 specifying the grounds for the appeal with the officer or
32 body from whom the appeal is taken and with the Appeals
33 Board. The officer or body from whom the appeal is taken must

1 transmit to the Appeals Board the record upon which the land
2 use decision appealed from was taken. The Appeals Board may
3 dismiss an appeal if it determines that the notice of appeal
4 is legally insufficient on its face.

5 (c) An appeal that is not dismissed shall stay any and
6 all proceedings to enforce, execute, or implement the land
7 use decision being appealed and any development authorized by
8 that land use decision, unless the officer or body from whom
9 the appeal is taken certifies in writing to the Appeals Board
10 that a stay in the decision or development under the decision
11 would cause immediate and irreparable harm to the appellant
12 with no comparable immediate and irreparable harm to the
13 applicant or imminent peril to life or property. If such a
14 certification is filed, there may be no stay other than by a
15 restraining order that may be granted by the circuit court on
16 due cause shown and with notice to the officer or body from
17 whom the appeal is taken.

18 (d) The Appeals Board must set the time and place at
19 which it will consider the appeal that may not be more than
20 20 days after the time the appeal was filed. The Appeals
21 Board must give at least 10 days notice of the appeal hearing
22 to the officer or body from which the appeal was taken and to
23 the parties to the appeal.

24 (e) The Appeals Board must hold a hearing on the record
25 in a record appeal. As part of its unified development permit
26 review process, the corporate authorities of a unit of local
27 government must adopt rules under which the Appeals Board may
28 hear arguments on the record by the parties to the record
29 appeal.

30 The Appeals Board may take supplementary evidence in
31 record appeals only in those limited cases in which it makes
32 a written finding that evidence proffered by any party was
33 improperly excluded from the record hearing.

34 A finding that additional evidence will be taken is an

1 interlocutory order that is not appealable. If the Appeals
2 Board decides to take supplementary evidence, it must provide
3 mailed notice of this decision to all parties to the record
4 hearing that was appealed and must hold a record hearing as
5 required by the unit of local government's unified
6 development review process.

7 An Appeals Board must issue a written decision after the
8 record hearing in which it may reverse or affirm, wholly or
9 in part, or may modify a land use decision from which an
10 appeal is taken and has the authority in making this decision
11 to exercise all of the powers of the officer or body from
12 which the appeal is taken insofar as they concern the issues
13 on appeal. A tie vote is an affirmation of the decision from
14 which the appeal was taken.

15 The Appeals Board may not make findings of fact, unless
16 the Board has taken evidence supplementing the record on
17 appeal, in which case it may make findings of fact based on
18 this evidence and may make a decision based on those findings
19 as required by subsection (i) of Section 50 of this Act.

20 (f) In an appeal from an administrative review, the
21 Appeals Board must hold a record hearing and make a decision
22 as provided in Section 50 of this Act.

23 (g) The Appeals Board must mail a notice of any decision
24 to the parties to the appeal and to the planning commission
25 of the unit of local government within 30 days of the
26 commencement of the hearing.

27 (h) The Appeals Board must keep written minutes of its
28 proceedings showing the vote of each member upon each appeal
29 or if absent or failing to vote, indicating that fact, and
30 must keep records of its official actions in its office.

31 Section 65. Time limits.

32 (a) If a unit of local government fails to approve or
33 disapprove a development permit application within 90 days

1 after the time it makes a written determination that a
2 development permit application is complete or after the time
3 a development application is deemed complete, the failure to
4 act is an approval unless within those 90 days the unit of
5 local government has identified in writing some specific land
6 development regulation provision with which the application
7 does not comply and that prohibits the development of the
8 property.

9 (b) The unit of local government and the applicant for a
10 development permit may mutually agree to an extension of the
11 time limits for a decision specified in subsection (a) for a
12 period not in to exceed 90 days.

13 (c) If an application for a development permit is deemed
14 approved under this Section, the officer or body must send by
15 mail written notice that the permit has been deemed approved
16 to all parties to the record hearing or persons, neighborhood
17 planning councils and neighborhood organizations, and
18 governmental units that submitted documents and materials for
19 the administrative review.

