

1 AN ACT concerning land development.

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
5 Local Land Development Act.

6 Section 5. Definitions. In this Act:

7 "Adequate public facility" means a public facility or
8 system of facilities that has sufficient available capacity
9 to serve development or land use at a specified level of
10 service.

11 "Adjusted cost" means the cost of designing and
12 constructing each new fee-eligible public facility or capital
13 improvement to an existing fee-eligible public facility, less
14 the amount of funding for the design and construction that
15 has been, or will with reasonable certainty be, obtained from
16 sources other than impact fees.

17 "Advisory Board" means the Uniform Development Standards
18 Advisory Board created in this Act.

19 "Affordable housing" means housing that has a sales price
20 or rental amount that is within the means of a household that
21 may occupy moderate or low-income housing. In the case of
22 dwelling units for sale, housing that is affordable means
23 housing in which annual housing costs constitute no more than
24 28% of the gross annual household income for a household of
25 the size that may occupy the unit in question. In the case of
26 dwelling units for rent, housing that is affordable means
27 housing for which the affordable rent is no more than 30% of
28 the gross annual household income for a household of the size
29 that may occupy the unit in question.

30 "Affordable housing cost" means the sum of actual or
31 projected monthly payments for any of the following

1 associated with for-sale affordable housing units: principal
2 and interest on a mortgage loan, including any loan insurance
3 fees; property taxes and assessments; fire and casualty
4 insurance; property maintenance and repairs; homeowner
5 association fees; and a reasonable allowance for utilities.

6 "Affordable sales price" means a sales price at which low
7 or moderate-income households can qualify for the purchase of
8 affordable housing, calculated on the basis of underwriting
9 standards of mortgage financing available for the housing
10 development.

11 "Area-based finance method" means one or both of the
12 following, employed within a redevelopment area in order to
13 finance the provision of redevelopment assistance tools
14 within the redevelopment area:

- 15 (1) tax increment financing; and
- 16 (2) special assessments collected under the
17 Property Tax Code.

18 "Base flood" means the flood having a 1% chance of being
19 equaled or exceeded in any given year.

20 "Base flood elevation" means the elevation for which
21 there is a 1% chance in a given year that flood levels will
22 equal or exceed it.

23 "Business improvement program" means the employment of
24 one or more of the following in a redevelopment area,
25 financed solely by area-based finance methods or loans,
26 bonds, and notes secured by the revenue from area-based
27 finance methods or the revenue generated by employment of the
28 redevelopment assistance tools:

- 29 (1) Programs to market and promote the
30 redevelopment area and attract new businesses or
31 residents thereto.

- 32 (2) Local capital improvements within the
33 redevelopment area, including, but not limited to, the
34 installation, construction, or reconstruction of streets,

1 lighting, pedestrian amenities, public utilities, parks,
2 playgrounds, and public buildings and facilities.

3 (3) Improved or increased provision of public
4 services within the redevelopment area, including, but
5 not limited to, police or security patrols, garbage
6 collection, and street cleaning.

7 "Concurrent" or "concurrency" means that adequate public
8 facilities are in place when the impacts of development
9 occur, or that a governmental agency or developer, or both,
10 have made a financial commitment at the time of approval of
11 the development permit so that the facilities are completed
12 within 2 years after the impact of the development.

13 "Conditional use" means a use or category of uses
14 authorized, but not permitted as of right, by a unit of local
15 government's land development regulations in designated
16 zoning districts.

17 "Construction drawings" mean the maps or drawings and
18 engineering specifications accompanying a final plat and
19 showing the specific location and design of public and
20 nonpublic improvements to be completed as part of a
21 development.

22 "Dedication" means the transfer of title to, and
23 responsibility for, public improvements to the unit of local
24 government from the owner of development subject to an
25 improvements and exactions ordinance.

26 "Department" means the Department of Commerce and
27 Community Affairs.

28 "Development agreement" means an agreement between a unit
29 of local government, alone or with other governmental units
30 with jurisdiction, and the owners of property within the unit
31 of local government's jurisdiction regarding the development
32 and use of that property.

33 "Development impact fee" or "impact fee" means any fee or
34 charge assessed by the unit of local government upon or

1 against new development or the owners of new development
2 intended or designed to recover expenditures of the unit of
3 local government to any degree necessitated by the new
4 development. It does not include property taxes collected
5 pursuant to the Property Tax Act, whether as a general or
6 special assessment; utility hookup or access fees; or fees
7 assessed on development permit applications that are
8 approximately equal to the cost to the unit of local
9 government of the development review process.

10 "Development standards" mean standards and technical
11 specifications for improvements to land required by an
12 improvement and exactions ordinance for subdivisions,
13 development subject to site plan review, and planned unit
14 developments. "Development standards" include specifications
15 for the placement, dimension, composition, and capacity of:

- 16 (1) streets and roadways;
- 17 (2) sidewalks, pedestrian ways, and bicycle paths;
- 18 (3) signage for traffic control and other
19 governmental purposes, including street name signs, and
20 other traffic control devices on streets, roadways,
21 pedestrian ways, and bicycle paths;
- 22 (4) lighting of streets, pedestrian ways, and
23 bicycle paths;
- 24 (5) water mains and connections to water mains,
25 including connections for the suppression of fires;
- 26 (6) sanitary sewers and storm drainage sewer mains
27 and connections to sewers;
- 28 (7) utility lines and poles, conduits, and
29 connections thereto;
- 30 (8) off-street parking and access to off-street
31 parking;
- 32 (9) landscaping and contouring of land, and other
33 provisions for drainage, sedimentation, and erosion
34 control;

- 1 (10) open space, parks, and playgrounds; and
- 2 (11) public elementary and secondary school sites.

3 "Direct development" means the acquisition and
4 disposition by the unit of local government or the
5 redevelopment authority of real property in a redevelopment
6 area, and may include one or more of the following:

- 7 (1) Assembly and replatting of lots or parcels.
- 8 (2) Remediation of environmental contamination.
- 9 (3) Rehabilitation of existing structures and
10 improvements.
- 11 (4) Demolition of structures and improvements and
12 construction of new structures and improvements.
- 13 (5) Programs of temporary or permanent relocation
14 assistance for businesses and residents.

15 "Fee-eligible public facilities" mean off-site public
16 facilities that are one or more of the following systems or a
17 portion of those systems:

- 18 (1) water supply, treatment, and distribution, both
19 potable and for suppression of fires;
- 20 (2) wastewater treatment and sanitary sewerage;
- 21 (3) stormwater drainage;
- 22 (4) solid waste;
- 23 (5) roads and public transportation; and
- 24 (6) parks, open space, and recreation.

25 "Financial commitment" means those sources of public or
26 private funds or combinations of public and private funds
27 that have been identified that (i) will be sufficient to
28 finance public facilities necessary to serve development and
29 (ii) have a reasonable written assurance by the persons or
30 entities with control over the funds that those funds will be
31 timely put to development. A "financial commitment" includes,
32 but is not limited to, a development agreement and an
33 improvement guarantee.

34 "Flood plain" means any land area susceptible to being

1 inundated by water from any source.

2 "Final plat" means the map of a subdivision to be
3 recorded after approval by a unit of local government.

4 "Greenfields area" means a contiguous area that has never
5 been developed or that has been used solely for agricultural
6 or forestry uses.

7 "Improvement" means any one or more of the following that
8 are required by an improvements and exactions ordinance to be
9 constructed on the premises of a subdivision development,
10 subject to site plan review or planned unit development:

11 (1) Streets and roadways.

12 (2) Sidewalks, pedestrian ways, and bicycle paths.

13 (3) Signage for traffic control and other
14 governmental purposes, including street name signs and
15 other traffic control devices on streets, roadways,
16 pedestrian ways, and bicycle paths.

17 (4) Lighting of streets, pedestrian ways, and
18 bicycle paths.

19 (5) Water mains and connections to water mains,
20 including connections for the suppression of fires.

21 (6) Sanitary sewers and storm drainage sewer mains
22 and connections thereto.

23 (7) Utility lines and poles, conduits, and
24 connections to those lines, poles, and conduits.

25 (8) Off-street parking and access thereto.

26 (9) Landscaping and contouring of land and other
27 provisions for drainage, sedimentation, and erosion
28 control.

29 (10) Open space, parks, and playgrounds.

30 (11) Public elementary and secondary school sites.

31 "Improvement guarantee" means a security instrument,
32 including but not limited to a bond, accepted by a unit of
33 local government to ensure that all public and nonpublic
34 improvements required by the unit of local government as a

1 condition of the approval of a development permit will be
2 completed in compliance with the approved plans and
3 specifications of the development.

4 "Land use" means the conduct of any activity on land,
5 including, but not limited to, the continuation of any
6 activity the commencement of which constitutes development.

7 "Level of service" means an indicator of the extent or
8 degree of service provided by, or proposed to be provided by,
9 a public facility or system of public facilities based on and
10 related to the operational characteristics of the facility or
11 system.

12 "Local capital budget" means the annual budget for
13 capital improvements adopted by a unit of local government by
14 ordinance.

15 "Low-income household" means a household with a gross
16 household income that does not exceed 50% of the median gross
17 household income for households of the same size within the
18 housing region in which the housing is located.

19 "Low-income housing" means housing that is affordable
20 according to the federal Department of Housing and Urban
21 Development for either home ownership or rental and that is
22 occupied, reserved, or marketed for occupancy by households
23 with a gross household income that does not exceed 50% of the
24 median gross household income for households of the same size
25 within the housing region in which the housing is located.

26 "Maintenance guarantee" means any security instrument
27 required by a unit of local government to ensure that
28 necessary public and nonpublic improvements installed in
29 connection with a development will function as required for a
30 specific period.

31 "Manufactured home" means the same as "manufactured
32 housing" in Section 2 of the Illinois Manufactured Housing
33 and Mobile Home Safety Act.

34 "Minor subdivision" means any subdivision containing not

1 more the 5 lots fronting on an existing street and not
2 involving any new street or road or the creation or extension
3 of any public improvements.

4 "Moderate-income housing" means housing that is
5 affordable according to the federal Department of Housing and
6 Urban Development for either home ownership or rental and
7 that is occupied, reserved, or marketed for occupancy by
8 households with a gross household income that is greater than
9 50% but does not exceed 80% of the median gross household
10 income for households of the same size within the housing
11 region in which the housing is located.

12 "Nonconforming land use" means a land use, lot, or parcel
13 that was (i) lawfully established or commenced before the
14 adoption or amendment of a unit of local government's land
15 development regulations and (ii) in compliance with any land
16 development regulations then in effect, but that does not
17 presently comply with the land development regulations.

18 "Nonconforming lot or parcel" means a lot or parcel that
19 (i) was lawfully established or commenced before the adoption
20 or amendment of a unit of local government's land development
21 regulations and (ii) was in compliance with the land
22 development regulations then in effect, but that does not
23 presently comply with the land development regulations.

24 "Nonconforming sign" means a sign that was (i) lawfully
25 constructed or installed before the adoption or amendment of
26 a unit of local government's land development regulations and
27 (ii) in compliance with any land development regulations then
28 in effect, but that does not presently comply with the land
29 development regulations.

30 "Nonconforming structure" means a building or structure
31 that (i) was lawfully constructed before the adoption or
32 amendment of a unit of local government's land development
33 regulations and (ii) was in compliance with any land
34 development regulations then in effect, but that does not

1 presently comply with the land development regulations.

2 "Nonconformity" means a nonconforming land use,
3 nonconforming lot or parcel, nonconforming structure, or
4 nonconforming sign.

5 "Nonpublic improvement" means any improvement for which
6 the owner of the property, a homeowner's association, or some
7 other non-governmental entity is presently responsible and
8 for which a unit of local government will not be assuming the
9 responsibility for maintenance or operation.

10 "Off-site" means not located on property that is the
11 subject of new development.

12 "Overlay district" means a district that is superimposed
13 over one or more zoning districts or parts of districts and
14 that imposes specified requirements that are in addition to
15 those otherwise applicable for the underlying zone.

16 "Owner" means any legal or beneficial owner or owners of
17 land, including the holder of an option or a contract to
18 purchase whether or not the option or contract is subject to
19 any condition.

20 "Permanent foundation" means permanent masonry, concrete,
21 or other locally approved footing or foundation to which a
22 building may be affixed.

23 "Permanently sited manufactured home" means a
24 manufactured home that meets all of the following criteria:

25 (1) The structure is affixed to a permanent
26 foundation and is connected to water mains or wells,
27 sewer mains or a septic system, and electric services,
28 that may be required by generally applicable ordinances.

29 (2) The structure, excluding any additions, has a
30 width of at least 22 feet at one point, a length of at
31 least 22 feet at one point, and a total living area,
32 excluding garages, porches, or attachments, of at least
33 900 square feet.

34 (3) The structure has a 6-inch minimum eave

1 overhang, including appropriate guttering.

2 "Planned unit development" means one or more lots,
3 tracts, or parcels of land to be developed as a single entity
4 the plan for which may propose density transfers, density
5 increases, and mixing of land uses, or any combination
6 thereof, and that may not correspond in lot size, bulk, or
7 type of dwelling or building, use, density, intensity, lot
8 coverage, parking, required common open space, or other
9 standards to zoning use district requirements that are
10 otherwise applicable to the area in which it is located.

11 "Preliminary subdivision" or "preliminary plan" means the
12 initial drawing or drawings that indicate the proposed manner
13 or layout of a proposed subdivision that is submitted to a
14 unit of local government.

15 "Public improvement" means any improvement for which a
16 unit of local government is presently responsible for or
17 will, upon acceptance and determination that it has been
18 constructed as approved, ultimately assume the responsibility
19 for maintenance and operation.

20 "Redevelopment area plan" means the subplan or subplans
21 of the comprehensive plan.

22 "Redevelopment assistance tool" means one or more of the
23 following:

24 (1) Technical assistance programs to provide
25 information and guidance to existing, new, and potential
26 businesses and residences in the redevelopment area.

27 (2) Programs to market and promote the
28 redevelopment area and attract new businesses and
29 residents to the redevelopment area.

30 (3) Grant and loan programs to encourage the
31 rehabilitation of residential and non-residential
32 buildings, improve the appearance of building facades and
33 signage, and stimulate business start-ups and expansions
34 within the redevelopment area.

1 (4) Programs to (i) guarantee or secure, or (ii)
2 obtain a reduced interest rate, down payment, or other
3 improved terms for loans made by private for-profit or
4 not-for-profit lenders to encourage the rehabilitation of
5 residential and non-residential buildings, improve the
6 appearance of building facades and signage, and stimulate
7 business start-ups and expansions within the
8 redevelopment area.

9 (5) Local capital improvements within the
10 redevelopment area, including, but not limited to, the
11 installation, construction, or reconstruction of streets,
12 lighting, pedestrian amenities, public utilities, public
13 transportation facilities, parks, playgrounds, and public
14 buildings and facilities.

15 (6) Improved or increased provision of public
16 services within the redevelopment area, including, but
17 not limited to, police or security patrols, garbage
18 collection, and street cleaning.

19 (7) Provision of land-use incentives within the
20 redevelopment area.

21 (8) Provision of assistance, technical, financial,
22 or otherwise, with (i) applications to the Illinois
23 Environmental Protection Agency or (ii) site remediation
24 to remove environmental contamination for the
25 redevelopment area or lots or parcels within it under
26 Title XVII of the Illinois Environmental Protection Act.

27 (9) Direct development.

28 (10) Implementation agreements.

29 "Redevelopment authority" means an entity created under
30 Section 100 of this Act for the purpose of implementing a
31 redevelopment area ordinance.

32 "Redevelopment program" means a program under federal or
33 State law that provides redevelopment assistance tools or
34 assists units of local government in the provision of

1 redevelopment assistance tools.

2 "Resubdivision" means any change to an approved or
3 recorded subdivision plat or lot, or parts thereof, that
4 creates a lesser number of lots or parcels, changes the area
5 or dimensions of lots or parcels, or changes the area or
6 dimension of any areas reserved for public use. Land that
7 has been subject to, or is proposed to be subject to,
8 resubdivision is a subdivision for the purposes of this Act.

