



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2021

Introduced 2/20/2009, by Sen. Michael W. Frerichs

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12009
55 ILCS 5/5-12009.5

from Ch. 34, par. 5-12009

Amends the Counties Code. Provides that notice of a public hearing with respect to a zoning change or special use must be mailed and posted on signs by the board of appeals for all landowners and governmental entities whose property or district boundaries are within 1.5-miles of any parcel in an unincorporated area for which a zoning change is proposed or a special use permit is sought. Provides that notice must be given not more than 30 nor less than 15 days prior to the hearing. Provides that the notice must be mailed by first-class mail by the board of appeals and include: (i) the case number; (ii) the name of the applicant; (iii) a statement of the present zoning and proposed rezoning; (iv) the requested variance or special use; (v) the hearing's time, date, place, and location; and (vi) the phone number for the board of appeals. Specifies the information to be included on the signs and how the information is to be displayed on the signs. Makes other changes. Effective immediately.

LRB096 03417 RLJ 13441 b

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing
5 Sections 5-12009 and 5-12009.5 as follows:

6 (55 ILCS 5/5-12009) (from Ch. 34, par. 5-12009)

7 Sec. 5-12009. Variation by board of appeals. The
8 regulations by this Division authorized may provide that a
9 board of appeals may determine and vary their application in
10 harmony with their general purpose and intent and in accordance
11 with general or specific rules therein contained in cases where
12 there are practical difficulties or particular hardship in the
13 way of carrying out the strict letter of any of such
14 regulations relating to the use, construction or alteration of
15 buildings or structures or the use of land; or the regulations
16 by this Division authorized may provide that the county board
17 may, by ordinance or resolution determine and vary their
18 application in harmony with their general purpose and intent
19 and in accordance with general or specific rules therein
20 contained in cases where there are practical difficulties or
21 particular hardship in the way of carrying out the strict
22 letter of any such regulations relating to the use,
23 construction or alteration of buildings or structures or the

1 use of land; however, no such variation shall be made by such
2 county board without a hearing before the board of appeals
3 unless the variation sought is a variation of ten percent or
4 less of the regulations by this Division authorized as to
5 location of structures or as to bulk requirements under such
6 regulations, in which case no public hearing is required and
7 such variation may be granted by the administrative official
8 charged with the enforcement of any ordinance or resolution
9 adopted pursuant to this Division. Provided, however, that
10 before such variation may be granted, a notice of the intent to
11 grant such variation shall be sent by certified mail to all
12 adjoining landowners. If any adjoining landowner files a
13 written objection with the administrative official within 15
14 days of receipt of such notice, the variation shall only be
15 considered by the board of appeals in the manner provided in
16 this Section. All other variations sought shall be made only by
17 ordinance, resolution or otherwise in a specific case and after
18 a public hearing before a board of appeals of which there shall
19 be at least 15 days notice of the date, time and place of such
20 hearing published in a newspaper of general circulation
21 published in the township or road district in which such
22 property is located. If no newspaper is published in such
23 township or road district, then such notice shall be published
24 in a newspaper of general circulation published in the county
25 and having circulation where such property is located. The
26 notice shall contain: (1) the particular location of the real

1 estate for which the variation is requested by legal
2 description and street address, and if no street address then
3 by locating such real estate with reference to any well-known
4 landmark, highway, road, thoroughfare or intersection; (2)
5 whether or not the petitioner or applicant is acting for
6 himself or in the capacity of agent, alter ego, or
7 representative of a principal, and stating the name and address
8 of the actual and true principal; (3) whether petitioner or
9 applicant is a corporation, and if a corporation, the correct
10 names and addresses of all officers and directors, and of all
11 stockholders or shareholders owning any interest in excess of
12 20% of all outstanding stock of such corporation; (4) whether
13 the petitioner or applicant, or his principal if other than
14 applicant, is a business or entity doing business under an
15 assumed name, and if so, the name and residence of all true and
16 actual owners of such business or entity; (5) whether the
17 petitioner or applicant is a partnership, joint venture,
18 syndicate or an unincorporated voluntary association, and if
19 so, the names and addresses of all partners, joint venturers,
20 syndicate members or members of the unincorporated voluntary
21 association; and (6) a brief statement of what the proposed
22 variation consists.