20 (d) The time limits for decision specified in this
21 Section do not run during any period, not to exceed 30 days,
22 in which a unit of local government requests additional
23 studies or information concerning a development permit
24 application.

25 Section 70. Fees. A unit of local government may charge
26 any fees that are necessary to carry out the responsibilities
27 imposed by Sections 25 through 65 of this Act. It must base
28 the fees on the actual costs of typical or average review and
29 processing of development permit applications and appeals
30 from decisions on development permit applications and may
31 adopt different schedules of fees for different categories of
32 development reviews and appeals.

1 Section 75. Hearing examiner system.

2 (a) The corporate authorities of a unit of local
3 government may adopt an ordinance, as part of its land
4 development regulations, that establishes a hearing examiner
5 system. The ordinance must specify those matters on which a
6 hearing examiner may hear and make decisions and
7 recommendations including, but not limited to, the following;

8 (1) Development permit applications.

9 (2) Proposals for the adoption or amendment of a
10 comprehensive plan or subplan or the text or map
11 amendment of a land development regulation.

12 (3) The administration, interpretation, and
13 enforcement of land development regulations.

14 (4) Any other matters that the corporate
15 authorities believe should be heard and decided by a
16 hearing examiner.

17 (b) The ordinance establishing a hearing examiner system
18 must specify the qualifications for hearing examiners and the
19 terms and conditions under which they may serve. Hearing
20 examiners must successfully complete a formal training
21 program that includes the following:

22 (1) instruction on the rules of procedure of the
23 hearing they will conduct;

24 (2) orientation to the subject area that they will
25 administer;

26 (3) observation of administrative hearings; and

27 (4) participation in hypothetical cases, including
28 rules on evidence and issuing decisions.

29 Section 80. Jurisdiction of hearing examiner.

30 (a) The ordinance establishing a hearing examiner system
31 must specify the procedures for initiating hearings before a
32 hearing examiner that may include, but shall not be limited
33 to, procedures that authorize:

1 (1) An applicant for a development permit to file
2 an application with a hearing examiner when a record
3 hearing is required after the unit of local government
4 has determined that the application is complete or after
5 the application is deemed complete under this Act.

6 (2) A permit coordinator appointed under Section 55
7 to refer applications for development permits submitted
8 in a consolidated review process to a hearing examiner.

9 (3) An appeal, within 30 days after a land use
10 decision is issued or within 30 days after the date a
11 land use decision is deemed approved under Section 65,
12 (i) if there has been a record hearing, by the applicant
13 for the development permit and by any party to the record
14 hearing and (ii) if there has been an administrative
15 review (A) by the applicant for the development permit
16 and (B) by any person, neighborhood planning council or
17 neighborhood organization, or governmental unit, if it is
18 aggrieved or adversely affected by the land use decision.

19 (4) The corporate authorities of a unit of local
20 government, a planning commission, the Land Use Review
21 Board, and any other body or official to refer any matter
22 delegated to them to a hearing examiner.

23 Section 85. Decision to recuse. The ordinance
24 establishing a hearing examiner system may authorize the
25 hearing examiner to recuse himself or herself in any matter
26 submitted, referred, or appealed to the examiner and to refer
27 the matter back so that the appointment of another hearing
28 examiner can be considered.

29 Section 90. Decisions based on record hearings.

30 (a) The hearing examiner must hold a record hearing on
31 an application for a development permit. If a record hearing
32 has not been held on any other matter submitted, referred, or

1 appealed to him or her, the hearing examiner must hold a
2 record hearing within 15 days after receiving a referral from
3 an officer or body of the unit of local government, or an
4 appeal.

5 (b) The hearing examiner must:

6 (1) give notice of the record hearing as required
7 by Section 40 through the methods specified in the unit
8 of local government's unified development permit review
9 process ordinance;

10 (2) conduct the record hearing as required by the
11 unit of local government's unified development permit
12 review process; and

13 (3) make findings, make a decision or
14 recommendations, and give notice of that decision or
15 those recommendations as required by subsection (i) of
16 Section 50.