9 "Site plan" means a scaled drawing that shows the
10 development of lots, tracts, or parcels, whether or not the
11 development constitutes a subdivision or resubdivision of the
12 site. A site plan may include elevations, sections, and
13 other architectural, landscape, and engineering drawings that
14 are necessary to explain elements of the development subject
15 to review.

16 "Special flood hazard area" means land in the floodplain
17 within the jurisdiction of a unit of local government subject
18 to a 1% or greater chance of flooding in any given year.

19 "Subdivision" means any land, vacant or improved, that is
20 divided or proposed to be divided into 2 or more lots,
21 parcels, or tracts for the purpose of offer, sale, lease, or
22 development, whether immediate or future. "Subdivision"
23 includes the division or development of land for residential
24 or nonresidential purposes, whether by deed, metes and bounds
25 description, devise, intestacy, lease, map, plat, or other
26 recorded instrument. "Subdivision" does not include
27 condominiums under the Condominium Property Act or the
28 division of land into lots or parcels for cemetery purposes.

29 "Uniform development standards" mean standards and
30 technical specifications for improvements to land required by
31 subdivision, site plan review, and planned unit development
32 ordinances and, in order to be considered complete for the
33 purposes of subsection (a) of Section 60, must include
34 specifications for the placement, dimension, composition, and

1 capacity of:

2 (1) streets and roadways;

3 (2) sidewalks, pedestrian ways, and bicycle paths;

4 (3) signage for traffic control and other
5 governmental purposes, including street name signs and
6 other traffic control devices on streets, roadways,
7 pedestrian ways, and bicycle paths;

8 (4) lighting of streets, pedestrian ways, and
9 bicycle paths;

10 (5) water mains and connections thereto, including
11 connections for the suppression of fire;

12 (6) sanitary sewers and storm drainage sewer mains
13 and connections thereto;

14 (7) utility lines and poles, conduits, and
15 connections thereto;

16 (8) off-street parking and access thereto, except
17 that units of local government retain the power to
18 prescribe minimum and maximum numbers of parking spaces
19 for given types, locations, and densities or intensities
20 of land use; and

21 (9) landscaping and contouring of land and other
22 provisions for drainage, sedimentation, and erosion
23 control.

24 "Unit of local government" means any county or
25 municipality. "Unit of local government" also includes a
26 township that is authorized to exercise planning and zoning
27 powers under the Township Code.

28 Section 10. Authority to adopt land development
29 regulations; purposes; presumption of validity.

30 (a) A unit of local government may adopt and amend by
31 ordinance land development regulations requiring that
32 development within its jurisdiction be undertaken in
33 accordance with the terms of the regulations.

1 (b) The purposes of land development regulations are to
2 (i) implement the comprehensive plan and (ii) promote the
3 public health, safety, and welfare.

4 (c) Land development regulations may include the
5 following types of land use controls:

6 (1) a zoning ordinance, in text and map form;

7 (2) a subdivision ordinance;

8 (3) a planned unit development ordinance;

9 (4) a site plan review ordinance;

10 (5) an improvements and exactions ordinance that is
11 part of the subdivision, site plan review, or planned
12 unit development ordinance;

13 (6) a development impact fee ordinance;

14 (7) a concurrency or adequate public facilities
15 ordinance;

16 (8) a transfer of development rights ordinance;

17 (9) an ordinance adopting a corridor map;

18 (10) a historic preservation or design review
19 ordinance;

20 (11) a trip reduction or transportation demand
21 management ordinance;

22 (12) an ordinance regulating development in
23 critical and sensitive areas;

24 (13) an ordinance regulating development in flood
25 plain areas;

26 (14) an ordinance regulating stormwater or erosion
27 and sedimentation or both;

28 (15) an ordinance authorizing mitigation banking;

29 (16) an ordinance regarding the provision of
30 affordable housing, including, but not limited to,
31 development incentives;

32 (17) development agreements; and

33 (18) other regulations that affect the use and
34 intensity of land.

1 (d) Land development regulations may provide for:

2 (1) development that, when in compliance with the
3 terms of land development regulations, will be granted a
4 development permit as of right;

5 (2) development for which a development permit will
6 be granted only after the exercise of discretion by a
7 body, agency, or officer of a unit of local government in
8 accordance with the criteria of this Act and any
9 additional criteria contained in the land development
10 regulations;

11 (3) development that is exempt from the
12 requirements of obtaining a development permit but is
13 otherwise subject to the requirements of the land
14 development regulations; and

15 (4) development that is exempt from the
16 requirements of the land development regulations.

17 (e) Regardless of the type of land use control, land
18 development regulations adopted by a unit of local government
19 must:

20 (1) be drafted in a uniform format;

21 (2) employ definitions, including any definitions
22 that are required by this Act;

23 (3) contain approval standards and criteria that
24 are clear and objective;

25 (4) be in both electronic and paper form; and

26 (5) contain an index and be searchable in the
27 electronic version.

28 (f) Land development regulations adopted by a unit of
29 local government must be:

30 (1) recorded by the clerk of the unit of local
31 government as a duly adopted ordinance of the unit of
32 local government; and

33 (2) upon recording, published by the local
34 government within 30 days after recording the ordinance.

1 Each unit of local government must annually publish a
2 book or pamphlet of its land development regulations, unless
3 there have been no amendments to those regulations during the
4 previous year. The book or pamphlet must be available for
5 sale to the public for an amount not to exceed the actual
6 cost of preparing the book or pamphlet. A unit of local
7 government may also publish an electronic version of its land
8 development regulations on a computer-accessible information
9 network.

10 (g) A land development regulation that is recorded under
11 subsection (f) is presumed to be valid.

12 Section 15. Adoption and amendment of land development
13 regulations; notice and hearing.

14 (a) An ordinance adopting or amending a land development
15 regulation may be initiated by the corporate authorities of
16 the unit of local government or by the petition of the owners
17 of record of lots and parcels constituting not less than 51%
18 of the area that is to be the subject of the proposed
19 ordinance. The Northeastern Illinois Planning Commission, the
20 Southwestern Illinois Metropolitan and Regional Planning
21 Commission, and local planning commissions may make
22 recommendations concerning the adoption or amendment of land
23 development regulations to a unit of local government.

24 (b) Before any ordinance adopting or amending any land
25 development regulation may be enacted, the corporate
26 authorities of a unit of local government must refer the
27 proposed ordinance to the planning commission, if one exists,
28 for its written recommendations. The corporate authorities of
29 the unit of local government must enter the written
30 recommendations into their minutes.

31 (c) No ordinance adopting or amending any local land
32 development regulations may be enacted except by the
33 corporate authorities of the unit of local government, and

1 only after the unit of local government has held at least one
2 public hearing on the proposed land development regulation or
3 amendment.

4 (d) The unit of local government must give notice not
5 less than 30 days before the date of the hearing of all
6 proposed land development regulations and amendments by
7 publication in a newspaper of general circulation within the
8 jurisdiction of the unit of local government and may also
9 give notice by publication on a computer-accessible
10 information network or by other appropriate means. The notice
11 must include:

12 (1) The date, time, and place of hearing.

13 (2) A description of the substance of the proposed
14 regulation or amendment. If the proposed regulation or
15 amendment affects discrete and identifiable lots or
16 parcels of land, the description must include a legal and
17 common description of the affected lots and parcels.

18 (3) The officer or employee of the unit of local
19 government from whom additional information may be
20 obtained.

21 (4) The time and place where the proposed land
22 development regulations or amendments may be inspected by
23 any interested person prior to the hearing.

24 (5) The location where copies of the proposed land
25 development regulations or amendments may be obtained or
26 purchased.

27 (e) When a proposed amendment to an existing land
28 development regulation to be considered at a public hearing,
29 including, but not limited to, a zoning map amendment, does
30 not apply to all land in the unit of local government and
31 instead applies to discrete and identifiable lots or parcels
32 of land, the notice, in writing, of that hearing must be
33 given by certified mail, mailed at least 30 days before the
34 public hearing and addressed to:

1 (1) the owners of record of all parcels or lots
2 that would be subject to the proposed amendment;

3 (2) the owners of record of parcels and lots within
4 500 feet of or adjoining or confronting parcels or lots
5 that would be subject to the proposed amendment; and

6 (3) any other units of local government that are
7 within 500 feet of or adjoining parcels or lots that
8 would be subject to the proposed amendment.

9 If the number of persons who are entitled to receive
10 notice under paragraphs (1) and (2) of this subsection (f)
11 exceeds 100, then the unit of local government need not
12 provide notice by certified mail to those persons.

13 (f) When a proposed amendment to an existing land
14 development regulation to be considered at a public hearing,
15 including, but not limited to, a zoning map amendment,
16 applies only to a specified lot or parcel or contiguous lots
17 or parcels, the unit of local government may also require
18 that a sign bearing the notice required by this Section be
19 posted upon the property in question and may establish
20 standards for the location, size, and composition of the
21 sign.

22 (g) At the public hearing, all interested persons,
23 specifically including persons entitled to notice by
24 certified mail under this Section, must be given an
25 opportunity to present their views, orally or in writing, on
26 the proposed land development regulation or amendment.

27 The public hearing may be continued from time to time.

28 (h) After the public hearing, the corporate authorities
29 of the unit of local government may revise the proposed land
30 development regulation or amendment, giving consideration to
31 all written and oral comments received at the hearing.

32 Section 20. Consistency of land development regulations
33 with comprehensive plan.

1 (a) Land development regulations and any amendments to
2 those regulations, including amendments to the zoning map,
3 and land use actions must be consistent with the
4 comprehensive plan; provided that in the event the land
5 development regulations become inconsistent with the
6 comprehensive plan by reason of amendment to the plan or
7 adoption of a new plan, the regulations must be amended
8 within 6 months after the date of amendment or an adoption of
9 the comprehensive plan so that they are consistent with the
10 comprehensive plan.

11 Except as otherwise provided in this Section, any land
12 development regulations or amendments thereto and any land
13 use actions that are not consistent with the comprehensive
14 plan are voidable.

15 (b) A local government must determine, in the manner
16 prescribed in this Section, whether the land development
17 regulations, amendments to those regulations, and land use
18 actions are consistent with the comprehensive plan. Before
19 the corporate authorities of a unit of local government may
20 enact or amend land development regulations and before the
21 corporate authorities of the unit of local government, the
22 planning commission, if there is one, the hearing examiner,
23 or any other body with administrative authority concerning
24 land development regulations may take any land use action,
25 the planning commission must prepare a written report to the
26 corporate authorities of the unit of local government or
27 administrative body regarding the consistency with the
28 comprehensive plan of the proposed land development
29 regulations, a proposed amendment to existing land
30 development regulations, or a proposed land use action. The
31 written report is advisory to the corporate authorities or
32 administrative body. Pursuant to subsection (c), the written
33 report must state whether or not, in the opinion of the
34 planning commission, the regulations, amendment, or action is

1 consistent with the comprehensive plan. The written report
2 must also contain recommendations under subsection (d) of
3 this Section as to whether or not to approve, deny,
4 substantially change, or revise the regulations, amendment,
5 or action. The planning commission must make the written
6 report available to the public at least 7 days before any
7 public hearing or meeting on the regulations, amendment, or
8 action that is the subject of the report.

9 (c) The planning commission may find that a proposed
10 land development regulation, a proposed amendment to existing
11 land development regulations, or a proposed land use action
12 is consistent with the comprehensive plan when the
13 regulation, amendment, or action:

14 (1) furthers, or at least does not interfere with,
15 the goals and policies contained in the comprehensive
16 plan;

17 (2) is compatible with the proposed future land
18 uses and densities or intensities, or both, contained in
19 the comprehensive plan; and

20 (3) carries out, as applicable, any specific
21 proposals for community facilities, including
22 transportation facilities, other specific public actions,
23 or actions proposed by nonprofit and for-profit
24 organizations that are contained in the comprehensive
25 plan.

26 In determining whether the regulations, amendment, or
27 action satisfies the requirements of paragraph (1) of this
28 subsection, the planning commission may take into account
29 any relevant guidelines contained in the comprehensive plan.

30 (d) If the planning commission determines that the
31 regulations, amendment, or action is not consistent with the
32 comprehensive plan, it (i) must state in the written report
33 what changes or revisions in the regulations, amendment, or
34 action are necessary to make it consistent and (ii) may state

1 in the written report what amendments to the comprehensive
2 plan are necessary to eliminate any inconsistency between the
3 plan and the regulations, amendment, or action.

4 (e) The corporate authorities or administrative body
5 must, upon receipt of the written report of the planning
6 commission, review it and, giving the report due regard, must
7 in the written minutes of its deliberations (i) adopt the
8 report; (ii) reject the report; or (iii) adopt the report in
9 part and reject it in part.

10 (f) If the unit of local government rejects the report
11 in part or in whole, in the written minutes of its
12 deliberations it must state whether the proposed land
13 development regulations, a proposed amendment to existing
14 land development regulations, or a proposed land use action
15 is consistent with the comprehensive plan under subsection
16 (c). If the unit of local government determines that the
17 regulation, amendment, or action is not consistent with the
18 comprehensive plan, it (i) must state what changes or
19 revisions in the regulations, amendment, or action are
20 necessary to make it consistent and (ii) may state what
21 amendments to the comprehensive plan may be necessary to
22 eliminate any inconsistency between the plan and the
23 regulations, amendment, or action.

24 (g) In this Section, "land use action" means preliminary
25 or final approval of a subdivision plat; approval of a site
26 plan; approval of a planned unit development; approval of a
27 conditional use; granting of a variance; and a decision by
28 the unit of local government to construct a capital
29 improvement or acquire land for community facilities,
30 including transportation facilities.

31 Section 25. Federal and State laws, regulations,
32 programs, and plans.

33 (a) In formulating and drafting proposed land

1 development regulations for adoption or amendment under
2 Sections 10 and 15, a unit of local government must take into
3 consideration the effects of federal authority over land or
4 resource use on the area within the jurisdiction of the unit
5 of local government, including, but not limited to:

6 (1) treaties with Native Americans;

7 (2) jurisdiction of land owned or held in trust by
8 the federal government;

9 (3) federal statutes or regulations imposing
10 national standards; and

11 (4) federal permit programs and plans.

12 (b) In formulating and drafting proposed land
13 development regulations under Sections 10 and 15, a unit of
14 local government must take into consideration the effects of
15 any State agency rules; plans, policies, standards, rules, or
16 regulations of the Northeastern Illinois Planning Commission
17 or Southwestern Illinois Metropolitan and Regional Planning
18 Commission; and special district ordinances regarding land
19 use, resource management, environmental protection, and
20 public utilities on the area within the jurisdiction of the
21 unit of local government, including, but not limited to:

22 (1) State statutes and rules establishing statewide
23 standards;

24 (2) programs involving State-issued permits or
25 certifications;

26 (3) State statutes and rules regarding rates,
27 services, facilities, and practices of public utilities,
28 and tariffs of utilities in effect under the statutes and
29 rules;

30 (4) State and regional plans; and

31 (5) Ordinances adopted by and permits issued by the
32 Northeastern Illinois Planning Commission, the
33 Southeastern Illinois Metropolitan and Regional Planning
34 Commission, and special districts that affect areas

1 within the jurisdiction of the unit of local government.

2 (c) The Department of Commerce and Community Affairs
3 must maintain and publish on an annual basis a current list
4 of federal and State laws, rules, regulations, programs, or
5 plans for use by units of local government for the purposes
6 of subsections (a) and (b).

7 Section 30. Lands owned or leased by the State and
8 federal government. The land development regulations of a
9 unit of local government shall not apply to lands owned or
10 leased by the State and State agencies or to lands owned or
11 leased by the federal government, but shall apply to other
12 publicly owned or leased land, except as the regulations may
13 provided to the contrary.

14 Section 35. General review of land development
15 regulations.

16 (a) The corporate authorities of a unit of local
17 government must, at least once every 5 years, provide for a
18 general review of the land development regulations of that
19 unit of local government. The review is to be conducted by
20 the planning commission or an advisory task force appointed
21 for that purpose or a combination of the 2. The corporate
22 authorities of the unit of local government must review and,
23 by resolution, accept, adopt, or adopt with changes a written
24 report containing the findings and recommendations of the
25 review or portions of the review. A copy of the resolution
26 must be filed with the clerk of the unit of local government
27 and sent to the Director of Commerce and Community Affairs.
28 The corporate authorities of a unit of local government may
29 also adopt amendments to the land development regulations.
30 The first review must be completed no later than January 1,
31 2003.