23 The costs or charges of the publication notice by this
24 Section required shall be paid by the petitioner or applicant.

25 In addition to any other notice required by this Section,
26 the board of appeals must give notice not more than 30 and not

1 less than 15 days prior to a hearing to all landowners and
2 governmental entities whose property or district boundaries
3 are within 1.5 miles of any parcel in an unincorporated area
4 for which a zoning variation is proposed. The measurement of
5 all rights-of-way must be excluded in measuring the 1.5 miles.
6 If any parcel within 1.5 miles of the proposed variation falls
7 within a municipal boundary, that parcel is exempt from
8 receiving notice. Notice shall be given in the following
9 manner:

10 (1) At least 30 days before the hearing, applicants
11 shall provide the board of appeals with a list of the
12 latest taxpayers of record within 1.5 miles of any parcel
13 in an unincorporated area for which a zoning variation is
14 proposed. The applicant shall compile the list from the
15 records maintained by the county assessor's office using
16 the most current records on file as of 30 days before the
17 hearing.

18 (2) Notice must be mailed by first-class mail by the
19 board of appeals. Notice shall contain: (i) the case
20 number; (ii) the name of the applicant; (iii) a statement
21 of the present zoning and proposed rezoning; (iv) the
22 requested variance or special use; (v) the hearing's time,
23 date, place, and location; and (vi) the phone number for
24 the board of appeals.

25 (3) The board of appeals must post signs on the
26 property subject to the proposed variance. The signs must

1 be posted on all frontage roads and points of entry.
2 Multiple signs shall be spaced at a distance not to exceed
3 1,300 feet from one another. The signs shall be removed
4 within 5 days after the hearing concludes. Signs shall be
5 weather-proof and no smaller than 24 inches by 36 inches in
6 size. Signs shall contain: (i) lettering and coloring that
7 contrasts; (ii) lettering at least 1.25 inches in size;
8 (iii) the words "Notice of Public Hearing" at the top of
9 the sign; (iv) the case number, the applicant's name, a
10 statement of the present zoning and proposed rezoning, and
11 the requested variance or special use; (v) the hearing's
12 time, date, place, and location; (vi) the phone number for
13 the board of appeals; and (vii) if the public hearing is
14 continued, then the updated continuation date and any
15 changes to the location.

16 (4) The costs or charges of mailing notice and posting
17 the signs required under this Section shall be paid by the
18 petitioner or applicant.

19 Where a variation is to be made by ordinance or resolution,
20 upon the report of the board of appeals such county board may
21 by ordinance or resolution without further public hearing adopt
22 any proposed variation or may refer it back to the board of
23 appeals for further consideration and any proposed variation
24 which fails to receive the approval of the board of appeals
25 shall not be passed except by the favorable vote of 3/4 of all
26 the members of the county board, but in counties in which the

1 county board consists of 3 members only a 2/3 vote is required.
2 Every such variation, whether made by the board of appeals
3 directly or by ordinance or resolution after a hearing before a
4 board of appeals shall be accompanied by a finding of fact
5 specifying the reason for making such variation.

6 If a township located within a county with a population of
7 less than 600,000 or more than 3,000,000 has a plan commission,
8 and the plan commission objects to a zoning variation which
9 affects unincorporated areas of the township, the township
10 board of trustees within 15 days after the public hearing
11 before the board of appeals on such zoning variation, may
12 submit its written objections to the county board of the county
13 where the unincorporated areas of the township are located. In
14 such case, the county board shall not approve the zoning
15 variation, except by the favorable vote of 3/4 of all members
16 of the county board.

17 Appeals from final zoning decisions of the County Board
18 must be filed within one year unless a shorter filing period is
19 required by another law.