17 Section 95. Decisions based on record appeals. If a
18 record hearing has been held on any matter submitted,
19 referred, or appealed to the hearing examiner, the examiner
20 must conduct a record appeal within 15 days after receiving
21 an application for a development permit, a referral from a
22 board or official of the unit of local government, or an
23 appeal. Section 60 governs record appeals held by the
24 hearing examiner.

25 Section 100. Effect of hearing examiner's decision.

26 (a) A hearing examiner's decision on the adoption or
27 amendment of a comprehensive plan or subplan, or the textual
28 or map amendment of a land development regulation, may only
29 be given the effect of a recommendation to the corporate
30 authorities of a unit of local government.

31 (b) The ordinance establishing a hearing examiner system
32 must specify the legal effect of all other decisions by a

1 hearing examiner and may provide that their legal effect may
2 vary for the different categories of development permits,
3 referrals, and appeals heard by the hearing examiner. The
4 ordinance may include any or a combination of the following:

5 (1) It may give the hearing examiner's decision the
6 effect of a recommendation to the corporate authorities
7 of the unit of local government, board, or official
8 having jurisdiction.

9 (2) It may give the hearing examiner's decision the
10 effect of a final decision and may specify whether the
11 decision is appealable to the corporate authorities of
12 the unit of local government or to a designated official
13 or body or whether the decision is a final decision
14 subject only to judicial review as provided by this Act.

15 Section 105. Review of hearing examiner recommendations.

16 (a) If the hearing examiner has held a record hearing on
17 the recommendation, the corporate authorities of the unit of
18 local government, board, or officer must consider the
19 recommendation as a record appeal and must make a decision on
20 the recommendation as provided by Section 60.

21 (b) If the hearing examiner has not held a record
22 hearing on the recommendation, the legislative body, board,
23 or officer must hold a record hearing on the recommendation
24 and must make a decision on the recommendation as provided by
25 Section 60.

26 (c) The legislative body, board, or officer must give
27 due regard to the recommendation of the hearing examiner.

28 Section 110. Filing and publication of hearing examiner
29 decisions. The ordinance establishing the hearing examiner
30 system must require the filing of hearing examiner decisions
31 in a manner that makes them available to the public and may
32 require the publication of hearing examiner decisions in

1 print or electronic media.

2 Section 115. Land Use Review Board. The corporate
3 authorities of a unit of local government may adopt an
4 ordinance, as part of its land development regulations, that
5 provides for the creation of a Land Use Review Board.

6 Section 120. Organization and procedures. An ordinance
7 creating a Land Use Review Board must:

8 (1) Specify the number of members who shall serve
9 on the Board, including alternate members.

10 (2) Provide for the appointment of Board members,
11 including alternate members, and for the organization of
12 the Board.

13 (3) Specify the terms of members of the Board,
14 which may be staggered.

15 (4) Specify the requirements for voting on matters
16 heard by the Board and specify the circumstances in which
17 alternate members may vote instead of regular members.

18 (5) Specify procedures for filling vacancies in
19 unexpired terms of Board members, including alternate
20 members, and for the removal of members, including
21 alternate members, for due cause.

22 Section 125. Compensation. The ordinance creating the
23 Land Use Review Board may provide for the compensation of
24 Board members and for reimbursement for expenses incurred in
25 the performance of official duties and may authorize the
26 Board to engage legal, technical, or clerical assistance to
27 aid in the discharge of its duties.

28 Section 130. Training. Within 6 months after assuming
29 office for the first time, any member of the Land Use Review
30 Board, including alternate members, must complete at least 6

1 hours of training in his or her duties as a member of the
2 Board. The planning commission must design and provide the
3 training.

4 Section 135. Powers. The ordinance creating a Land Use
5 Review Board must specify the powers the Board may exercise.
6 The ordinance may provide that the Board shall serve as the
7 unit of local government's Appeals Board.

8 Section 140. Authority to approve. Each unit of local
9 government's land development regulations may authorize the
10 Land Use Review Board, the planning commission, the corporate
11 authorities of the unit of local government, or any other
12 officer or body that the land development regulations
13 designate to approve the administrative actions and remedies
14 authorized by Sections 145 through 155.