32 (b) The general review of the land development

1 regulations must contain an analysis of changes in or
2 alternatives to existing regulations that would increase
3 their effectiveness or reduce any identified adverse impacts.
4 The general review may consider, but shall not be limited to
5 considering, the following:

6 (1) the relationship of the land development
7 regulations to the vision statement and goals, policies,
8 and guidelines in the comprehensive plan;

9 (2) proposed actions for new land development
10 regulations or amendments to existing regulations
11 contained in the program of implementation of the
12 comprehensive plan;

13 (3) the organization, clarity of language, internal
14 consistency, and usability of the existing land
15 development regulations;

16 (4) the adequacy of definitions contained in the
17 existing land development regulations and whether they
18 conflict with definitions in State statutes;

19 (5) the actual or potential beneficial and adverse
20 impacts of the land development regulations upon
21 development, including any unnecessary cost-generating
22 requirements for housing and other provisions that may
23 adversely affect the supply of affordable housing,
24 contained in the existing land development regulations;

25 (6) improvements and exactions prescribed in
26 Section 75 of this Act;

27 (7) development standards adopted as part of the
28 improvements and exactions ordinance;

29 (8) development impact fees prescribed in Section
30 80 of this Act;

31 (9) changes in fees for development permits;

32 (10) federal and State court decisions and federal
33 or State statutes that may affect the validity of
34 existing land development regulations;

1 (11) changes in the types or characteristics of
2 land uses or development proposed to be located within
3 the jurisdiction of the unit of local government; and

4 (12) patterns in petitions for appeals, variances,
5 and remedial measures.

6 (c) If there is no written report containing the
7 findings and recommendations of the general review of land
8 development regulations that has been accepted or adopted by
9 a unit of local government under subsection (a), the land
10 development regulations of the jurisdiction do not enjoy a
11 presumption of reasonableness and the unit of local
12 government bears the burden of demonstrating that
13 reasonableness. The reversal of the presumption of
14 reasonableness does not by itself affect the presumption of
15 validity under Section 10 of this Act.

16 Section 40. Zoning ordinance.

17 (a) Except as otherwise provided for by law, the
18 corporate authorities of a unit of local government may adopt
19 and amend a zoning ordinance under Section 15 of this Act.

20 (b) A zoning ordinance adopted under this Section must
21 consist of the ordinance text, together with all charts,
22 tables, graphs, and other explanatory matter, and the zoning
23 map with any explanatory matter shown on the map. A zoning
24 ordinance must include the following:

25 (1) A citation to enabling authority to adopt and
26 amend the zoning ordinance.

27 (2) A statement of purpose consistent with the
28 purposes of land development regulations pursuant to
29 subsection (b) of Section 10.

30 (3) A statement of consistency with the
31 comprehensive plan, if one exists, that is based on
32 findings made pursuant to Section 20.

33 (4) Definitions, as appropriate, for any words or

1 terms contained in the zoning ordinance. Where this Act
2 defines words or terms, the zoning ordinance must
3 incorporate those definitions either directly or by
4 reference.

5 (5) Division into zoning use districts. The zoning
6 ordinance must divide the area of the unit of local
7 government into zoning use districts of any number, kind,
8 type, shape, and area that may be deemed suitable to
9 carry out the purposes of land development regulations
10 pursuant to subsection (b) of Section 10. Within those
11 districts, the zoning ordinance may regulate development
12 and land use. All regulations must be uniform for each
13 class or kind of development or land use throughout each
14 district, but the regulations in one district may differ
15 from those in other districts.

16 (6) Provisions for interpreting the boundaries of
17 zoning use districts.

18 (7) A listing of all land uses or performance
19 standards for uses that are permitted within the zoning
20 use districts.

21 (8) Provisions for a vested right to develop
22 pursuant to Section 65.

23 (9) Provisions for nonconformities pursuant to
24 Section 70.

25 (10) Provisions for adoption and amendment of the
26 zoning ordinance pursuant to Section 15, if Section 15
27 governs the ordinance.

28 (11) Provisions for enforcement.

29 (12) A reproducible zoning map or map series at a
30 suitable scale that shows at a minimum:

31 (A) The names of and symbols for the zoning
32 use districts and any overlay districts.

33 (B) The boundaries of the zoning use districts
34 overlaid onto a base map of the unit of local

1 government. Where the unit of local government has
 2 adopted a historic preservation ordinance, a design
 3 review ordinance, a critical and sensitive areas
 4 ordinance, a natural hazards ordinance, or any other
 5 land development regulation that employs an overlay
 6 district, the zoning map must show the boundaries of
 7 the overlay district. The zoning map must also show
 8 the location of historic landmarks, where they have
 9 been designated.

10 (C) A map scale.

11 (D) A table that lists any amendments to the
 12 zoning map by reference to an ordinance number and
 13 date of enactment. The table must list any
 14 ordinances delineating any overlay districts as well
 15 as ordinances designating historic landmarks. If
 16 there is a discrepancy between the legal description
 17 of property that is the subject of an ordinance
 18 amending the zoning map and the graphic
 19 representation of the boundaries of zoning use
 20 districts or overlay districts affecting that
 21 property on the zoning map, the legal description
 22 shall control.

23 (E) A table that lists any changes to the base
 24 map of the unit of local government that includes a
 25 summary of the change, the date it was made, and the
 26 certification of the change by the director of the
 27 local planning agency.

28 For the purposes of this Section, a change to the base map is
 29 a ministerial act and does not constitute an amendment to the
 30 zoning map.

31 (c) A zoning ordinance:

32 (1) Must provide a reasonable use as of right for
 33 every lot or parcel.

34 (2) May not contain a minimum floor area

1 requirement for residential units or for any class or
2 type of residential unit, except for a minimum floor area
3 requirement that is expressed in terms of a minimum floor
4 area per occupant of the unit or for a given number of
5 occupants in the unit. The minimum floor area
6 requirement may provide for smaller or declining
7 increments of floor area per occupant in excess of the
8 first occupant.

9 (3) May not prohibit or restrict the location of a
10 permanently sited manufactured home in any zoning use
11 district in which single family residences are permitted
12 as of right. A unit of local government, however, may
13 require that all permanently sited manufactured homes
14 comply with all zoning requirements that are uniformly
15 imposed on all single family residences in the relevant
16 zoning use district except for (i) requirements that do
17 not comply with the standards established under the
18 federal Manufactured Housing Construction and Safety
19 Standards Act of 1974, as amended, (42 U.S.C. 5401) and
20 (ii) requirements that specify a minimum roof pitch,
21 except that those requirements in a historic preservation
22 ordinance may be applied.

23 (d) All zoning ordinances and regulations adopted (i)
24 prior to January 1, 1942, by any municipality under the
25 provisions of "An Act to confer certain additional powers
26 upon city councils in cities and presidents and boards of
27 trustees in villages and incorporated towns concerning
28 buildings and structures, the intensity of use of lot areas,
29 the classification of trades, industries, buildings, and
30 structures, with respect to location and regulation, the
31 creation of districts of different classes, the establishment
32 of regulations and restrictions applicable thereto, the
33 establishment of boards of appeals and the review of the
34 decisions of such boards by the court", approved June 28,

1 1921, as amended, or pursuant to the provisions of any
2 ordinance or regulations adopted under that Act; (ii) under
3 Division 13 of Article 11 of the Illinois Municipal Code;
4 (iii) under Division 5-12 of Article 5 of the Counties Code;
5 or (iv) under Article 110 of the Township Code shall be
6 recognized, considered, and treated as having been properly
7 adopted, designated, established, or appointed under this
8 Act.

9 Section 45. Subdivision ordinance.

10 (a) The corporate authorities of a unit of local
11 government may adopt and amend a subdivision ordinance under
12 Section 15 of this Act or Division 12 of Article 11 of the
13 Illinois Municipal Code.

14 (b) The purposes of a subdivision ordinance, in addition
15 to the purposes of land development regulations as stated in
16 subsection (b) of Section 10, are to:

17 (1) establish reasonable standards of design and
18 procedures for the division and redivision of land into
19 lots, parcels, or sites for building;

20 (2) further the design of subdivisions that are
21 well integrated with surrounding neighborhoods and areas
22 with regard to natural and built features;

23 (3) ensure proper legal descriptions and
24 monumentation of land that has been subdivided;

25 (4) provide for the fair, orderly, thorough, and
26 expeditious public review of subdivisions;

27 (5) secure safety from fire, flood, and other
28 danger; and

29 (6) ensure compliance of proposed subdivisions with
30 the zoning ordinance.

31 (c) No person or his or her agent may subdivide any land
32 until the minor subdivision, resubdivision, or final plat
33 designating the areas to be subdivided has been approved

1 pursuant to this Section by the unit of local government
2 having jurisdiction over the land.

3 No minor subdivision, resubdivision, or final plat may be
4 recorded by the county recorder until it has been approved by
5 the unit of local government and the approval entered in
6 writing on the plat by a duly authorized officer of the unit
7 of local government as designated in the subdivision
8 ordinance.

9 Any purported subdivision of land or plat recordation of
10 a minor subdivision, resubdivision, or final plat that has
11 not been approved is void.

12 (d) A subdivision ordinance adopted under this Section
13 must include the following:

14 (1) A citation to enabling authority to adopt and
15 amend the subdivision ordinance.

16 (2) A statement of purpose consistent with the
17 purposes of land development regulations under subsection
18 (b) of Section 10 of this Act and subsection (b) of this
19 Section.

20 (3) A statement of consistency with the
21 comprehensive plan, if one exists, that is based on
22 findings made under Section 20 of this Act.

23 (4) Definitions, as appropriate, for any words or
24 terms contained in the subdivision ordinance. Where this
25 Act defines words or terms, the subdivision ordinance
26 must incorporate those definitions either directly or by
27 reference.

28 (5) Procedures for review of minor subdivisions and
29 resubdivisions, including specification of all
30 application documents and other documents to be
31 submitted.

32 (6) Procedures for review of preliminary plans,
33 including specification of all application documents and
34 other documents to be submitted, and procedures for

1 review by affected public utilities and those agencies of
2 local, State, and federal government having a substantial
3 interest in the proposed subdivision; provided, however,
4 that a utility or agency may not delay the unit of local
5 government's action on the preliminary plan beyond the
6 time limits specified in this Act. The failure of any
7 agency to complete a review of the preliminary plan is
8 not a basis for disapproval of the preliminary plan by a
9 unit of local government.

10 (7) Procedures for review of final plats, including
11 specification of all application documents and other
12 documents to be submitted and requirements for format
13 prescribed by the county recorder.

14 (8) Criteria and standards to be applied in review
15 of minor subdivisions and resubdivisions, preliminary
16 plans, and final plats, including requirements for
17 compliance with the zoning ordinance. The standards must
18 require that (i) all lots and parcels in a subdivision
19 have frontage on and access to either an existing public
20 road or highway or to a road or street in the subdivision
21 required by the unit of local government through an
22 improvements and exactions ordinance adopted under
23 Section 75; (ii) a preliminary subdivision must identify
24 any flood prone or special flood hazard areas and the
25 base flood elevation, as applicable; and (iii) a minor
26 subdivision, resubdivision, or final plat must provide
27 the minimum elevation of proposed structures and pads in
28 the event that the plat includes any land in a flood
29 prone or special flood hazard area. The minimum
30 elevations specified may exceed those necessary to place
31 structures and pads outside the identified flood prone or
32 special flood hazard areas as is necessary to protect the
33 public health, safety, and welfare.

34 (9) An incorporation by reference of the

1 improvements and exactions ordinance adopted under
2 Section 75.

3 (10) Procedures for recording minor subdivisions,
4 resubdivisions, and final plats, including the
5 designation of an administrative officer of the unit of
6 local government to enter in writing the approval of the
7 local government upon minor subdivisions, resubdivisions,
8 and final plats.

9 (11) Procedures for enforcement and penalties.

10 (12) Requirements for monumentation of the boundary
11 lines of lots and parcels and of the subdivision.

12 (13) Procedures for vacation of subdivisions
13 pursuant to subsection (g) of this Section.

14 (e) A subdivision ordinance adopted under this Section
15 may include the following provisions:

16 (1) Procedures for preapplication meetings to allow
17 the applicant for a subdivision to meet with appropriate
18 officials of the unit of local government, including
19 members of the planning commission, if one exists, and,
20 where appropriate, officials of State and federal
21 agencies, for advice and guidance as to the required
22 steps in the subdivision approval and land development
23 process, pertinent local plans, the subdivision
24 ordinance, and other land development regulations that
25 may bear upon the subdivision. The meetings shall aim to
26 encourage information sharing among the participants, but
27 may not be considered to be approval of a subdivision in
28 whole or in part.

29 (2) Provisions for a preliminary plan to be divided
30 into reasonable phases and the review of final plats by
31 the unit of local government according to the phases
32 designated in the preliminary plan.

33 (3) Provisions that require that minor
34 subdivisions, resubdivisions, and final plats are

1 submitted in an electronic computer-readable format.

2 (4) Procedures and standards for extending or
3 oversizing water lines, storm sewers, stormwater
4 retention and detention facilities, and other public
5 improvements that serve or will serve property other than
6 the property contained in a subdivision and for
7 reimbursing the subdivider for the additional cost
8 involved in constructing those public improvements.

9 (5) Provision for the dedication of land or
10 fees-in-lieu of land for parks, recreation, and open
11 space and for school sites pursuant to Section 75 of this
12 Act.

13 (6) For units of local government that are
14 municipalities, provisions for the review and approval of
15 subdivisions within 5 miles of the corporate limits of
16 the municipality and not located in any other
17 municipality, except in the case of any unincorporated
18 land lying within 5 miles of more than one municipality,
19 the jurisdiction of each municipality terminates at a
20 boundary line equidistant from the respective corporate
21 limits of the municipalities.

22 (f) The approval of a minor subdivision, resubdivision,
23 or a final plat under this Section constitutes a development
24 permit. An application for a preliminary plan constitutes an
25 application for both the preliminary plan and the final plat
26 solely for purposes of vesting under Section 65 of this Act,
27 unless and until the preliminary plan is no longer valid
28 under paragraph (1) of this subsection (f).

29 (1) The approval of a preliminary plan shall expire
30 2 years from the date of approval by the unit of local
31 government, must include all general and specific
32 conditions shown on the approved preliminary plan
33 drawings and supporting material, and may only be
34 extended in the manner described in subsection (e) of

1 Section 65 of this Act.

2 (2) An approved minor subdivision, resubdivision,
3 or final plat must be recorded within one year after the
4 date of approval by the unit of local government after
5 which the approval shall expire and may only be extended
6 in the manner described in subsection (e) of Section 65
7 of this Act.

8 (g) A subdivision may be vacated in part or in full.
9 Vacation occurs when (i) the owners of all lots or parcels in
10 the subdivision consent in writing to the vacation and the
11 unit of local government approves the vacation in the same
12 manner as a resubdivision; (ii) the corporate authorities of
13 the unit of local government find in writing, after a hearing
14 with proper notice, that a hazard, unknown to the unit of
15 local government at the time the subdivision was approved,
16 exists on or near the property that would endanger the public
17 health or safety if development were to commence or proceed
18 under the terms and conditions of the subdivision approval;
19 (iii) the corporate authorities of the unit of local
20 government find in writing, after a hearing with proper
21 notice, that there is an error in the subdivision or its
22 plat; or (iv) the corporate authorities of the unit of local
23 government, by ordinance, declare that a public improvement
24 in a subdivision is no longer needed by the unit of local
25 government, but such a vacation may apply only to the extent
26 of the public improvement so declared. For a vacation
27 pursuant to items (ii), (iii), or (iv) of this paragraph, the
28 corporate authorities of the unit of local government must
29 also find in writing that the vacation will not adversely
30 affect the interests or rights of persons in the subdivision
31 being vacated. When vacation is approved, an instrument of
32 vacation, including the legal description of the subdivision
33 and a copy of the plat to be vacated, must be prepared and
34 recorded with the county recorder.

