



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB4540

Introduced 1/31/2012, by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12009	from Ch. 34, par. 5-12009
55 ILCS 5/5-12009.5	
55 ILCS 5/5-12014	from Ch. 34, par. 5-12014

Amends the Counties Code. Provides that a notice concerning variations, special uses, or specified zoning hearings need not include a metes and bounds legal description of the property affected, provided that the notice includes: (i) the common street address or addresses and (ii) the property index number ("PIN") or numbers of all the parcels of real property contained in the affected area. Effective immediately

LRB097 16821 KMW 62003 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, 5-12009.5, and 5-12014 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 Any notice required by this Section need not include a  
24 metes and bounds legal description of the location for which  
25 the variation is requested, provided that the notice includes:  
26 (i) the common street address or addresses and (ii) the

1 property index number ("PIN") or numbers of all the parcels of  
2 real property contained in the area for which the variation is  
3 requested.

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

6 Where a variation is to be made by ordinance or resolution,  
7 upon the report of the board of appeals such county board may  
8 by ordinance or resolution without further public hearing adopt  
9 any proposed variation or may refer it back to the board of  
10 appeals for further consideration and any proposed variation  
11 which fails to receive the approval of the board of appeals  
12 shall not be passed except by the favorable vote of 3/4 of all  
13 the members of the county board, but in counties in which the  
14 county board consists of 3 members only a 2/3 vote is required.  
15 Every such variation, whether made by the board of appeals  
16 directly or by ordinance or resolution after a hearing before a  
17 board of appeals shall be accompanied by a finding of fact  
18 specifying the reason for making such variation.

19 If a township located within a county with a population of  
20 less than 600,000 or more than 3,000,000 has a plan commission,  
21 and the plan commission objects to a zoning variation which  
22 affects unincorporated areas of the township, the township  
23 board of trustees within 15 days after the public hearing  
24 before the board of appeals on such zoning variation, may  
25 submit its written objections to the county board of the county  
26 where the unincorporated areas of the township are located. In

1 such case, the county board shall not approve the zoning  
2 variation, except by the favorable vote of 3/4 of all members  
3 of the county board.

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

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

8 (55 ILCS 5/5-12009.5)

9 Sec. 5-12009.5. Special uses.

10 (a) The county board may, by an ordinance passed under this  
11 Division, provide for the classification of special uses. Those  
12 uses may include, but are not limited to, public and  
13 quasi-public uses affecting the public interest; uses that have  
14 a unique, special, or unusual impact upon the use or enjoyment  
15 of neighboring property; and uses that affect planned  
16 development. A use may be permitted in one or more zoning  
17 districts and may be a special use in one or more other zoning  
18 districts.

19 (b) A special use may be granted only after a public  
20 hearing conducted by the board of appeals. There must be at  
21 least 15 days' notice before the hearing. The notice must  
22 include the time, place, and date of the hearing and must be  
23 published in a newspaper published in the township or road  
24 district where the property is located. If there is no  
25 newspaper published in the township or road district where the

1 property is located, the notice must be published in a  
2 newspaper of general circulation in the county. The notice must  
3 also contain (i) the particular location of the property for  
4 which the special use is requested by ~~legal description and by~~  
5 street address, or if there is no street address, by locating  
6 the property with reference to any well-known landmark,  
7 highway, road, thoroughfare, or intersection; (ii) whether the  
8 petitioner or applicant is acting for himself or herself or as  
9 an agent, alter ego, or representative of a principal and the  
10 name and address of the principal; (iii) whether the petitioner  
11 or applicant is a corporation, and if so, the correct names and  
12 addresses of all officers and directors of the corporation and  
13 of all stockholders or shareholders owning any interest in  
14 excess of 20% of all of the outstanding stock or shares of the  
15 corporation; (iv) whether the petitioner or applicant, or his  
16 or her principal, is a business or entity doing business under  
17 an assumed name, and if so, the name and residence of all  
18 actual owners of the business or entity; (v) whether the  
19 petitioner or applicant, or his or her principal, is a  
20 partnership, joint venture, syndicate, or an unincorporated  
21 voluntary association, and if so, the names and addresses of  
22 all partners or members of the partnership, joint venture,  
23 syndicate, or unincorporated voluntary association; and (vi) a  
24 brief statement of the proposed special use.

25 In addition to any other notice required by this Section,  
26 the board of appeals must give at least 15 days' notice before

1 the hearing to (i) any municipality whose boundaries are within  
2 1-1/2 miles of any part of the property proposed as a special  
3 use and (ii) the owner or owners of any land adjacent to or  
4 immediately across any street, alley, or public right-of-way  
5 from the property proposed as a special use.

6 Any notice required by this Section need not include a  
7 metes and bounds legal description of the location for which  
8 the special use is requested, provided that the notice  
9 includes: (i) the common street address or addresses and (ii)  
10 the property index number ("PIN") or numbers of all the parcels  
11 of real property contained in the area for which the variation  
12 is requested.