15 Section 145. Conditional uses. The officer or body
16 designated under Section 140 may approve conditional uses.
17 The land development regulations must:

18 (1) Specify the uses or categories of uses
19 requiring approval as a conditional use and the areas or
20 districts in which they are available.

21 (2) Provide criteria for approving each category of
22 conditional use. The criteria must include a
23 determination of consistency with the comprehensive plan.

24 Section 150. Variances. The officer or body designated
25 under Section 140 may approve variances. The land development
26 regulations must:

27 (1) Provide for the approval of variances from any
28 of the numerical dimensional requirements of the land
29 development regulations.

30 (2) Prohibit the granting of a variance for use,

1 density, or intensity for land, buildings, or structures
2 that are not authorized by the land development
3 regulations.

4 (3) Provide for variances required by exceptional
5 or unique hardship because of (A) exceptional narrowness,
6 shallowness, or shape of a specific piece of property or
7 (B) exceptional topographic conditions or physical
8 features uniquely affecting a specific piece of property.

9 (4) Require a showing that there are no other
10 reasonable alternatives to enjoy a legally permitted
11 beneficial use of the property if a variance is not
12 granted.

13 (5) Prohibit the granting of a variance based on a
14 showing that a use may be more profitable or that a
15 building or structure may be more valuable if the
16 variance is granted.

17 (6) Require that a variance be consistent with the
18 comprehensive plan.

19 Section 155. Remedial measures.

20 (a) The officer or body designated under Section 140
21 may, as provided in this Section, approve measures that
22 remedy the impact of a land development regulation on a
23 proposed development.

24 (b) An officer or body may approve any or a combination
25 of the following as a remedial measure:

26 (1) Increases in density or intensity.

27 (2) Modifications to or credits against exactions
28 owed by the owner of the land on which the development
29 would occur under an exactions program adopted by the
30 unit of local government.

31 (3) An increase in the number of development rights
32 authorized for transfer under a transfer of development
33 rights program adopted under Division 48.2 of Article 11

1 of the Illinois Municipal Code or Division 5-30 of
2 Article 5 of the Counties Code.

3 (4) Payments by the applicant in lieu of on-site
4 mitigation.

5 (5) A recommendation to the corporate authorities
6 of a unit of local government or other appropriate local
7 government agency that it purchase the property or an
8 interest in the property.

9 (c) An officer or body may not approve a change in the
10 permitted land use or uses from those authorized by the land
11 development regulations.

12 (d) An officer or body may approve a remedial measure if
13 the applicant for the remedial measure satisfies all of the
14 following criteria:

15 (1) The remedial measure is consistent with the
16 comprehensive plan.

17 (2) The remedial measure will not alter the
18 character of an adjacent or surrounding neighborhood.

19 (3) The remedial measure is a more appropriate
20 remedy than a conditional use, variance, or map or text
21 amendment to the zoning ordinance.

22 (4) The remedial measure is necessary because
23 either:

24 (A) none of the uses presently authorized by
25 the unit of local government's land development
26 regulations allow a reasonable use of the property;
27 or

28 (B) the property cannot realize a reasonable
29 return if the remedial measure is not approved and
30 the inability to realize a reasonable return is
31 substantial as demonstrated by competent financial
32 evidence.

33 (e) In addition to the conditions authorized by Section
34 165, an officer or body may approve a remedial measure with

1 conditions that address the concerns that gave rise to the
2 land development regulations that restrict the development of
3 the property.

4 (f) A remedial measure is not a development permit
5 except for remedial measures approved under paragraph (1) of
6 subsection (b).

7 Section 160. Referral to planning commission.

8 (a) If the land development regulations designate an
9 officer or body other than the planning commission to hear an
10 application for a conditional use, variance, or remedial
11 measure, that officer or body may request a recommendation
12 from the planning commission. The planning commission must
13 report its recommendations within 30 days after the receipt
14 of the application by the officer or body.