1 Section 50. Site plan review.

2 (a) The corporate authorities of a unit of local
3 government may adopt and amend a site plan review ordinance
4 under Section 15.

5 (b) In this Section, "multifamily residential use" means
6 a land use employing any structures that contain more than 2
7 dwelling units.

8 (c) Site plan review is limited to those nonresidential
9 uses and multifamily residential uses that are listed in the
10 site plan review ordinance.

11 (d) A site plan review ordinance adopted under this
12 Section must include the following:

13 (1) A citation to enabling authority to adopt and
14 amend the site plan ordinance.

15 (2) A statement of purpose consistent with the
16 purposes of land development regulations under subsection
17 (b) of Section 10.

18 (3) A statement of consistency with the
19 comprehensive plan, if one exists, that is based on
20 findings made under Section 20.

21 (4) Definitions, as appropriate, for any words or
22 terms contained in the site plan review ordinance. Where
23 this Act defines words or terms, the site plan review
24 ordinance must incorporate those definitions, either
25 directly or by reference.

26 (5) A list of the nonresidential and multifamily
27 uses that require site plan review, provided that the
28 site plan review ordinance may apply only to those uses
29 that are permitted as of right by the zoning ordinance in
30 a particular zoning use district, and specifications for
31 all application documents and plan drawings.

32 (6) An incorporation by reference of a improvements
33 and exactions ordinance adopted under Section 65;

34 (7) Standards limited to (i) preserving natural

1 resources existing on the site, including topography,
2 vegetation, floodplains, marshes, and watercourses; (ii)
3 safe and efficient vehicular and pedestrian circulation,
4 parking, and loading on the site; (iii) screening,
5 landscaping, and location of structures on the site; (iv)
6 adequacy and location of water lines, sewer lines, storm
7 drainage, and other utilities on the site; and (v) type
8 and location of exterior lighting needed for safety
9 reasons on the site in addition to any requirements for
10 street lighting.

11 (e) The approval of a site plan constitutes a
12 development permit. The site plan review ordinance must state
13 whether or not a hearing is required as a condition of the
14 approval of the development permit.

15 (f) When an officer or body of the unit of local
16 government approves a site plan under this Section, it may
17 adopt any conditions that, in its opinion, are directly
18 related to standards described in paragraph (7) of subsection
19 (d), provided that the conditions do not conflict with or
20 waive any other applicable requirement of the zoning
21 ordinance. The officer or body must base any conditions it
22 adopts on competent credible evidence that it incorporates
23 into the record and its decision.

24 A failure to comply with an approved condition is a
25 violation of the land development regulations.

26 A site plan must be approved if it contains the
27 information required by the site plan review ordinance and
28 complies with the applicable zoning ordinance requirements.
29 If the officer or body approving the site plan adopts
30 conditions under this subsection (f), the site plan must be
31 revised to include those conditions before the development
32 permit is issued.

33 (g) This Section does not allow an officer or body of a
34 unit of local government, in a decision on a development

1 permit for a site plan, to prohibit or deny a use that is
2 permitted as of right by the applicable zoning use district.

3 (h) The enactment of a site plan review ordinance under
4 this Section does not preclude any discretionary review of
5 any site plan in conjunction with a planned unit development
6 under Section 55 of this Act.

7 Section 55. Planned unit development.

8 (a) The corporate authorities of a unit of local
9 government may adopt and amend a planned unit development
10 ordinance under Section 15 of this Act.

11 (b) The purposes of a planned unit development ordinance
12 are to:

13 (1) permit flexibility in the application of land
14 development regulations that will encourage innovative
15 development and redevelopment for residential and
16 nonresidential purposes so that a growing demand for
17 other housing and other development and land use may be
18 met by variety in type, design, and layout of dwellings
19 and other buildings and structures, including traditional
20 neighborhood development;

21 (2) provide flexibility in architectural design,
22 placement, and clustering of buildings; use of open
23 areas; provision of circulation facilities including
24 pedestrian facilities and parking; and related site and
25 design considerations;

26 (3) encourage the conservation of natural features
27 and the preservation of open space, critical and
28 sensitive areas, and natural hazard areas;

29 (4) provide for efficient use of public facilities;

30 (5) encourage and preserve opportunities for
31 energy-efficient development and redevelopment; and

32 (6) promote attractive and functional environments
33 for nonresidential areas that are compatible with

1 surrounding land use.

2 (c) The application of a planned unit development
3 ordinance to a proposed development (i) may not depend upon
4 whether the development has one owner or multiple owners;
5 (ii) may be limited to development that is equal to or
6 greater in area than a minimum area specified in the planned
7 development ordinance; and (iii) may be mandatory for land
8 contained in specified zoning use districts as provided in
9 the planned unit development ordinance.

10 (d) A planned unit development ordinance adopted under
11 this Section must include the following:

12 (1) A citation to enabling authority to adopt and
13 amend the planned unit development ordinance.

14 (2) A statement of purpose consistent with the
15 purposes of land development regulations under subsection
16 (b) of Section 10 of this Act and with subsection (b) of
17 this Section.

18 (3) A statement of consistency with the
19 comprehensive plan, if one exists, that is based on
20 findings made pursuant to Section 20 of this Act.

21 (4) Specifications for all application documents
22 and plan drawings.

23 (5) Definitions, as appropriate, for any words or
24 terms contained in the planned unit development
25 ordinance. Where this Act defines words or terms, the
26 planned unit development ordinance must incorporate those
27 definitions, either directly or by reference.

28 (6) Site planning standards for the review of
29 proposed planned unit developments. The standards may
30 vary the density or intensity of land use otherwise
31 applicable to the land under the provisions of the zoning
32 ordinance in consideration of and with respect to (i) the
33 amount, location, and proposed use of common open space;
34 (ii) the location and physical characteristics of the

1 proposed planned unit development; and (iii) the
2 location, design, type, and use of structures proposed.

3 (7) Where the planned unit development is also
4 proposed as a subdivision, procedures for the joint
5 review of the proposed planned unit development as a
6 subdivision.

7 (8) An incorporation by reference of the
8 improvements and exactions ordinance adopted under
9 Section 75.

10 (e) A planned unit development ordinance may provide
11 for, as part of the site planning standards described in
12 paragraph (6) of subsection (d), the authorization of uses,
13 densities, and intensities that do not correspond with or are
14 not expressly permitted by the zoning use district
15 regulations for the area in which a planned unit development
16 is located; provided that the comprehensive plan contains a
17 policy in written form or in mapped form, or both,
18 encouraging mixed use development or development at higher
19 overall densities or intensities if the development is
20 subject to planned unit development requirements. The
21 ordinance may provide that:

22 (1) the corporate authorities of the unit of local
23 government must review any application that proposes
24 uses, densities, or intensities that do not correspond
25 with or are not expressly permitted by the applicable
26 zoning regulations; and

27 (2) no planned unit development may vary from the
28 uses, densities, and intensities of the applicable zoning
29 regulations without a review and approval by the
30 corporate authorities of the unit of local government.

31 (f) A planned unit development ordinance may also
32 contain site planning standards, as described in paragraph
33 (6) of subsection (d), for traditional neighborhood
34 development that are intended to ensure:

1 (1) The creation of neighborhoods that are compact,
2 limited in size, and oriented toward pedestrian activity
3 and that include an identifiable neighborhood center,
4 commons, or square.

5 (2) A variety of housing types, jobs, shopping,
6 services, and public facilities.

7 (3) Residences, shops, workplaces, and public
8 buildings interwoven within the neighborhood, all within
9 close proximity.

10 (4) A generally rectilinear or grid pattern of
11 interconnecting streets and blocks that encourages
12 multiple routes from origins to destinations.

13 (5) A coordinated transportation system with a
14 hierarchy of appropriately designed facilities for
15 pedestrians, bicycles, public transit, and automotive
16 vehicles.

17 (6) Natural features and undisturbed areas that are
18 incorporated into the open space of the neighborhood.

19 (7) Well-configured squares, greens, landscaped
20 streets, and parks woven into the pattern of the
21 neighborhood.

22 (8) Public buildings, open spaces, and other visual
23 features that act as landmarks, symbols, and focal points
24 for community identity.

25 (9) Compatibility of buildings and other
26 improvements as determined by their arrangement, bulk,
27 form, character, and landscaping to establish a livable,
28 harmonious, and diverse environment.

29 (10) Public and private buildings that form a
30 consistent distinct edge, oriented toward streets, and
31 that define the border between the public street space
32 and the private block interior.

33 (g) Where a planned unit development ordinance contains
34 site planning standards for a traditional neighborhood

1 development, the corporate authorities of a unit of local
2 government may also adopt by ordinance a manual of graphic
3 and written design guidelines to assist applicants in the
4 preparation of proposals for a traditional neighborhood
5 development.

6 (h) The site planning standards must require that any
7 common open space resulting from the application of any
8 standards on the basis of density or intensity of use be set
9 aside for the use and benefit of the residents of the
10 proposed planned unit development and must include provisions
11 by which the amount and location of any common open space
12 shall be determined and its improvement and maintenance as
13 common open space be secured.

14 A planned unit development ordinance may provide that the
15 unit of local government may, at any time and from time to
16 time, accept the dedication of land or any interest in land
17 for public use and maintenance, but the ordinance may not
18 require, as a condition of approval of a planned unit
19 development, that land proposed to be set aside for common
20 open space be dedicated or made available to public use.

21 The ordinance may require that the applicant or landowner
22 provide for and establish an organization or trust for the
23 ownership and maintenance of any common open space and that
24 the organization or trust may not be dissolved or revoked or
25 dispose of any common open space by sale or otherwise, except
26 to an organization or trust conceived and established to own
27 and maintain the common open space, without first offering to
28 dedicate the common open space to a unit of local government
29 or other governmental agency.

30 (i) The approval of a proposed planned unit development
31 under this Section constitutes a development permit.

32 The unit of local government must find that the proposed
33 development:

34 (1) is consistent with the comprehensive plan under

1 Section 20;

2 (2) is likely to be compatible with development and
3 land use permitted as of right by the zoning ordinance on
4 substantially all land in the vicinity;

5 (3) will not significantly interfere with the
6 enjoyment of other land in the vicinity; and

7 (4) satisfies any other requirements of the planned
8 unit development ordinance.

9 (j) A proposed planned unit development shall be
10 reviewed and approved (i) in the manner of a preliminary plan
11 and final plat of subdivision under Section 45, if its total
12 area is 10 or more acres, or less than 10 acres if
13 subdivision is also proposed to occur, except that a planned
14 unit development need not be recorded under Section 45 unless
15 it is also a subdivision; and (ii) as a conditional use, if
16 its total area is less than 10 acres and no subdivision is
17 also proposed to occur.

18 (k) The director of the planning commission must record
19 the approval of a planned unit development on the zoning map
20 or map series as required by Section 40 by reference to the
21 number of the development permit, but a recordation is not an
22 amendment to the zoning map or map series.

23 (l) The planned unit development ordinance may contain
24 provisions for the preliminary plan of the proposed planned
25 unit development to be divided into reasonable phases and
26 review of final plats by the unit of local government
27 according to the phases in the preliminary plan, if the total
28 area is 10 or more acres.

29 Section 60. Uniform development standards.

30 (a) The Department of Commerce and Community Affairs
31 must adopt uniform development standards within one year
32 after the effective date of this Act. The Department may
33 adopt amendments to the uniform development standards as

1 reasonably necessary.

2 (b) Uniform development standards (i) must be divided
3 into classes that are defined by and appropriate to types and
4 densities or intensities of land use and (ii) may not
5 encompass standards for open space, parks, or playgrounds.

6 (c) There is created a Uniform Development Standards
7 Advisory Board consisting of 8 members. The membership of
8 the Board shall consist of the Secretary of Transportation,
9 the Director of Natural Resources, the Director of
10 Agriculture, the Director of the Illinois Environmental
11 Protection Agency, the Executive Director of the Illinois
12 Development Finance Authority, one representative of counties
13 appointed by the Governor, and one representative of
14 home-rule municipalities appointed by the Governor. The
15 Director of Commerce and Community Affairs shall serve as
16 chairperson of the Advisory Board. Members of the Advisory
17 Board appointed by the Governor shall serve for a term of 2
18 years.

19 Members of the Advisory Board shall serve without
20 compensation, but may be reimbursed for their reasonable
21 expenses incurred in the performance of their duties.

22 (d) The Advisory Board must prepare proposed uniform
23 development standards and amendments to the standards and
24 must present the proposed standards or amendments to the
25 Department for adoption.

26 (e) Before adopting uniform development standards or
27 amendments to the standards, the Department must send copies
28 of the proposed standards or amendments to all relevant State
29 agencies, the Northeastern Illinois Planning Commission, the
30 Southwestern Illinois Metropolitan and Regional Planning
31 Commission, and units of local governments. Persons
32 receiving the standards may send written comments on the
33 standards to the Department within 30 days after receiving
34 the proposed standards or amendments.

1 (f) Before adopting uniform development standards or
2 amendments to the standards, the Department must hold a
3 public hearing. The Department must give notice, not less
4 than 30 days before the hearing, by publication in a
5 newspaper having general circulation within the State. The
6 Department may also give notice by publication on a
7 computer-accessible information network or by other
8 appropriate means and that notice must accompanied by a
9 computer-accessible copy of the proposed standards or
10 amendments. The notice of the public hearing must include
11 (i) the date, time, and place of the hearing; (ii) a
12 description of the substance of the proposed standards or
13 amendments; (iii) the officer or employee of the Department
14 from whom additional information may be obtained; (iv) the
15 time and place where the proposed standards or amendments may
16 be inspected by any interested person before the hearing; and
17 (v) the location where copies of the proposed standards or
18 amendments may be obtained or purchased.

19 (g) At the public hearing, the Department must permit
20 interested persons to present their views, orally or in
21 writing, on the proposed uniform development standards or
22 amendments. The hearing may be continued from time to time.

23 (h) After the public hearing and the receipt of all
24 written comments, the Department may revise the proposed
25 standards or amendments, giving appropriate consideration to
26 all written and oral comments received. The Department must
27 state in writing all revisions from the proposed standards or
28 amendments presented by the Advisory Board and the reasons
29 for those revisions.

30 (i) Uniform development standards and amendments to the
31 standards (i) are rules of the Department of Commerce and
32 Community Affairs and their preparation and adoption must be
33 governed by the Illinois Administrative Procedure Act; and
34 (ii) must be sent to the Northeastern Illinois Planning

1 Commission, the Southwestern Illinois Metropolitan and
2 Regional Planning Commission, and all units of local
3 government within 30 days after adoption.

4 (j) Upon receipt of the uniform development standards and
5 amendments to the standards, all units of local government
6 must, by ordinance, adopt the uniform development standards.
7 If a unit of local government does not adopt the uniform
8 development standards within 90 days after receiving them, or
9 makes any substantive alterations or amendments to the
10 standards, the Department must, in writing, declare the
11 uniform development standards to be enacted and the unit of
12 local government must enforce the uniform development
13 standards in the same manner as any other local land
14 development regulation. No unit of local government may adopt
15 development standards other than the uniform development
16 standards and all amendments to the uniform development
17 standards and any purported adoption of other development
18 standards is void. All disputes over the interpretation or
19 meaning of the uniform development standards shall be
20 referred by an administrative review judge to the Advisory
21 Board. The Advisory Board's interpretation of the uniform
22 development standards shall be binding.

23 The adoption of uniform development standards and
24 amendments to the standards are exclusive powers and
25 functions of the State. A home rule unit may not adopt
26 development standards other than the standards adopted by the
27 State. This subsection is a denial and limitation of home
28 rule powers and functions under subsection (h) of Section 6
29 of Article VII of the Illinois Constitution.