20 (Source: P.A. 91-738, eff. 1-1-01.)

21 (55 ILCS 5/5-12009.5)

22 Sec. 5-12009.5. Special uses.

23 (a) The county board may, by an ordinance passed under this
24 Division, provide for the classification of special uses. Those
25 uses may include, but are not limited to, public and

1 quasi-public uses affecting the public interest; uses that have
2 a unique, special, or unusual impact upon the use or enjoyment
3 of neighboring property; and uses that affect planned
4 development. A use may be permitted in one or more zoning
5 districts and may be a special use in one or more other zoning
6 districts.

7 (b) A special use may be granted only after a public
8 hearing conducted by the board of appeals. There must be at
9 least 15 days' notice before the hearing. The notice must
10 include the time, place, and date of the hearing and must be
11 published in a newspaper published in the township or road
12 district where the property is located. If there is no
13 newspaper published in the township or road district where the
14 property is located, the notice must be published in a
15 newspaper of general circulation in the county. The notice must
16 also contain (i) the particular location of the property for
17 which the special use is requested by legal description and by
18 street address, or if there is no street address, by locating
19 the property with reference to any well-known landmark,
20 highway, road, thoroughfare, or intersection; (ii) whether the
21 petitioner or applicant is acting for himself or herself or as
22 an agent, alter ego, or representative of a principal and the
23 name and address of the principal; (iii) whether the petitioner
24 or applicant is a corporation, and if so, the correct names and
25 addresses of all officers and directors of the corporation and
26 of all stockholders or shareholders owning any interest in

1 excess of 20% of all of the outstanding stock or shares of the
2 corporation; (iv) whether the petitioner or applicant, or his
3 or her principal, is a business or entity doing business under
4 an assumed name, and if so, the name and residence of all
5 actual owners of the business or entity; (v) whether the
6 petitioner or applicant, or his or her principal, is a
7 partnership, joint venture, syndicate, or an unincorporated
8 voluntary association, and if so, the names and addresses of
9 all partners or members of the partnership, joint venture,
10 syndicate, or unincorporated voluntary association; and (vi) a
11 brief statement of the proposed special use.

12 In addition to any other notice required by this Section,
13 the board of appeals must give:

14 (1) at least 15 days' notice before the hearing to (i)
15 any municipality whose boundaries are within 1-1/2 miles of
16 any part of the property proposed as a special use and (ii)
17 the owner or owners of any land adjacent to or immediately
18 across any street, alley, or public right-of-way from the
19 property proposed as a special use; and -

20 (2) notice of a proposed special use for any parcel
21 within 1.5 miles of an unincorporated area in the same
22 manner as a variance for any parcel within 1.5 miles of an
23 unincorporated area under Section 5-12009.

24 The petitioner or applicant must pay the cost of the
25 publication of the notice required by this Section.

26 (c) A special use may be granted only upon evidence that

1 the special use meets the standards established for that
2 classification in the ordinance. The special use may be subject
3 to conditions reasonably necessary to meet those standards.

4 (d) The board of appeals shall report to the county board a
5 finding of fact and a recommendation as to whether the county
6 board should deny, grant, or grant subject to conditions the
7 special use. The county board may, by ordinance and without a
8 further public hearing, adopt any proposed special use on
9 receiving the report or it may refer the proposal back to the
10 board of appeals for further consideration.

11 (e) The county board may, by ordinance, delegate to the
12 board of appeals the authority to grant special uses subject to
13 the restrictions and requirements of this Section. The
14 ordinance may delegate the authority to grant all special uses
15 or to grant only certain classes of special uses while
16 reserving to the county board the authority to grant other
17 classes of special uses. If the county board enacts an
18 ordinance delegating its authority, the board of appeals must,
19 after conducting the required public hearing, issue a finding
20 of fact and final decision in writing on the proposed special
21 use.

22 (Source: P.A. 90-175, eff. 1-1-98; 91-334, eff. 7-29-99.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.