15 (b) If the planning commission makes a recommendation,
16 the officer or body must give it due regard and make it a
17 part of the record.

18 Section 165. Conditions.

19 (a) When an officer or body approves a conditional use,
20 variance, or remedial measure, it may adopt any conditions
21 that, in its opinion, will promote the intent and purpose of
22 the comprehensive plan and land development regulations.
23 These conditions may include, but are not limited to,
24 conditions that:

25 (1) Minimize the adverse effect of a development on
26 the surrounding area and on any natural resources that
27 will be affected by the development.

28 (2) Require the submission and approval of a site
29 plan, if authorized by the land development regulations,
30 that specifies the location and nature of the development
31 and any necessary improvements.

32 (3) Guarantee the satisfactory completion and

1 maintenance of any required improvements.

2 (4) Control the sequence of development, including
3 when it must be commenced and completed.

4 (5) Require detailed records, including drawings,
5 maps, plats, or specifications.

6 (b) The officer or body must base any conditions it
7 adopts on competent credible evidence it incorporates into
8 the record and its decision.

9 (c) A failure to comply with an approved condition is a
10 violation of the land development regulations.

11 (d) This Section does not limit the authority to adopt
12 additional conditions under subsection (e) of Section 155.

13 Section 170. Procedures.

14 (a) Each unit of local government must adopt an
15 application procedure for conditional uses, variances, and
16 remedial measures. This procedure must incorporate the
17 procedures of the development permit review process and a
18 decision on an application for a conditional use, variance,
19 or remedial measure is a final appealable decision under this
20 Act.

21 Applications for conditional uses, variances, and
22 remedial measures must be included as part of a development
23 permit application if a development permit application is
24 submitted. A decision on an application for a conditional
25 use, variance, or remedial measure must be made before a
26 development permit may be issued and that decision must
27 become part of the application for a development permit.

28 (b) The application procedure required by subsection (a)
29 must:

30 (1) Specify which officers and bodies shall review
31 applications for conditional uses, variances, and
32 remedial measures.

33 (2) Require that the review of the applications be

1 conducted by record hearing.

2 (3) Require that the corporate authorities of the
3 unit of local government must approve any remedial
4 measure that requires action by the corporate
5 authorities.

6 (4) Require any development permit for the
7 development to incorporate any conditional use, variance,
8 or remedial measure that has been approved for the
9 development.

10 Section 175. Judicial review. The purpose of Sections
11 175 to 255 is to provide for the judicial review of land use
12 decisions by units of local government by establishing
13 uniform expedited appeal procedures and uniform criteria for
14 reviewing those decisions in order to provide consistent,
15 predictable, and timely judicial review.

16 Section 180. Exclusive method.

17 (a) The method of judicial review provided by this Act
18 is the exclusive means for the judicial review of land use
19 decisions made by a unit of local government.

20 (b) The method of judicial review provided by this Act
21 does not replace or apply to judicial review of applications
22 for:

23 (1) a writ of mandamus or prohibition;

24 (2) an injunction or declaratory judgment claiming
25 that the adoption or amendment of land development
26 regulations or a comprehensive plan is invalid or
27 unconstitutional; and

28 (3) claims for monetary damages or compensation.

29 (c) Any person filing a petition for judicial review
30 under this Act may join with that petition any claim excluded
31 from this Act by subsection (b) of this Section or a claim
32 under Section 1983 of the federal Civil Rights Act.

1 (d) The rules for civil actions in the circuit court
2 govern procedural matters under this Act to the extent that
3 these rules are consistent with this Act.

4 Section 165. Judicial review of final land use decisions.

5 (a) Any person with standing under Section 205 may
6 obtain judicial review of a final land use decision under
7 this Act by filing a land use petition with the circuit
8 court.

9 (b) A land use decision is a "final land use decision"
10 if:

11 (1) an applicant for a development permit has made
12 at least one meaningful application; and

13 (2) the unit of local government has approved the
14 application, has approved the application with
15 conditions, has denied the application, or has provided
16 the information requested by an applicant for a
17 development permit under Sections 35 or 50; or

18 (3) the application is deemed approved under
19 Section 65.