30 (k) The Advisory Board must, at least once every 5
31 years, conduct a general review of the uniform development
32 standards. The general review must result in a written report
33 to the Department of Commerce and Community Affairs that
34 contains:

1 (1) an analysis of changes in, or alternatives to,
2 existing uniform development standards that would
3 increase their effectiveness or reduce any identified
4 adverse impacts; and

5 (2) an analysis of why the changes or alternatives
6 are less effective or would result in more adverse
7 effects than the existing uniform development standards.

8 The Department of Commerce and Community Affairs must
9 give due regard to the written report and must adopt or
10 reject the report in writing, stating in that writing any
11 revisions or alterations from the report and the reasons for
12 those revisions or alterations. If the Department fails to
13 adopt, in whole or with revisions, a written report within 5
14 years after the adoption of the first uniform development
15 standards under this Act or of the last adoption of a written
16 report, the uniform development standards do not enjoy a
17 presumption of reasonableness and the Department must bear
18 the burden of demonstrating reasonableness. The removal of
19 the presumption of reasonableness does not by itself affect
20 any presumption of validity.

21 Section 65. Vested right to develop.

22 (a) Except as provided in this Section:

23 (1) When an owner submits an application for a
24 development permit and the application is complete when
25 submitted or deemed to be complete within 90 days after
26 submission, no enactment or amendment of the relevant
27 land development regulations after the date of
28 application shall apply to the consideration of that
29 application.

30 (2) The issuance of a development permit grants the
31 owner of the property subject to the development permit
32 the right to develop the property under the terms and
33 conditions of the development permit, for the duration of

1 the development permit, including any extensions. These
2 rights shall be collectively termed the "vested right to
3 develop".

4 (b) The vested right to develop does not apply to
5 enactment of or amendments to:

6 (1) ordinances of general application, such as
7 building, fire safety, electrical, mechanical, plumbing,
8 and property maintenance or housing codes; or

9 (2) State or federal statutes, rules, or
10 regulations.

11 (c) The enactment or amendment of land development
12 regulations by the unit of local government after the date of
13 submission of an application for a development permit shall
14 apply to the development of the property for which the
15 development permit was issued under the following
16 circumstances:

17 (1) If the owner of the property in question agrees
18 through a development agreement approved by the corporate
19 authorities of the unit of local government to be subject
20 to subsequent enactments or amendments.

21 (2) If the corporate authorities of a unit of local
22 government or a hearing officer finds, in writing after a
23 hearing with proper notice, that a development permit was
24 issued in reasonable reliance upon a material
25 misrepresentation by the owner, or by the representative
26 or agent of the owner, (i) in any application, plat,
27 plan, map, or other document filed with the unit of local
28 government in order to obtain the development permit or
29 (ii) in any hearing held in order to obtain the
30 development permit.

31 (3) If the unit of local government makes just
32 compensation to the owner for the termination of the
33 vested right to develop.

34 (4) If the corporate authorities of a unit of local

1 government or a hearing officer finds, in writing after a
2 hearing with proper notice, that a hazard, unknown to the
3 unit of local government at the time the development
4 permit was issued, exists on or near the property for
5 which a development permit was issued that would endanger
6 the public health or safety if development were to
7 commence or proceed under the terms and conditions of the
8 development permit.

9 (d) It may not be a condition for the issuance or
10 continuing validity of any development permit that the owner
11 waive his or her vested right to develop under the terms and
12 conditions of the development permit. Any such purported
13 condition on the issuance or maintenance of a development
14 permit is void.

15 (e) The vested right to develop may be extended only by:

16 (1) an extension of the duration of the development
17 permit;

18 (2) a development agreement entered into under
19 Section 100 of this Act; or

20 (3) a period of time equal to the length of any and
21 all moratoria imposed by any governmental entity,
22 including the State and federal governments.

23 Section 70. Regulation of nonconformities.

24 (a) A unit of local government must prepare an inventory
25 that identifies in detail the lots or parcels, structures,
26 signs, and land uses that constitute nonconformities. The
27 local government must file the inventory with the zoning
28 commission, where it shall be available at reasonable times
29 for public inspection.

30 (b) A unit of local government's zoning ordinance must
31 authorize the registration of nonconformities with the
32 planning commission. The planning commission must maintain a
33 register, which must be available at reasonable times for

1 public inspection, in which all registered nonconformities
2 are listed.

3 (c) A unit of local government may authorize the
4 issuance of certificates of nonconformity.

5 A unit of local government must issue a certificate of
6 nonconformity on the application of the owner of a
7 nonconformity, if the nonconformity is included in an
8 inventory of nonconformities or if the owner can document in
9 detail the extent of the nonconforming land uses, structures,
10 signs, or lots or parcels at the time the nonconformity was
11 established.

12 A certificate of nonconformity must describe the
13 nonconforming land uses, structures, signs, or lot or parcel
14 in sufficient detail so that a reasonable person can
15 determine how the nonconformity is not in compliance with
16 present or previous land development regulations. A map with
17 drawings which shows the location, height, and size of
18 structures and signs and the area of the nonconformity must
19 be attached to the certificate.

20 A local government may rely on the description and map of
21 a nonconformity in a certificate of nonconformity (i) in
22 determining whether a nonconformity has been discontinued,
23 destroyed, changed or expanded and (ii) when it provides
24 for the amortization of a nonconformity.

25 (d) A unit of local government's zoning ordinance may:

26 (1) state a period of time after which
27 nonconforming land uses, structures, or signs, or
28 designated classes of nonconforming land uses,
29 structures, or signs, must terminate; or

30 (2) include criteria that the planning commission
31 may apply to provide a period of time after which a
32 nonconforming land use, structure, or sign must
33 terminate.

34 (e) A unit of local government may not adopt a provision

1 for amortization unless it first adopts a comprehensive plan.
2 The amortization of nonconforming land uses, structures, or
3 signs must implement an express policy contained in the plan.
4 An amortization provision adopted in the absence of a
5 comprehensive plan and amortization policy is void.

6 (f) If a local government's zoning ordinance authorizes
7 the zoning commission to provide an amortization period under
8 paragraph (2) of subsection (d), it must require a hearing.

9 (g) A unit of local government's zoning ordinance must:

10 (1) Provide for that a nonconformity has been
11 discontinued if it has not been occupied, used, or
12 engaged in for more than one year, unless the owner of
13 the nonconformity can show good cause why it should be
14 continued. An intent to abandon is not necessary to show
15 discontinuance.

16 (2) Provide that the owner of a nonconformity may
17 carry out maintenance or repairs that are required by a
18 housing code or similar ordinance or that are reasonably
19 necessary or commonly engaged in to maintain the property
20 in a reasonably habitable or usable condition.

21 (3) Specify the extent to which a nonconformity may
22 change or expand.

23 (4) Specify that if less than half of the floor
24 area of a nonconforming structure that is a building, or
25 less than half the surface area of a nonconforming
26 structure that is not a building, including a
27 nonconforming sign, becomes uninhabitable or unusable,
28 the owner of the nonconforming structure may rebuild it
29 on the same lot or parcel as it existed before it became
30 unusable. If the unit of local government issued a
31 certificate for the nonconformity, the structure must be
32 rebuilt according to the description of the nonconformity
33 in the certificate. Any nonconforming structure that is
34 rebuilt must comply with the applicable building codes.

1 (5) Specify other circumstances that are
2 appropriate in which a nonconformity must comply with
3 land development regulations.

4 (h) A conforming land use located in a conforming
5 structure and upon a nonconforming lot or parcel may be
6 replaced by another conforming land use despite the
7 nonconformity and a conforming structure or sign upon a
8 nonconforming lot or parcel and containing a nonconforming
9 land use may be materially changed or altered in compliance
10 with existing land development regulations despite the
11 nonconformity.

12 (i) A unit of local government may purchase, or condemn
13 under its eminent domain powers, any lot or parcel that has a
14 nonconformity on it for the purpose of eliminating the
15 nonconformity.

16 (j) Nothing in this Section shall be deemed to abolish
17 or restrict the power and duty of units of local government
18 to abate public nuisances.

19 Section 75. Development improvements and exactions.

20 (a) The corporate authorities of a unit of local
21 government that has adopted a subdivision, site plan review,
22 or planned unit development ordinance may adopt and amend an
23 improvements and exactions ordinance under Section 15 of this
24 Act.

25 (b) The purposes of an improvements and exactions
26 ordinance, in addition to the purposes of land development
27 regulations stated in subsection (b) of Section 10, are to:

28 (1) secure the construction of improvements
29 directly serving the development;

30 (2) ensure that improvements will be reasonably
31 proportional to the needs created by the development and
32 will be built to last;

33 (3) ensure that improvements that are constructed

1 and dedicated to the public will be easy and economical
2 for the unit of local government to maintain;

3 (4) provide coordination among private developers
4 and public and private entities in the location,
5 character, and safe design of improvements, the location
6 and character of easements, and the acquisition of public
7 property; and

8 (5) authorize a unit of local government to require
9 specific and enforceable guarantees that improvements
10 will be built on time, according to reasonable standards,
11 and will last for at least a certain reasonable time.

12 (c) An improvements and exactions ordinance must be (i)
13 considered a part of the subdivision, site plan, and planned
14 unit development ordinances and (ii) subject to the
15 provisions of Sections 45, 50, and 55, as applicable. If any
16 provision of this Section is contrary to a provision in
17 Sections 45, 50, or 55, the provisions in those Sections
18 shall govern.

19 (d) All public and nonpublic improvements required by an
20 improvements and exactions ordinance must be in reasonable
21 proportion to the demand for the improvements that can be
22 reasonably attributed to developments subject to the
23 ordinance. Developments subject to an improvements and
24 exactions ordinance must be divided into classes that are
25 defined by types and densities or intensities of land use.
26 Different public and nonpublic improvements, appropriate to
27 the types and densities or intensities of land use
28 permissible in each class, shall be required from each class.

29 (e) Development standards must be (i) adopted for all
30 public and nonpublic improvements required by an improvements
31 and exactions ordinance and (ii) divided into classes that
32 are defined by, and appropriate to, types and densities or
33 intensities of land use.

34 (f) The corporate authorities of a unit of local

1 government may adopt and amend an improvements and exactions
2 ordinance that requires open space, parks, playgrounds, or
3 public elementary and secondary school sites only after it
4 has adopted a comprehensive plan. A unit of local government
5 may, in lieu of requiring open space, parks, playgrounds, or
6 public elementary and secondary school sites, assess and
7 collect a development impact fee to finance those
8 improvements under a development impact fee ordinance adopted
9 under Section 80. Except for open space, parks, or
10 playgrounds that are not intended to be owned or operated by
11 a park district, a unit of local government may not enact an
12 improvements and exactions ordinance requiring open space,
13 parks, playgrounds, or public elementary and secondary school
14 sites, or a development impact fee ordinance assessing and
15 collecting an impact fee to finance these improvements,
16 without consulting with the relevant park district or school
17 district board in formulating the ordinance and entering into
18 an implementation agreement with the relevant park district
19 or school district concerning, at a minimum:

20 (1) For an improvements and exactions ordinance,
21 criteria and formulae for determining the appropriate
22 improvements and development standards for given land
23 uses or densities or intensities of development, the
24 collection and transfer to the unit of local government
25 of any information held by the park or school district
26 needed to develop the criteria and formulae, and
27 conditions and procedures for the transfer from the unit
28 of local government to the park or school district of
29 title to and responsibility for these improvements.

30 (2) For a development impact fee ordinance, the
31 level of service standards for the improvements that are
32 to be financed with impact fees, the adjusted cost of the
33 improvements, criteria and formulae for determining the
34 appropriate impact fee, the collection and transfer to

1 the unit of local government of any information held by
2 the park or school district needed to apply the criteria
3 and formulae, the disbursement of funds collected under
4 the impact fee from the local government to the park or
5 school district, and the refund of funds from the park or
6 school district to the unit of local government when a
7 refund is required by Section 80 of this Act.

8 (g) A unit of local government may require improvements
9 or dedication only under an improvements and exactions
10 ordinance adopted and amended under this Section. An
11 improvements and exactions ordinance must include the
12 following:

13 (1) A citation to enabling authority to adopt and
14 amend the improvements and exactions ordinance.

15 (2) A statement of purpose consistent with the
16 purposes of land development regulations under subsection
17 (b) of Section 10 of this Act and under subsection (b) of
18 this Section.

19 (3) A statement of consistency with the
20 comprehensive plan that is based on findings made under
21 Section 20.

22 (4) Definitions, as appropriate, for any words or
23 terms contained in the improvements and exactions
24 ordinance. Where this Act defines words or terms, the
25 improvements and exactions ordinance must incorporate
26 those definitions, either directly or by reference.

27 (5) A statement of the public and nonpublic
28 improvements that the owners of subdivision developments
29 subject to site plan review and planned unit developments
30 are required to construct, including (i) any criteria by
31 which developments of a particular land use or uses or
32 density or intensity are required to have particular
33 improvements, including any formulae used to calculate
34 the appropriate required improvements for any particular

1 development and (ii) in an appendix to the ordinance, the
2 factual bases for those criteria.

3 (6) Development standards for the required public
4 and nonpublic improvements, including (i) any criteria by
5 which developments of a particular land use or uses or
6 density or intensity are subject to particular
7 development standards, including any formulae used to
8 calculate the appropriate development standards for any
9 particular development and (ii) in an appendix to the
10 ordinance, the factual bases for the criteria.

11 (7) If the required improvements include open
12 space, parks, and playgrounds, or public elementary and
13 secondary school sites, the provisions of subsection (f)
14 of this Section.

15 (8) Requirements for the submission of construction
16 drawings that are in compliance with the applicable
17 development standards and procedures for the review and
18 approval or rejection of the drawings.

19 (9) Provisions and procedures for the inspection
20 and review of public and nonpublic improvements,
21 including (i) access to the property at reasonable times
22 to inspect improvements; (ii) a written report and
23 recommendation of a professional engineer, based upon an
24 inspection of the improvements, to determine whether the
25 improvements have been completed according to the
26 approved construction drawings; and (iii) a requirement
27 that the unit of local government review the written
28 report and recommendations of the professional engineer
29 and give it due consideration in approving or rejecting
30 the improvements.

31 (10) A requirement that either (i) the relevant
32 development permit may not be issued until the
33 improvements are completed in compliance with the
34 approved construction drawings or (ii) the relevant

1 development permit may be issued subject to an
2 improvement guarantee.

3 (11) Procedures for the dedication of public
4 improvements pursuant to subsection (k) of this Section.

5 (h) An improvements and exactions ordinance may contain:

6 (1) Requirements that owners of developments
7 subject to the ordinance provide improvement guarantees
8 or maintenance guarantees under subsections (i) and (j)
9 of this Section.

10 (2) Requirements for the submission of drawings
11 that show the construction of improvements as they have
12 actually been built as a condition of the release of the
13 improvement guarantee or the issuance of a certificate of
14 compliance.

15 (3) Provisions regarding development impact fees in
16 lieu of requiring improvements. For the purpose of
17 in-lieu fees, notwithstanding any other provision of this
18 Act, "fee eligible public facilities" are not restricted
19 to off-site public facilities.

20 (4) Provisions exempting certain types or classes
21 of development, including, but not limited to, affordable
22 housing, development pursuant to a transit-oriented
23 development plan, and development in a redevelopment
24 area, from the requirement of providing particular
25 improvements at a particular development standard. No
26 exemption may be created unless there is a policy
27 supporting the exemption expressly stated in the
28 comprehensive plan. An exemption provision must state the
29 policy underlying the exemption and must provide the
30 procedure for granting exemptions to particular new
31 developments.

32 (i) Improvement guarantees must be in an amount and with
33 all necessary conditions to secure for the unit of local
34 government the actual construction and complete installation

1 of all of required public or nonpublic improvements. The
2 amount must be based on actual cost estimates for all
3 required improvements and these estimates must be reviewed
4 and approved by a professional engineer. The unit of local
5 government may fix the improvement guarantee in a reasonable
6 amount in excess of the estimated costs to anticipate for
7 economic or construction conditions. An improvement guarantee
8 may not be released until (i) the required improvements have
9 been completed pursuant to approved construction drawings;
10 (ii) a professional engineer has issued a written report and
11 recommendations under paragraph (9) of subsection (g) of
12 this Section; (iii) the unit of local government has reviewed
13 the report and recommendations and given them due
14 consideration; and (iv) the required improvements have been
15 approved by the unit of local government. In the case of
16 developments that are being approved and constructed in
17 phases, the unit of local government shall specify
18 improvement guarantee requirements related to each phase.