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

15 (c) A special use may be granted only upon evidence that  
16 the special use meets the standards established for that  
17 classification in the ordinance. The special use may be subject  
18 to conditions reasonably necessary to meet those standards.

19 (d) The board of appeals shall report to the county board a  
20 finding of fact and a recommendation as to whether the county  
21 board should deny, grant, or grant subject to conditions the  
22 special use. The county board may, by ordinance and without a  
23 further public hearing, adopt any proposed special use on  
24 receiving the report or it may refer the proposal back to the  
25 board of appeals for further consideration.

26 (e) The county board may, by ordinance, delegate to the



1 board of appeals the authority to grant special uses subject to  
2 the restrictions and requirements of this Section. The  
3 ordinance may delegate the authority to grant all special uses  
4 or to grant only certain classes of special uses while  
5 reserving to the county board the authority to grant other  
6 classes of special uses. If the county board enacts an  
7 ordinance delegating its authority, the board of appeals must,  
8 after conducting the required public hearing, issue a finding  
9 of fact and final decision in writing on the proposed special  
10 use.

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

12 (55 ILCS 5/5-12014) (from Ch. 34, par. 5-12014)

13 Sec. 5-12014. Amendment of regulations and districts.

14 (a) For purposes of this Section, the term "text amendment"  
15 means an amendment to the text of a zoning ordinance, which  
16 affects the whole county, and the term "map amendment" means an  
17 amendment to the map of a zoning ordinance, which affects an  
18 individual parcel or parcels of land.

19 (b) The regulations imposed and the districts created under  
20 the authority of this Division may be amended from time to time  
21 by ordinance or resolution, after the ordinance or resolution  
22 establishing same has gone into effect, but no such amendments  
23 shall be made without a hearing before the board of appeals. At  
24 least 15 days notice of the time and place of such hearing  
25 shall be published in a newspaper of general circulation

1 published in such county. Hearings on text amendments shall be  
2 held in the court house of the county or other county building  
3 with more adequate facilities for such hearings. Hearings on  
4 map amendments shall be held in the township or road district  
5 affected by the terms of such proposed amendment or in the  
6 court house, or other county building with more adequate  
7 facilities for such hearings, of the county in which the  
8 affected township or road district is located. Provided, that  
9 if the owner of any property affected by such proposed map  
10 amendment so requests in writing, such hearing shall be held in  
11 the township or road district affected by the terms of such  
12 proposed amendment. Except as provided in subsection (c), text  
13 amendments may be passed at a county board meeting by a simple  
14 majority of the elected county board members, unless written  
15 protests against the proposed text amendment are signed by 5%  
16 of the land owners of the county, in which case such amendment  
17 shall not be passed except by the favorable vote of 3/4 of all  
18 the members of the county board. Except as provided in  
19 subsection (c), map amendments may be passed at a county board  
20 meeting by a simple majority of the elected county board  
21 members, except that in case of written protest against any  
22 proposed map amendment that is either: (A) signed by the owner  
23 or owners of at least 20% of the land to be rezoned, or (B)  
24 signed by the owner or owners of land immediately touching, or  
25 immediately across a street, alley, or public right-of-way  
26 from, at least 20% of the perimeter of the land to be rezoned,

1 or in cases where the land affected lies within 1 1/2 miles of  
2 the limits of a zoned municipality, or in the case of a  
3 proposed text amendment to the Zoning Ordinance, by resolution  
4 of the corporate authorities of the zoned municipality with  
5 limits nearest adjacent, filed with the county clerk, such  
6 amendment shall not be passed except by the favorable vote of  
7 3/4 of all the members of the county board, but in counties in  
8 which the county board consists of 3 members only a 2/3 vote is  
9 required. In such cases, a copy of the written protest shall be  
10 served by the protestor or protestors on the applicant for the  
11 proposed amendment and a copy upon the applicant's attorney, if  
12 any, by certified mail at the address of such applicant and  
13 attorney shown in the application for the proposed amendment.  
14 Notwithstanding any other provision of this Section, if a map  
15 amendment is proposed solely to correct an error made by the  
16 county as a result of a comprehensive rezoning by the county,  
17 the map amendments may be passed at a county board meeting by a  
18 simple majority of the elected board.

19 Any notice required by this Section need not include a  
20 metes and bounds legal description, provided that the notice  
21 includes: (i) the common street address or addresses and (ii)  
22 the property index number ("PIN") or numbers of all the parcels  
23 of real property contained in the area for which the variation  
24 is requested.

25 (c) If a township located within a county with a population  
26 of less than 600,000 has a plan commission and the plan

1 commission objects to a text amendment or a map amendment  
2 affecting an unincorporated area of the township, then the  
3 township board of trustees may submit its written objections to  
4 the county board within 30 days after the hearing before the  
5 board of appeals, in which case the county board may not adopt  
6 the text amendment or the map amendment affecting an  
7 unincorporated area of the township except by the favorable  
8 vote of at least three-fourths of all the members of the county  
9 board.

10 (Source: P.A. 89-272, eff. 8-10-95.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.