20 (c) An application for a development permit is a
21 meaningful application for purposes of this Section, if the
22 unit of local government has determined that it is complete
23 or if it is deemed complete under Section 30.

24 (d) The issuance or denial of a certificate of
25 nonconforming use under Section 70 is a final land use
26 decision.

27 (e) A decision arising from an appeal under Section 60
28 is a final land use decision.

29 Section 190. Exhaustion of remedies.

30 (a) The circuit court has jurisdiction over a land use
31 petition if and when the petitioner has exhausted the appeal
32 procedures provided under Section 60 and the remedies

1 available under Sections 145 through 155 of this Act.

2 (b) Exhaustion of administrative remedies under
3 subsection (a) is not required if:

4 (1) an appeal or an application to obtain an
5 administrative remedy would be futile;

6 (2) an administrative remedy is inadequate; or

7 (3) the petition claims the comprehensive plan or
8 land development regulations on which the unit of local
9 government relied for its land use decision are facially
10 invalid.

11 Section 195. Federal claims. Any person who files a land
12 use petition under this Act may include in the petition a
13 statement reserving any federal claim arising out of the land
14 use decision that is the basis for the petition and a prayer
15 that the court reserve these claims in its decision under
16 Section 245.

17 Section 200. Filing and service of land use petition.

18 (a) A land use petition is barred and a court may not
19 grant review unless the petitioner has timely filed the
20 petition with the court and timely served, by summons, the
21 petition on the following persons who shall be parties to the
22 review of the land use petition:

23 (1) the unit of local government, which for
24 purposes of the petition is the unit of local
25 government's corporate entity and not an individual
26 decision maker or officer or body;

27 (2) the applicant for the development permit and
28 the owner of the property at issue, if the owner was not
29 the applicant; and

30 (3) all parties to a record hearing or record
31 appeal on the land use decision at issue.

32 (b) The petition is timely if it is filed and served on

1 all parties listed in subsection (a) of this Section within
2 21 days of the issuance of the land use decision by the unit
3 of local government or within 21 days after a decision is
4 deemed approved under Section 60.

5 Section 205. Standing and intervention. The following
6 persons have standing to bring a land use petition under
7 Section 185 and to intervene in a proceeding for judicial
8 review brought under that Section:

9 (1) the applicant or the owner of property to which
10 the land use decision is directed, if the applicant is
11 not the owner;

12 (2) the unit of local government to which the
13 application for the land use decision was made;

14 (3) any person owning or occupying property
15 abutting or confronting a property which is the subject
16 of the land use decision;

17 (4) all other persons who participated in an
18 administrative review by right or who were parties to a
19 record hearing on a development permit application that
20 was the subject of, or who were aggrieved or adversely
21 affected by, the land use decision; and

22 (5) any other person, neighborhood planning council
23 or neighborhood organization, or governmental unit, if it
24 is aggrieved or adversely affected by the land use
25 decision or if it would be aggrieved or adversely
26 affected by a reversal or modification of the land use
27 decision.

28 Section 210. Required elements in land use petition. A
29 land use petition must set forth:

30 (1) The name and mailing address of the petitioner.

31 (2) The name and mailing address of the
32 petitioner's attorney, if any.

1 (3) The names and mailing addresses of the
2 applicant for the land use decision and of the owners of
3 the property that is the subject of the decision if the
4 petitioner is not the applicant and sole owner of the
5 property.

6 (4) The name and mailing address of the unit of
7 local government whose land use decision is at issue, if
8 the petitioner is not the unit of local government.

9 (5) Identification of the decision-making officer
10 or body, together with a duplicate copy of the written
11 decision.

12 (6) Identification of each person whom the
13 petitioner knows or reasonably should know is eligible to
14 become a party under subsection (a) of Section 200.

15 (7) Facts demonstrating that the petitioner has
16 standing to seek judicial review under Section 205.

17 (8) A separate and concise statement of each error
18 alleged to have been committed in an administrative
19 review, record hearing, or record appeal.