19 (j) Improvement guarantees and maintenance guarantees
20 (i) must be valid for a period of no more than 2 years; (ii)
21 must be in the form of a financial instrument acceptable to
22 the unit of local government and must enable the unit of
23 local government to gain timely access to secured funds or
24 real property for cause; and (iii) may be enforced by the
25 unit of local government by all appropriate legal and
26 equitable remedies, including access to the property at
27 reasonable times to inspect improvements.

28 (k) The unit of local government may take title to
29 public improvements, and have a duty to maintain or improve
30 those public improvements, when, and only when, it has
31 affirmatively and expressly accepted a dedication of the
32 improvements.

33 The unit of local government may accept a dedication only
34 when the completed public improvements are in compliance with

1 approved construction drawings, where applicable, and when it
2 has released any improvement guarantee and maintenance
3 guarantee. Any purported acceptance made in the absence of
4 these conditions is void.

5 Approval of a subdivision, site plan, or application for
6 planned unit development, or recordation of the plat or plan
7 of the same, is not the acceptance by the unit of local
8 government of title to or responsibility for any public
9 improvement and shown thereon, unless acceptance is expressly
10 provided in the approval.

11 The owner of a development subject to an improvements and
12 exactions ordinance from which public improvements are
13 required must execute an instrument dedicating the
14 improvements to the unit of local government. An instrument
15 of dedication must be signed by the owner, provide the legal
16 description of the development property, and identify all
17 public improvements being dedicated by the instrument. An
18 instrument of dedication may not be of any force or effect,
19 and may not be recorded with the county recorder, until the
20 unit of local government has indicated its acceptance of the
21 dedication in writing on the instrument and placed its
22 official seal on the instrument. An instrument of dedication
23 so accepted and sealed must be recorded with the county
24 recorder within 30 days after the acceptance and sealing. A
25 copy of the subdivision plat must be made part of the
26 instrument of dedication. If the unit of local government is
27 authorized to accept a dedication, but the owner has not
28 provided a proper instrument of dedication, then the unit of
29 local government may deny the subdivision plat approval if a
30 development permit has not been issued until the owner
31 provides a proper instrument of dedication.

32 Section 80. Development impact fees.

33 (a) A unit of local government may adopt and amend under

1 Section 15 a development impact fee ordinance.

2 (b) The purposes of this Section are to:

3 (1) determine what local capital improvements are
4 reasonably necessary to serve new development and the
5 cost of those improvements;

6 (2) determine the portion of the demand for local
7 capital improvements that is created by particular new
8 developments; and

9 (3) assess against new developments an impact fee
10 to finance the cost of the local capital improvements
11 that is proportional to the new developments' demand for
12 the capital improvements.

13 (c) A unit of local government may assess, collect, and
14 expend impact fees only for the design and construction of
15 new fee-eligible public facilities or of capital improvements
16 to existing fee-eligible public facilities that expand their
17 capacity:

18 (1) when the demand for the new fee-eligible public
19 facilities or for the additional capacity added to
20 existing fee-eligible public facilities can be reasonably
21 attributed to new development; and

22 (2) that are included in the local capital budget.

23 No impact fee or any portion of an impact fee may be
24 assessed for or expended upon the operation or maintenance of
25 any public facility or for the construction or improvement of
26 public facilities that do not create additional capacity.

27 (d) A unit of local government may assess and collect
28 impact fees only from new development and only against a
29 particular new development in reasonable proportion to the
30 demand for additional capacity in fee-eligible public
31 facilities that can be reasonably attributed to that new
32 development. The owners, residents, and tenants of a
33 property that was assessed an impact fee and paid it in full
34 have the right to make reasonable use of all fee-eligible

1 public facilities that were financed by the impact fee.

2 (e) A unit of local government may assess, collect, and
3 expend impact fees only pursuant to a development impact fee
4 ordinance adopted and amended under this Section. A
5 development impact fee ordinance must:

6 (1) be adopted or amended by the corporate
7 authorities of a unit of local government after (i) the
8 corporate authorities have adopted a comprehensive plan
9 that includes a provision for the fee-eligible public
10 facilities that are to be financed under the impact fee
11 ordinance and level of service standards for all of the
12 fee-eligible public facilities that are to be so financed
13 and (ii) the unit of local government has adopted a local
14 capital budget which includes the fee-eligible public
15 facilities that are to be financed under the development
16 impact fee ordinance;

17 (2) contain a statement of (i) the new fee-eligible
18 public facilities and capital improvements to existing
19 fee-eligible public facilities that are to be financed by
20 impact fees; (ii) the level of service standards included
21 in its comprehensive plan for the fee-eligible public
22 facilities that are to be financed with impact fees;
23 (iii) the cost of designing and constructing each new
24 construction or capital improvement, that cost being
25 either consistent with the local capital budget or
26 accompanied with an explanation in detail of the changed
27 circumstances that cause the cost to differ from the cost
28 projected in the local capital budget; (iv) the sources
29 and amounts of funding, other than impact fees, for the
30 design and construction of each new construction or
31 capital improvement; and (v) the adjusted cost of each
32 new construction or capital improvement;

33 (3) contain the actual formula or formulas for
34 assessing the impact fee that must use adjusted costs and

1 must be consistent with the level of service standards;

2 (4) provide the procedure by which impact fees are
3 to be assessed and collected;

4 (5) provide the procedure for refund of excess
5 impact fees under subsection (g) of this Section; and

6 (6) provide the procedure for review of the
7 assessment of an impact fee and for the payment of impact
8 fees under protest under subsection (h) of this Section.

9 (f) A development impact fee ordinance may include a
10 provision exempting certain types or classes of development,
11 including, but not limited to, affordable housing,
12 development pursuant to a transit-oriented development plan,
13 and development in a redevelopment area, from the assessment
14 and collection of impact fees. No exemption may be created
15 unless there is a policy supporting the exemption expressly
16 stated in the comprehensive plan. An exemption provision must
17 state the policy underlying the exemption and must provide
18 the procedure for granting exemptions to particular new
19 developments.

20 (g) The portion of collected impact fees that has not
21 been expended, or encumbered by contract for expenditure and
22 earned by the contractor or contractors, on the new public
23 facilities or capital improvements to existing public
24 facilities specified in the impact fee ordinance within the
25 time or by the date certain specified for their completion,
26 and the interest on the fees, must be refunded. The impact
27 fee ordinance must specify a reasonable time, ending at a
28 date certain, for the completion of each new public facility
29 and capital improvement to existing public facilities. The
30 date certain may not be more than 5 years after the effective
31 date of the impact fee ordinance. All refunds must be paid to
32 the present owners of the property that was the subject of
33 new development and against which the impact fee was assessed
34 and collected. Notice of the right to a refund, including the

1 amount of the refund and the procedure for applying for and
2 receiving the refund, must be sent or served in writing to
3 the present owners of the property within 30 days before the
4 date upon which the refund becomes due. The sending by
5 regular mail of the notice to all present owners of record is
6 sufficient to satisfy the notice requirements of this
7 subsection. The refund must be made on a pro rata basis and
8 must be paid in full within 90 days after the date upon which
9 the refund becomes due. If the unit of local government does
10 not pay a full refund to any person entitled to a refund
11 within that period, that person will have a cause of action
12 against the unit of local government for the refund or the
13 unpaid portion of the refund in the circuit court in the
14 county in which the property is located.

15 (h) Any owner of property against which an impact fee
16 has been assessed may seek a review of the assessment. There
17 must be a hearing on all reviews of an impact fee assessment.
18 An owner of property against which an impact fee has been
19 assessed may pay the impact fee and preserve the right to
20 review the assessment by (i) paying the impact fee in full as
21 assessed and (ii) submitting with payment a written statement
22 that payment is made "under protest" or that includes other
23 language that would notify a reasonable person that the owner
24 intends to preserve the right of review.

25 (i) An impact fee:

26 (1) is both a personal liability of the owners of
27 property that is the subject of new development and a
28 lien upon the property;

29 (2) must be paid in full before any building permit
30 is issued for a new development; and

31 (3) may be paid in full through the design and
32 construction of new public facilities or capital
33 improvements to existing public facilities by the owners
34 at their expense when (i) the new development is solely

1 responsible for the demand for the new public facilities
2 or capital improvements to existing public facilities and
3 (ii) both the owners and the unit of local government
4 agree through a development agreement to such a
5 disposition.

6 (j) The funds collected under a development impact fee
7 ordinance must be deposited into a special interest-bearing
8 account of the unit of local government's treasury. No other
9 revenues or funds may be deposited into the special account.
10 The funds deposited into the special account and the interest
11 earned may be expended only under the provisions of this
12 Section.

13 (k) Two or more units of local government may, through a
14 implementation agreement and complying with the provisions of
15 this Section governing development impact fee ordinances,
16 jointly assess, collect, distribute, and expend an impact fee
17 where the demand for new fee-eligible public facilities, or
18 additional capacity added to existing fee-eligible public
19 facilities, in 2 or more units of local government can be
20 reasonably attributed to the same new development.

21 Section 85. Provision of adequate public facilities.

22 (a) A unit of local government may adopt land
23 development regulations and amendments to land development
24 regulations that include a concurrency management ordinance
25 that is consistent with rules adopted by the Department of
26 Commerce and Community Affairs under this Section.

27 (b) The purposes of a concurrency management ordinance
28 are to:

29 (1) ensure that adequate public facilities are in
30 place when the impacts of development occur or that a
31 governmental agency or developer has made, in writing, a
32 financial commitment at the time of approval of the
33 development permit so that the facilities are completed

1 within 2 years after the impact of the development in
2 order to protect public health, safety, and convenience;

3 (2) direct development and land use into areas that
4 are served by, or will be served by, adequate public
5 facilities;

6 (3) apply level of service standards for those
7 public facilities or systems of facilities for which
8 concurrency may be required;

9 (4) provide a mechanism by which the capacity of
10 public facilities or systems of facilities covered by the
11 ordinance may be reserved for a reasonable period of time
12 in connection with approval of a development permit; and

13 (5) designate types and categories of development
14 and land use that are exempt from the ordinance pursuant
15 to this Section.

16 (c) A concurrency management ordinance may be adopted
17 and amended only under this Section and must:

18 (1) Be adopted or amended by the corporate
19 authorities of a unit of local government (i) after the
20 unit of local government has adopted a comprehensive plan
21 that includes level of service standards for water
22 supply, treatment, and distribution; wastewater treatment
23 and sanitary sewerage; stormwater drainage; solid waste;
24 roads; and public transportation; (ii) after the unit of
25 local government has adopted a local capital budget
26 consistent with the requirements of subsection (f) of
27 this Section; and (iii) after the proposed ordinance has
28 been reviewed and approved by the Department of Commerce
29 and Community Affairs for consistency with this Section
30 and with any rules adopted in connection with this
31 Section.

32 (2) Contain a statement of the level of service
33 standards included in its comprehensive plan for (i)
34 water supply, treatment, and distribution; (ii)

1 wastewater treatment and sanitary sewerage; (iii)
2 stormwater drainage; (iv) solid waste; and (v) roads,
3 public transportation, pedestrian ways, and bicycle
4 paths.

5 (3) Contain procedures, standards, and assignments
6 of responsibility regarding the issuance of development
7 permits to ensure concurrency, as provided in subsections
8 (d) and (e).

9 (4) Contain a statement that no applicant for a
10 development permit is required, as a condition of
11 issuance of that permit, to correct or remedy existing
12 deficiencies in public facilities or systems of
13 facilities covered by the ordinance.

14 (5) Contain a list of types and categories of
15 development and land use that are exempt from the
16 requirements of concurrency under subsection (f).

17 (6) Contain a procedure to appeal a determination
18 of concurrency.

19 (d) The procedures contained in a concurrency management
20 ordinance regarding the issuance of development permits to
21 ensure concurrency must include at least the following:

22 (1) A process for ensuring adherence to the adopted
23 level of service standards, including ensuring that
24 proposed capital improvements contained in the local
25 capital budget that are intended to establish, replace,
26 or add capacity to those categories of public facilities
27 or systems of facilities that are covered by the level of
28 service standards are constructed within 2 years of the
29 impact of development for which a development permit has
30 been issued, and for monitoring the capacity of existing
31 public facilities so that it can be determined at any
32 point how much of that capacity is being used or has been
33 otherwise reserved.

34 (2) A process for allocating capacity to determine

1 whether a proposed development can be accommodated within
2 the existing and proposed public facilities or systems of
3 facilities that may include pre-assigning amounts of
4 capacity to certain areas within the jurisdiction of the
5 unit of local government.

6 (3) Provisions for reserving public facility
7 capacity for proposed developments; provided, however,
8 that the capacity may not be sold, assigned, or
9 transferred to another development by the recipient of
10 the development permit.

11 (4) Provisions that describe what actions may occur
12 when the unit of local government determines, in the
13 review of an application for a development permit, that
14 there is insufficient capacity in a public facility or
15 system of facilities to serve a proposed development,
16 including but not limited to (i) denying a development
17 permit; (ii) issuing a development permit subject to the
18 guarantee of additional capacity through a development
19 agreement or other financial commitment; and (iii)
20 issuing a development permit that authorizes and requires
21 development to occur in stages based on the availability
22 of adequate public facilities at each stage.

23 (5) Provisions that describe the form, timing, and
24 duration of concurrency approval when a development
25 permit is issued, including a specification of the length
26 of time that a determination of concurrency and a
27 reservation of capacity are to be effective.

28 (6) Provisions assigning the responsibility of the
29 administration of the concurrency management ordinance to
30 a person, department, division, or agency, or
31 combinations thereof, of the unit of local government.

32 (e) A unit of local government must meet the following
33 standards to satisfy a concurrency requirement for a type or
34 category of public facilities or system of facilities and

1 must incorporate the standards into a concurrency management
2 ordinance:

3 (1) For water supply, treatment, and distribution,
4 wastewater treatment and sanitary sewerage, solid waste,
5 and stormwater drainage, a development permit is issued
6 subject to the condition that, at the time of issuance of
7 a certificate of compliance, the needed public facilities
8 or systems of facilities are in place to serve the new
9 development.

10 (2) For road, public transit, pedestrian, and
11 bicycle facilities, a development permit is issued
12 subject to the condition that, at the time of issuance of
13 a certificate of compliance, the public facilities or
14 systems of facilities needed to serve the new development
15 are either in place or are scheduled to be in place not
16 more than 2 years after issuance of a certificate of
17 compliance.

18 (f) Any unit of local government that adopts or amends a
19 concurrency management ordinance must, as a condition of
20 continuing validity of the ordinance, adopt a local capital
21 budget. The capital budget must authorize, and provide for
22 the funding of, capital improvements necessitated by proposed
23 development or development projected by the comprehensive
24 plan. The following developments and land uses are exempt
25 from the requirement of concurrency, provided that a
26 concurrency management ordinance may not exempt any
27 development or land use other than as specified in or
28 authorized by this subsection:

29 (1) Development of affordable housing, but only for
30 public facilities or systems of facilities for roads,
31 public transportation, pedestrian ways, and bicycle
32 paths.

33 (2) Any development in an area for which a
34 transit-oriented development plan has been prepared and

1 adopted, provided that the total land area contained
2 within areas covered by such a plan or plans does not
3 exceed 10% of the land area of the unit of local
4 government.

5 (3) Any development in a redevelopment area for
6 which a redevelopment area plan has been prepared and
7 adopted, provided that the total land area contained
8 within redevelopment areas does not exceed 10% of the
9 land area of the unit of local government.

10 (4) Any other developments and land uses that may
11 be designated by the Department of Commerce and Community
12 Affairs by rule as having (i) no or minimal impact on
13 adopted levels of service and public facilities or
14 systems of facilities; and (ii) whose approval will not
15 impair the public health, safety, or convenience.