20 (9) A concise statement of facts upon which the
21 petitioner relies to sustain the statement of error.

22 (10) A request for relief, specifying the type and
23 extent of relief requested.

24 Section 215. Preliminary hearing.

25 (a) When appropriate, in the petition served on the
26 parties identified in paragraph (1) of Section 205 the
27 petitioner must note, according to the rules of the circuit
28 court, a preliminary hearing on jurisdictional and
29 preliminary matters, including standing. The court must set
30 the preliminary hearing no sooner than 35 days and no later
31 than 50 days after the petition is served on the parties
32 identified in subsection (a) of Section 200.

33 (b) The parties must raise all motions on jurisdictional

1 and procedural issues for resolution at the preliminary
2 hearing, except that a motion to allow discovery may be
3 brought sooner.

4 (c) The defenses of lack of standing, untimely filing or
5 service of the petition, and failure to join persons needed
6 for just adjudication are waived if not raised by timely
7 motion noted to be heard at the preliminary hearing, unless
8 the court allows discovery on those issues.

9 (d) The petitioner must move the court for an order at
10 the preliminary hearing that sets the date on which the
11 record must be submitted, sets a briefing schedule, sets a
12 discovery schedule if discovery is to be allowed, and sets a
13 date for the hearing or trial on the merits.

14 (e) The parties may waive the preliminary hearing by
15 scheduling with the court a date for the hearing or trial on
16 the merits and by filing a stipulated order that resolves the
17 jurisdictional and procedural issues raised by the petition,
18 including the issues identified in subsections (c) and (d) of
19 this Section.

20 (f) A party need not file an answer to the petition.

21 Section 220. Expedited judicial review. The circuit
22 court must provide expedited review of petitions filed under
23 this Act and must set the petition for hearing within 60 days
24 after the date set for submitting the unit of local
25 government's record. The court may set a later date if it
26 finds good cause based on a showing by a party or parties or
27 if all the parties stipulate to a later date.

28 Section 225. Stay of action pending judicial review.

29 (a) A petitioner or other party may move the court to
30 stay or suspend an action by the unit of local government or
31 another party to implement the decision under review. The
32 motion must set forth a statement of grounds for the stay and

1 the factual basis for the motion. The court may grant the
2 motion for a stay upon any terms and conditions, including
3 the filing of security, that it determines are necessary to
4 prevent the stay from causing harm to other parties.

5 (b) When a unit of local government has approved a
6 development in a land use decision, or has approved a
7 development with conditions, and a petition has been brought
8 for judicial review of the land use decision, the owner of
9 the land that is the subject of the petition may move the
10 court to order the petitioner to post security as a condition
11 to continuing the proceedings before the court. The question
12 of whether or not the motion should be granted and the amount
13 of the security is within the sound discretion of the court.

14 Section 230. Record for judicial review.

15 (a) Within 45 days after entry of an order to submit the
16 record, or within any further time that the court allows or
17 that the parties agree, the unit of local government must
18 submit to the court a certified copy of the record of the
19 land use decision for judicial review, except that the
20 petitioner must prepare at the petitioner's expense and
21 submit a verbatim transcript of any hearings held on the
22 matter.

23 (b) If the parties voluntarily agree, or upon order of
24 the court, the record may be shortened or summarized to avoid
25 reproduction and transcription of portions of the record that
26 are duplicative or not relevant to the issues to be reviewed
27 by the court.

28 (c) The petitioner must pay the unit of local government
29 the cost of preparing the record before the unit of local
30 government submits the record to the court. Failure by the
31 petitioner to timely pay the unit of local government
32 relieves the local jurisdiction of responsibility to submit
33 the record and is grounds for dismissal of the petition.

1 (d) If the relief sought by the petitioner is granted in
2 whole or in part, the court must equitably assess the cost of
3 preparing the record among the parties. In assessing costs,
4 the court must take into account the extent to which each
5 party prevailed and the reasonableness of the parties'
6 conduct in agreeing or not agreeing to shorten or summarize
7 the record as authorized by subsection (b) of this Section.

8 Section 235. Review and supplementation of record.

9 (a) When the circuit court is reviewing a land use
10 decision by an officer or body that made findings of fact in
11 a record to support its decision, the court must base its
12 review on the record and may remand the land use decision for
13 further proceedings or supplement the record with additional
14 evidence, but only if that additional evidence relates to:

15 (1) grounds for standing or for disqualification of
16 a member of the officer or body that made the land use
17 decision, when those grounds were unknown by the
18 petitioner at the time the record was created;

19 (2) matters that were improperly excluded from the
20 record after being offered by a party to the record
21 hearing;

22 (3) correction of ministerial errors or omissions
23 in the preparation of the record; or

24 (4) matters indispensable to the equitable
25 disposition of the appeal.

26 (b) When a court is reviewing a land use decision by an
27 officer or body that did not make findings of fact in a
28 record to support its decision, the court may supplement the
29 record by allowing evidence of material facts that were not
30 made part of the unit of local government's record.

31 (c) If the court allows the record to be supplemented,
32 the court must require the parties to disclose before the
33 preliminary hearing or trial on the merits the specific

1 evidence they intend to offer.

2 Section 240. Discovery when the record is supplemented.
3 The parties may not conduct pretrial discovery except with
4 the prior permission of the court, which may be sought by
5 motion at any time after service of the petition. The court
6 may not grant permission unless the party requesting it makes
7 a prima facie showing of need. The court must strictly limit
8 discovery to what is necessary for equitable and timely
9 review of the issues that the parties seek to raise through
10 the introduction of supplementary evidence as authorized by
11 Section 235.

12 Section 245. Standards for granting relief.

13 (a) The court may grant relief only if the party seeking
14 relief has carried the burden of establishing that one or a
15 combination of the following standards has been met.

16 (1) The officer or body that made the land use
17 decision engaged in unlawful procedure or failed to
18 follow a prescribed process, unless the error did not do
19 substantial harm.

20 (2) The land use decision is an erroneous
21 interpretation of the law, after allowing for any
22 deference that is due to the construction of a law by a
23 unit of local government with expertise.

24 (3) The land use decision is not consistent with
25 the comprehensive plan as determined or does not comply
26 with the land development regulations.

27 (4) The land use decision is not supported by
28 evidence that is substantial when viewed in light of the
29 whole record before the court and any evidence submitted
30 to the court, including any supplementary evidence that
31 the court permitted under Section 235.

32 (5) The land use decision is a clearly erroneous

1 application of the law to the facts.

2 (6) The land use decision is outside the authority
3 or jurisdiction of the officer or body making the
4 decision.

5 (7) The land use decision violates the
6 constitutional rights of the party seeking relief.

7 (b) If a petitioner has reserved a federal claim in a
8 petition filed under Section 195, the court must note in its
9 decision that those claims are reserved.

10 Section 250. Decision of the court.

11 (a) The court may dismiss the action for judicial
12 review, in whole or in part, or it may do one of or a
13 combination of the following: affirm, modify, or reverse the
14 land use decision under review or remand it for modification
15 or further proceedings.

16 (b) If the court remands a land use decision to the
17 officer or body that made the decision, it may require the
18 officer or body to consider additional plans and materials to
19 be submitted by the applicant for the development permit and
20 the adoption of alternative regulations or conditions that
21 the court's order on remand prescribes.

22 (c) If the court remands the land use decision for
23 modification or further proceedings, the court may make any
24 order that it finds necessary to preserve the interests of
25 the parties and the public pending further proceedings or
26 action by the unit of local government.

27 Section 255. Definitive relief. If the court reverses a
28 land use decision that is based on a record or record appeal
29 and if the land use decision denied the petitioner a
30 development permit or approved a development permit with
31 conditions, the court may grant the petitioner any definitive
32 relief that it considers appropriate.

1 Section 260. Compensation and damages disclaimer. A
2 grant of definitive or other relief under this Article does
3 not, by itself, establish liability for compensation or
4 monetary damages, nor does a denial of definitive or other
5 relief under this Article establish a presumption against
6 liability for compensation or other monetary damages.