16 (g) The Department must adopt rules to administer this
17 Section, including level of service standards for public
18 facilities or systems of facilities and must provide further
19 direction and guidance to units of local government. In
20 adopting level of service standards that are to be applied by
21 units of local government for roads, public transit,
22 pedestrian ways, and bicycle paths, the Department may
23 distinguish between public facilities that are owned by the
24 unit of local government and those that are owned by the
25 State or some other governmental unit. The Department may
26 authorize the determination of concurrency for roads,
27 pedestrian ways, and bicycle paths on an areawide basis,
28 including an area that includes more than one unit of local
29 government, by reference to an area-wide average level of
30 service rather than on a road, pedestrian way, or bicycle
31 path segment-by-segment basis.

32 The Department must complete its review of a concurrency
33 management ordinance or amendment to a concurrency management
34 ordinance proposed by a unit of local government within 60

1 days after the date on which the Department received the unit
2 of local government's submission. The Department may, in
3 writing, approve, approve with conditions, or disapprove the
4 proposed ordinance or amendment. The Department must
5 maintain, and periodically publish for public use,
6 concurrency management ordinances that have been adopted by
7 local governments under this Section.

8 The Department may adopt rules that permit one or more
9 units of local government, or one or more State agencies and
10 one or more units of local government, to jointly administer
11 a concurrency management ordinance, provided that they enter
12 into an implementation agreement.

13 The Department may prepare guidelines other than rules,
14 including manuals, and conduct training in order to implement
15 this Section.

16 Section 90. Moratorium on issuance of development
17 permits.

18 (a) The corporate authorities of a unit of local
19 government may adopt and amend under Section 15 an ordinance
20 establishing a moratorium on the issuance of development
21 permits for a definite term.

22 (b) For the purposes of this Section:

23 "Qualified professional" means:

24 (1) a qualified health professional, such as a
25 licensed environmental health practitioner or a licensed
26 physician;

27 (2) the Director of Public Health;

28 (3) the Director of the Illinois Environmental
29 Protection Agency;

30 (4) a licensed professional engineer; or

31 (5) a member of the American Institute of Certified
32 Planners, but only for the purpose of establishing a
33 moratorium under this Section.

1 "Development permit" includes, for lots or parcels within
2 the corporate limits of the unit of local government, a
3 hookup, or right to hook up, to a unit of local
4 government-owned utility.

5 (c) A moratorium on the issuance of development permits
6 may be adopted only:

7 (1) To prevent a shortage or overburden of public
8 facilities that would otherwise occur during the
9 effective term of the moratorium or that is reasonably
10 foreseeable as a result of any proposed or anticipated
11 development.

12 (2) Within 2 years of the effective date of this
13 Act, for the preparation and adoption of the first
14 comprehensive plan and for the preparation and adoption
15 or amendment of land development regulations implementing
16 the new comprehensive plan.

17 (3) For the preparation and adoption of a
18 comprehensive plan, or amendment to the comprehensive
19 plan, in response to a substantial change in conditions
20 not reasonably foreseeable at the time the present
21 comprehensive plan was adopted or most recently amended
22 and for the preparation and adoption or amendment of land
23 development regulations implementing the new or amended
24 comprehensive plan.

25 (4) For some other compelling need. A compelling
26 need is a danger to the public health or safety,
27 presented by proposed or anticipated development, that
28 probably would result in an irreparable harm were such
29 development to occur.

30 (d) An ordinance adopting a moratorium on the issuance
31 of development permits must contain:

32 (1) A statement of the problem giving rise to the
33 need for the moratorium.

34 (2) Findings on which paragraph (1) of this

1 subsection is based, including the written report
2 required by subsection (e) of this Section, where
3 applicable, that must be included as an appendix to the
4 ordinance.

5 (3) The term of the moratorium that, except as
6 otherwise provided in this Section, may not be more than
7 180 days.

8 (4) A list of the types or categories of
9 development permits that will not be issued during the
10 term of the moratorium.

11 (5) A description of the area of the unit of local
12 government to which the moratorium applies.

13 (6) A statement of the specific and prompt plan of
14 corrective action that the unit of local government
15 intends to take during the term of the moratorium to
16 alleviate the problems giving rise to the need for the
17 moratorium.

18 (e) Except for a moratorium for the purpose of preparing
19 and adopting a comprehensive plan or amendment to a
20 comprehensive plan and related land development regulations
21 under paragraphs (2) and (3) of subsection (c) of this
22 Section, an ordinance establishing a moratorium on the
23 issuance of development permits must be based on a written
24 report by a qualified professional (i) concluding that a
25 danger to the public health or safety exists and that the
26 danger is sufficient to justify a moratorium and (ii)
27 recommending a course of action to correct or alleviate the
28 danger.

29 (f) An ordinance establishing a moratorium on the
30 issuance of development permits may exempt from the
31 moratorium those development permits that have minimal or no
32 impact on the problems giving rise to the moratorium, except
33 that the ordinance may not exempt the construction of
34 single-family detached dwelling units while applying the

1 moratorium to other types or categories of dwelling units.

2 (g) A unit of local government may, by ordinance, extend
3 an ordinance establishing a moratorium on the issuance of
4 development permits for not more than 2 additional 180-day
5 periods. The corporate authorities of a unit of local
6 government may not extend a moratorium (i) for more than one
7 180-day period at a time and (ii) unless it finds, in
8 writing, for each extension at the time of the extension that
9 the problems giving rise to the need for the moratorium still
10 exist and that reasonable progress is being made in carrying
11 out the specific and prompt plan of corrective action.

12 (h) This Section does not restrict or limit the power of
13 the State or State agencies to impose temporary moratoria
14 upon permits issued under State law; units of local
15 government to adopt and enforce temporary policies against
16 approving, or reviewing petitions for, zoning map amendments;
17 or units of local government that own utilities to restrict
18 or prohibit extensions of or hookups to that utility in areas
19 outside the corporate limits of the unit of local government
20 whether for business, economic, policy, or other reasons.

21 (i) A moratorium under this Section is a final land-use
22 decision for the purposes of judicial review.

23 Section 95. Development agreements.

24 (a) A unit of local government may enter into and adopt
25 agreements concerning the development and use of real
26 property within the unit of local government's jurisdiction
27 with the owners of that property and with other governmental
28 units with jurisdiction under this Section.

29 (b) The purpose of this Section is to:

30 (1) provide a mechanism for units of local
31 government and owners and developers of land to form
32 agreements, binding on all parties, regarding development
33 and land use;

1 (2) promote innovation in land development
2 regulation by allowing units of local government to form
3 agreements with owners and developers of land that
4 include terms, conditions, and other provisions that may
5 not otherwise be authorized under this Act;

6 (3) promote stability and certainty in land
7 development regulation by providing for the full
8 enforceability of agreements by both the local government
9 and the owners and developers of land; and

10 (4) provide a procedure for the adoption of
11 agreements that ensures the participation and comment of
12 the public and elected officials.

13 (c) A development agreement may be entered into and
14 adopted only under this Section and has the force and effect
15 of a land development regulation. Except as provided
16 expressly to the contrary in a development agreement,
17 development and use of the property that is the subject of a
18 development agreement must occur according to the terms,
19 conditions, and other provisions of the agreement
20 notwithstanding any land development regulations and
21 amendments to land development regulations to the contrary.
22 Where the development agreement does not include any term,
23 condition, or other provision concerning a matter that is
24 regulated by one or more land development regulations, then
25 those land development regulations apply.

26 (d) To the extent that a development agreement, by
27 itself and without further hearing or approval, authorizes
28 development, it constitutes a development permit. A
29 development agreement that constitutes a development permit:

30 (1) is binding upon and enforceable by the unit of
31 local government and all subsequent owners of the
32 property that is the subject of the agreement, for the
33 duration of the agreement; and

34 (2) must be recorded by the owner or owners that

1 are party to the development agreement with the county
2 recorder within 30 days after its adoption.

3 (e) A development agreement must:

4 (1) Be entered into and adopted only after the unit
5 of local government has adopted a comprehensive plan.

6 (2) Be consistent with the comprehensive plan under
7 Section 20.

8 (3) Be adopted only by an ordinance after notice
9 and hearing as required under Section 15.

10 (4) Be enforceable by the unit of local government
11 and other governmental units that are party to the
12 development agreement in the same manner as a land
13 development regulation, except that if a civil action
14 under paragraph (5) of this subsection has previously
15 been commenced and is still pending, any and all
16 enforcement or disputes shall be determined in the civil
17 action.

18 (5) Be enforceable by the owners of land who are
19 party to the development agreement and their successors
20 in interest by civil action against the unit of local
21 government or other parties that may be necessary, except
22 that if an enforcement action upon the development
23 agreement has previously been commenced and is still
24 pending, any and all enforcement or disputes shall be
25 determined in the enforcement action.

26 (6) Be in writing and include the following terms:

27 (i) the names of all parties to the
28 development agreement;

29 (ii) a description of the property that is the
30 subject of the development agreement;

31 (iii) a statement detailing how the
32 development agreement is consistent with the
33 comprehensive plan;

34 (iv) the date upon which the owner applied to

1 the unit of local government to form a development
2 agreement;

3 (vi) the effective date of the development
4 agreement;

5 (vii) the duration of the development
6 agreement which may not exceed 5 years, except where
7 the development agreement authorizes phased
8 development, when the duration of the agreement may
9 not exceed 10 years;

10 (viii) a reiteration in full of the provisions
11 of subsection (f); and

12 (ix) a reiteration in full of the provisions
13 of paragraphs (4) and (5) of this subsection and any
14 other agreed terms concerning enforcement, including
15 any agreement to submit disputes to arbitration or
16 mediation before resorting to the commencement of an
17 enforcement action or civil action.

18 (f) A development agreement may be canceled (i) at any
19 time by the mutual and written consent of all parties to the
20 agreement with the consent of the corporate authorities of
21 the unit of local government in an ordinance or (ii) by the
22 unit of local government if it finds, in writing, after a
23 hearing with proper notice that a hazard, unknown to the unit
24 of local government at the time the development agreement was
25 adopted, exists on or near the property that is the subject
26 of the development agreement that would endanger the public
27 health or safety if development were to commence or proceed
28 pursuant to the development agreement.

29 Section 100. Redevelopment areas.

30 (a) A unit of local government may adopt and amend under
31 Section 15 of this Act redevelopment area ordinances.

32 (b) The purposes of a redevelopment area are to
33 encourage reinvestment in and redevelopment and reuse of

1 areas of the unit of local government that are characterized
2 by 2 or more of the following conditions or circumstances:

3 (1) loss of retail, office, industrial activity,
4 use, or employment;

5 (2) 40% or more of households are low-income
6 households;

7 (3) a predominance of residential or nonresidential
8 structures that are deteriorating or deteriorated;

9 (4) abandonment of residential or nonresidential
10 structures;

11 (5) environmentally contaminated land;

12 (6) the existence of unsanitary or unsafe
13 conditions that endanger life, health, and property;

14 (7) deterioration in public improvements such as
15 streets, street lighting, curbs, gutters, sidewalk, and
16 related pedestrian amenities;

17 (8) tax or special assessment delinquency exceeding
18 the fair market value of the land;

19 (9) recent occurrence of a disaster as declared by
20 the Governor or the President of the United States; or

21 (10) any combination of factors that substantially
22 impairs or arrests the sound growth and economic
23 development of the unit of local government, impedes the
24 provision of adequate housing, or adversely affects the
25 public, health, safety, morals, or general welfare due to
26 the redevelopment area's present condition and use.

27 (c) A redevelopment area may be established only
28 pursuant to a redevelopment area ordinance adopted under this
29 Section, except that, in the case of a redevelopment
30 ordinance adopted by a unit of local government under the
31 Articles 74, 74.2, and 74.3 of the Illinois Municipal Code or
32 under the Blighted Areas Redevelopment Act of 1947 prior to
33 the effective date of this Act, the provisions of those Acts
34 shall continue to apply.

1 A redevelopment area ordinance may not be adopted unless
2 the unit of local government has first adopted a
3 comprehensive plan with a redevelopment area plan. A
4 redevelopment area may not consist of or include more than 1%
5 greenfields area, except for redevelopment areas adopted
6 under paragraph (9) of subsection (b) of this Section.

7 (d) A redevelopment area ordinance adopted under this
8 Section must include the following:

9 (1) A citation to enabling authority to adopt and
10 amend the ordinance.

11 (2) A statement of purpose consistent with the
12 purposes of land development regulations under Section 10
13 of this Act and with the purposes of this Section.

14 (3) A statement of consistency with the
15 comprehensive plan, and with the redevelopment area plan
16 in particular, that is based on findings under Section 20
17 of this Act.

18 (4) Definitions, as appropriate, for words or terms
19 contained in the ordinance. Where this Act defines words
20 or terms, the ordinance must incorporate those
21 definitions, either directly or by reference.

22 (5) Specific findings, pursuant to the
23 redevelopment area plan and consistent with the purposes
24 of this Section, supporting the need to employ
25 redevelopment assistance tools in the redevelopment area.

26 (6) A description, both in words and with maps, of
27 the limits or boundaries of the redevelopment area under
28 the redevelopment area plan.

29 (7) A detailed description of the redevelopment
30 assistance tools that will be employed in the
31 redevelopment area and the manner and locations in which
32 they will be employed. Where direct development is to be
33 employed and 42 U.S.C. 4601 is applicable, the unit of
34 local government must adhere to the uniform relocation

1 assistance and real property acquisition policies under
2 that statute.

3 (8) For any redevelopment area plan that includes
4 or encompasses residential uses, a requirement that any
5 new or renovated housing development that will receive
6 assistance through any redevelopment assistance tools
7 must include affordable housing units in a proportion
8 determined by the redevelopment area ordinance, but in
9 any case not less than 15% nor more than 50%. The
10 redevelopment area ordinance must also include
11 provisions, pursuant to subsection (g) of this Section,
12 to ensure that affordable housing remains affordable.

13 (9) An enumeration of all redevelopment programs
14 for which the redevelopment area may be eligible and an
15 instruction to the agency or entity designated to oversee
16 and administer implementation of the ordinance under
17 paragraph (11) of this subsection to apply for and seek
18 inclusion in such redevelopment programs.

19 (10) A detailed financial plan consistent with the
20 unit of local government's budget containing reasonable
21 projections of the (i) cost of the redevelopment
22 assistance tools to be employed and (ii) sources of
23 funding for those costs, including, but not limited to,
24 redevelopment programs or area-based finance methods
25 where applicable.

26 (11) The designation of one or more public agencies
27 or not-for-profit entities to oversee and administer the
28 implementation of the ordinance. If more than one agency
29 or entity is designated, the ordinance must specify the
30 jurisdiction or responsibility of each agency or entity
31 in a manner that the relative powers and duties of each
32 are reasonably clear.

33 (12) A requirement that any non-governmental entity
34 that receives financial assistance, whether a grant,

1 loan, or loan guarantee, under the redevelopment area
2 ordinance must make reasonable periodic accountings to
3 the designated agency or entity.

4 (13) Either (i) a statement of a specific date
5 after which the redevelopment assistance tools will not
6 be employed within the redevelopment area or (ii)
7 provision for periodic analysis and review by the
8 planning commission of the development activity in the
9 redevelopment area in light of the purposes of this
10 Section, regarding the need to employ redevelopment
11 assistance tools in the redevelopment area. Except that
12 where the redevelopment assistance tools constitute or
13 include a business improvement program, item (i) of this
14 paragraph (13) does not apply.

15 (14) Provision for the complete disposition of
16 assets, collection of obligations, and repayment of debts
17 remaining at the termination of the redevelopment
18 assistance tools under paragraph (13) of this subsection.

19 (d) Consistent with the detailed financial plan of the
20 redevelopment area ordinance under paragraph (10) of
21 subsection (c) of this Section, a redevelopment area
22 ordinance adopted under this Section may authorize and direct
23 the unit of local government to borrow money through loans,
24 bonds, or notes that may be unsecured or that may be secured
25 by one or more of the following:

26 (1) Revenues from area-based finance methods or
27 revenues generated from employment of the redevelopment
28 assistance tools.

29 (2) Real property and other assets held under the
30 redevelopment area ordinance, including the provision of
31 mortgages, liens, or security interests on the real
32 property or other assets.

33 (3) The general revenues of the unit of local
34 government.

1 The redevelopment area ordinance may authorize and direct
2 the local government to guarantee and secure loans made by
3 private lenders by the same means.

4 (e) A redevelopment area ordinance adopted under this
5 Section may create a redevelopment authority and designate it
6 to oversee and implement the redevelopment area ordinance or
7 a portion of the redevelopment ordinance pursuant to
8 paragraph (13) of subsection (c) of this Section.

9 The redevelopment authority shall be governed by a board
10 of directors consisting of an odd number of directors, but
11 not in any case fewer than 5 or more than 15. The
12 chairperson or director of the planning commission shall be a
13 director ex officio. The development area ordinance may
14 specify that other directors shall be local government
15 officials sitting ex officio, but no more than half of the
16 directors may be directors ex officio. The other directors
17 must be bona fide residents of the unit of local government
18 appointed by the chief executive officer of the unit of local
19 government with the approval of the corporate authorities of
20 the unit of local government for a term of 2 years or the
21 duration of the development area under paragraph (13) of
22 subsection (c) of this Section, whichever is shorter. The
23 redevelopment area ordinance may provide for the staggering
24 of terms of these directors so that in each year, half of the
25 directorships under this subsection are subject to
26 appointment. Except as otherwise provided in this subsection,
27 or when the redevelopment area has no residents and no
28 business enterprises located in it, at least one director,
29 but no more than half of the directors, must be (i) a
30 resident of the redevelopment area, if the redevelopment area
31 is predominantly residential in use; (ii) an officer of a
32 business entity operating a business enterprise in the
33 redevelopment area or an owner of a more than 10% in a
34 business entity operating a business enterprise in the

1 redevelopment area, if the redevelopment area is
2 predominantly commercial or industrial in use; or (iii) one
3 from each of items (i) and (ii), if the redevelopment area
4 contains large areas of both residential and nonresidential
5 uses. Where the redevelopment authority is to implement a
6 business improvement program, all directors, except for the
7 director or directors ex officio, must be officers of
8 business entities operating a business enterprise in the
9 redevelopment area, owners of a more than 10% in business
10 entities operating business enterprises in the redevelopment
11 area, or residents of the redevelopment area. No 2 or more
12 directors may, however, be officers of, or owners of a more
13 than 10% interest in, the same business entity. For the
14 purposes of this subsection, "redevelopment area" includes
15 all redevelopment areas operated or implemented by the same
16 redevelopment authority.

17 Directors shall be reimbursed for any reasonable expenses
18 incurred in the performance of their duties. Directors who
19 are residents of the redevelopment area or representing
20 business entities located in the redevelopment area shall
21 receive reasonable compensation, as determined by the
22 corporate authorities of the unit of local government.

23 Upon the filing of a copy of the redevelopment area
24 ordinance with the Secretary of State, the redevelopment
25 authority shall have the powers and duties of a
26 not-for-profit corporation under the General Not For Profit
27 Corporation Act of 1986, including, but not limited to, (i)
28 purchasing, holding, improving, mortgaging, selling, leasing,
29 and otherwise conveying property and interests in property;
30 (ii) forming, performing, and enforcing contracts, including
31 contracts for the employment of staff and other employees;
32 (iii) lending and borrowing money, including loans, bonds,
33 and notes secured by the revenues or assets of the
34 redevelopment authority; no debt or obligation of the

1 redevelopment authority, however, may be an obligation of the
2 unit of local government or secured by revenues from
3 area-based finance methods or by the general revenues of the
4 unit of local government unless it is first approved by the
5 corporate authorities of the unit of local government; and
6 (iv) suing and being subject to civil suit. All amendments to
7 the redevelopment area ordinance must be filed with the
8 Secretary of State in the same manner as the original
9 ordinance.

10 The redevelopment area ordinance may delegate to the
11 redevelopment authority the power to exercise eminent domain.

12 The redevelopment area ordinance must describe the
13 amounts, sources, and nature of the capitalization of the
14 redevelopment authority. It may provide that revenue from
15 area-based finance methods shall be conveyed to the
16 redevelopment authority to finance its implementation of the
17 redevelopment area ordinance. It must provide for the
18 complete disposition of any assets, profits, or debt of the
19 redevelopment authority remaining at the conclusion of the
20 redevelopment area ordinance under paragraph (13) of
21 subsection (c) of this Section. Where a redevelopment
22 authority manages or operates more than one redevelopment
23 area, the ordinance may provide for final disposition when
24 all redevelopment areas managed or operated by the
25 redevelopment authority conclude under paragraph (13) of
26 subsection (d) of this Section.

27 The redevelopment authority must make periodic
28 accountings, according to the redevelopment area ordinance,
29 to the corporate authorities of the unit of local government.

30 (f) No director, official, or employee of any agency or
31 entity designated to oversee and implement the redevelopment
32 area ordinance or a portion of the ordinance may:

33 (1) have any substantial financial interest in any
34 land or business enterprise located in the redevelopment

1 area, including an interest held by a relative by blood,
2 adoption, or marriage or by a business entity in which
3 the official or employee has more than a 10% interest;

4 (2) own or control, directly or indirectly, more
5 than a 10% interest in a business entity that has been or
6 will be awarded, or is under consideration for the
7 awarding of, a contract for the implementation of the
8 redevelopment area ordinance; or

9 (3) accept or receive, directly or indirectly, by
10 rebate, gift, or otherwise, money or any other thing of
11 value from an individual or business entity to whom a
12 contract may be awarded for the implementation of the
13 redevelopment area ordinance.

14 The provisions of paragraphs (1) and (2) of this subsection
15 do not apply to directors of a redevelopment authority who
16 are appointed as residents of the redevelopment area or
17 representing business entities in the redevelopment area.
18 Those directors, however, must recuse themselves from the
19 consideration and decision of all matters that directly
20 affect their property or enterprise in the redevelopment
21 area.

22 (g) To ensure that residential development subject to a
23 condition under paragraph (8) of subsection (c) provides
24 affordable housing, a unit of local government may enter into
25 a development agreement with the owner of real property
26 subject to this condition before it employs any redevelopment
27 assistance tools in relation to those premises. The
28 development agreement must provide for a period of
29 availability for affordable housing as follows:

30 (1) Newly constructed low- and moderate-income
31 sales and rental dwelling units must be subject to
32 affordability controls for a period of not less than 15
33 years, which period may be renewed under a development
34 agreement.

1 (2) Rehabilitated owner-occupied single-family
2 dwelling units that are improved to code standard must be
3 subject to affordability controls for at least 5 years.

4 (3) Rehabilitated renter-occupied dwelling units
5 that are improved to code standard must be subject to
6 affordability controls on re-rental for at least 10
7 years.

8 (4) Any dwelling unit created through the
9 conversion of a nonresidential structure must be
10 considered a new dwelling unit and must be subject to
11 affordability controls as delineated in paragraph (1)
12 above.

13 (5) Affordability controls on owner or
14 renter-occupied accessory apartments must apply for a
15 period of at least 5 years.

16 (6) Alternative living arrangements not otherwise
17 described in this subsection must be controlled in a
18 manner deemed suitable to the unit of local government
19 and must provide assurances that the arrangements will
20 house low- and moderate-income households for at least 10
21 years.

22 In the case of for-sale housing developments, the
23 development agreement must include the following
24 affordability controls governing the initial sale and use and
25 any resale:

26 (1) All conveyances of newly constructed affordable
27 housing dwelling units that are for sale must contain a
28 deed restriction and mortgage lien that must be recorded
29 with the county recorder. Any restrictions on future
30 resale must be included in the deed restriction as a
31 condition of approval enforceable through legal and
32 equitable remedies.

33 (2) Affordable housing units must, upon initial
34 sale and resale in the period covered by the development

1 agreement, be sold to eligible low- or moderate-income
2 households at an affordable sales price and affordable
3 housing cost.

4 (3) Affordable housing units must be occupied by
5 eligible low- or moderate-income households during the
6 period covered by the development agreement.

7 In the case of rental housing developments, the
8 development agreement must include the following
9 affordability controls governing the use of affordable
10 housing units during the use restriction period:

11 (1) Rules and procedures for qualifying
12 tenants, establishing affordable rent, filling
13 vacancies, and maintaining affordable housing rental
14 units for qualified tenants.

15 (2) Requirements that owners verify tenant
16 incomes and maintain books and records to
17 demonstrate compliance with the agreement and with
18 the ordinance.

19 (3) Requirements that owners submit an annual
20 report to the unit of local government demonstrating
21 compliance with the agreement and with the
22 ordinance.

23 The development agreement must include a schedule that
24 provides for the affordable housing units to be built
25 concurrently with the units that are not subject to
26 affordability controls.

27 (h) The unit of local government or the redevelopment
28 authority may acquire real property in a redevelopment area
29 by eminent domain only where and to the extent that the
30 redevelopment area ordinance, as amended, specifically
31 states, supported by findings in the ordinance, that purchase
32 of the real property would be unfeasible. Purchase shall be
33 deemed unfeasible where it would increase the cost of
34 acquisition beyond the funding available or where it would

1 unreasonably delay the implementation of the redevelopment
2 area plan.

3 (i) Wherever it is not inconsistent with the
4 redevelopment area plan, structurally-sound buildings and
5 structures that are designated for redevelopment under the
6 redevelopment area ordinance must be renovated and not
7 destroyed.

8 Section 800. The Intergovernmental Cooperation Act is
9 amended by adding Section 5.2 as follows:

10 (5 ILCS 220/5.2 new)

11 Sec. 5.2. Implementation agreements. Units of local
12 government may enter into implementation agreements to carry
13 out the purposes of Sections 75, 80, and 85 of the Local Land
14 Development Act.

15 Section 805. The State Mandates Act is amended by adding
16 Section 8.25 as follows:

17 (30 ILCS 805/8.25 new)

18 Sec. 8.25. Exempt mandate. Notwithstanding Sections 6
19 and 8 of this Act, no reimbursement by the State is required
20 for the implementation of any mandate created by this
21 amendatory Act of the 92nd General Assembly.

22 Section 810. The Counties Code is amended by changing
23 Section 3-5029 as follows:

24 (55 ILCS 5/3-5029) (from Ch. 34, par. 3-5029)

25 Sec. 3-5029. Map, plat or subdivision of land; penalty.
26 No person shall offer or present for recording or record any
27 map, plat or subdivision of land situated-in-any-incorporated
28 city, town, or village, nor within 1 1/2 miles of the

1 eorporate--limits--of--any-incorporated-city,-town-or-village
2 which-has-adopted-a-city-plan-and-is-exercising--the--special
3 powers--authorized--by--Division--12--of--Article--11--of--the
4 Illinois-Municipal-Code,-as-now-or-hereafter-amended,-and not
5 included in any municipality unless the map, plat or
6 subdivision is under the seal of a registered Illinois land
7 surveyor and unless it is entitled to record as provided in
8 Section Seetions---11-15-1--and 11-12-3 of the Illinois
9 Municipal Code,-as-now-or-hereafter-amended. Any map, plat
10 or subdivision of land presented for recording shall have
11 attached thereto or endorsed thereon the Certificate of an
12 Illinois Registered Land Surveyor that the land is or-is-not
13 within-any-incorporated-city,-town-or-village,-nor--within--1
14 1/2--miles--of--the--corporate--limits--of--any--incorporated--city,-
15 town-or--village--which--has--adopted--a--city--plan--and--is
16 exercising--the--special--powers-authorized-by-Division-12-of
17 Article--11--of--the--Illinois--Municipal--Code,-as--now--or
18 hereafter-amended,-and not included in any municipality. No
19 person shall offer or present for recording or record any
20 subdivision plat of any lands bordering on or including any
21 public waters of the State in which the State of Illinois has
22 any property rights or property interests, unless such
23 subdivision plat is under the seal of a registered Illinois
24 Land Surveyor and is approved by the Department of Natural
25 Resources, nor shall any person offer or present for
26 recording or record any map, plat or subdivision of lands,
27 without indicating whether any part of which as shown on the
28 map, plat or subdivision is located within a special flood
29 hazard area as identified by the Federal Emergency Management
30 Agency nor shall any person offer or present for recording or
31 record any map, plat or subdivision of land situated outside
32 any incorporated city, town or village unless the map, plat
33 or subdivision is under the seal of a registered Illinois
34 land surveyor, and unless it is entitled to record as

1 provided in Section 5-1045, however, the provisions of this
 2 Section shall not apply to any street or highway survey map
 3 or plat. No person may record or present for recording and no
 4 recorder may accept for recording any subdivision,
 5 resubdivision, or plat that does not comply with the
 6 provisions of subsection (c) of Section 2-40 of the Local
 7 Land Development Act.

8 Any person who records, or who offers or presents for
 9 recording, which offer or presentation results in a recording
 10 of, any map, plat or subdivision of land which he knows to be
 11 in violation of this Section shall pay to the county the sum
 12 of \$200, to be recovered in the circuit court, in the name of
 13 the state, for the use of the county, with costs of suit.

14 (Source: P.A. 89-445, eff. 2-7-96.)

15 (65 ILCS 5/11-15-1 rep.)

16 Section 815. The Illinois Municipal Code is amended by
 17 repealing Section 11-15-1.

18 Section 820. The Agricultural Areas Conservation and
 19 Protection Act is amended by adding Section 20.4 as follows:

20 (505 ILCS 5/20.4 new)

21 Sec. 20.4. Eminent domain. Except as otherwise provided
 22 in this Section, no entity possessing the power of eminent
 23 domain under the laws of this State may acquire any land or
 24 easements having a gross area greater than 10 acres in size
 25 that is located within an agricultural area. Except as
 26 otherwise provided in this Section, no governmental unit may
 27 advance public funds, whether by grant, loan, interest,
 28 subsidy, or otherwise, within an agricultural area for the
 29 construction of nonfarm housing or commercial or industrial
 30 facilities to serve nonagricultural uses of land.

31 At least 60 days before an acquisition or advance, a

1 notice of intent must be filed with the Director of
2 Agriculture containing any information and in the manner and
3 form required by the Director. The notice of intent must
4 contain a report explaining the proposed action, including an
5 evaluation of alternatives that would not require acquisition
6 or advance within the agricultural area.

7 The Director of Agriculture, in consultation with
8 affected units of local government, must review the proposed
9 action to determine the effect of the action on the
10 preservation and enhancement of agriculture and agricultural
11 resources within the agricultural area and the relationship
12 of the action to local and regional comprehensive plans.

13 If the Director of Agriculture finds that the proposed
14 action might have an unreasonable effect on an agricultural
15 area, he or she must issue an order, within the 60-day
16 period, for the party to desist from the action for another
17 60-day period.

18 During the additional 60-day period, the Director must
19 hold a public hearing concerning the proposed action at a
20 place within the affected agricultural area or otherwise
21 easily accessible to the agricultural area. The Director
22 must provide notice of the hearing not more than 30 but not
23 less than 15 days before the hearing:

24 (1) in a newspaper of general circulation within
25 the agricultural area;

26 (2) in writing, delivered by mail, to the entity
27 proposing to take the action;

28 (3) in writing, delivered by mail, to the units of
29 local government whose territory encompasses the
30 agricultural area; and

31 (4) in writing, delivered by mail, to any
32 governmental unit having the power of review or approval
33 of the action.

34 The review process required by this Section may be conducted

1 jointly with any other environmental impact review required
2 by law.

3 The Director of Agriculture may suspend for up to one
4 year any eminent domain action that he or she determines to
5 be contrary to the purposes of this Act and for which he or
6 she determines there are feasible and prudent alternatives
7 that have less negative impact on agricultural areas.

8 The Director of Agriculture may request the Attorney
9 General to bring a civil action to enjoin any entity from
10 violating the provisions of this Section.

11 This Section does not apply to (i) any utility
12 facilities, including, but not limited to, electric
13 transmission or distribution facilities or lines, facilities
14 used for exploration, production, storage, transmission, or
15 distribution of natural gas, synthetic gas, or oil, or
16 telephone lines and telecommunications facilities or (ii) any
17 emergency project that is immediately necessary for the
18 protection of life and property.