



**DU PAGE COUNTY**  
**ECONOMIC DEVELOPMENT & PLANNING**  
Daniel J. Cronin, County Board Chairman

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**ECONOMIC DEVELOPMENT ♦ WORKFORCE DEVELOPMENT ♦ BUILDING & ZONING ♦ STORMWATER PERMITTING**  
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**DRAFT**

**M E M O R A N D U M**

**TO:** DuPage County Zoning Board of Appeals

**FROM:** Paul Hoss, Zoning Administration Coordinator

**DATE:** August 2, 2012

**RE:** **Zoning Petition T-2-12 Text Amendments to the DuPage County Zoning Ordinance relative to:**

- 1. Zoning Hearing Officer Program (ZHO);**
- 2. Parking Requirements for certain residential, commercial and industrial uses;**
- 3. Placement of certain types of permitted vehicles on residential zoning lots; and**
- 4. A Conditional Use procedure for existing accessory buildings, structures and uses on a property in access of five (5) years;**
- 5. General Text Amendments.**

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**I. ZONING HEARING OFFICER PROGRAM (ZHO):**

**INTRODUCTION:**

- A. The Illinois State Legislature established state law entitled, "Hearing officer", (55 ILCS 5/5-12015 {see attached}). The law authorizes county boards of each county to establish the position of hearing officer and delegate to that officer authority to conduct hearings otherwise required to be heard in accordance with State Law by the ZBA.
1. The ZHO would conduct hearings and make recommendations to the County Development Committee and County Board on land use cases involving minor variations and conditional uses for existing and proposed accessory structures, (i.e. sheds, decks, fences, etc.). In addition, the ZHO would have the ability to continue or transfer a zoning case to the full ZBA.
- B. The Zoning board of Appeals (ZBA) would continue to conduct public hearings and hold recommendation meetings relative to Conditional Uses for principal buildings and land uses, Planned Developments, Map Amendments (rezoning) and Appeals.
- C. Currently all zoning public hearings are conducted through the ZBA on almost every Thursday night throughout the year. Over the past several years these hearings have been extended to at least one (1) Monday night per month and often times on Tuesdays to accommodate the heavy case queue.

- D. The proposed ZHO will enable the County to reduce the number of evening hearings by holding one (1) meeting per month during regular business hours wherein the ZHO would conduct multiple public hearings. By conducting multiple public hearings during regular business hours at one sitting per month the County will realize the following efficiencies:
  - 1. We can conduct multiple hearings in one sitting thus allowing cases to be heard in a timelier manner. Currently, given the current queue of cases, it can take several months for zoning cases to come to public hearing before the ZBA.
  - 2. By conducting the hearings during regularly business hours the County will see a reduction in staff overtime or compensatory time, a reduction in ZBA per diem and mileage and a reduction in court reporter costs as the ZHO public hearings can be recorded and transcribed by staff.
- E. The ZHO program will enable the County to use existing County staff to administer the program.
- F. The ZHA program will provide an expedited and cost effective means to conduct a zoning process for time sensitive property violations where zoning relief is necessary and where, if prolonged, could have a direct negative impact on the quality of life for the County citizens.
- G. It is important to note that the principles of substantive and procedural due process will apply at all stages of the ZHO similar to the current ZBA process and property owners and interested parties will continue to have the ability present their case, testimony and evidence and cross examine witnesses.

**GOALS OF THE ZONING HEARING OFFICER PROGRAM:**

- A. Implementing the ZHO will help expedite public hearings for relatively minor zoning cases and time sensitive cases where code compliance is necessary, all in a more efficient and cost effective manner to help improve the quality of life for property owners.
- B. Implementing the ZHO will simplify the current public hearing process for certain relatively minor zoning cases by creating a stand-alone hearing procedure to be conducted during regular business hours enabling more flexible hearing dates and times for property owners and interested parties and staff and reducing duplicative administrative processes of EDP.

**IMPLEMENTATION OF THE ZONING HEARING OFFICER PROGRAM:**

- A. The ZHO will require an amendment to the Zoning Ordinance and, as such, the ZBA will conduct a public hearing to allow interested parties to vet the matter.
- B. After public hearing, review and recommendation by the ZBA and consideration by the County Development Committee and County Board the adoption of an amendatory ordinance establishing the ZHO within the County Zoning Ordinance pursuant to the State of Illinois enabling legislation.
- C. Appointment of a ZHO by the County Board Chairman.

1. Staff is recommending that a current member of the ZBA serve as the ZHO as that person will not require any training for the position and will be familiar with the County public hearing process, ZBA rules of procedure and substantive due process in the conduct of public hearings.
- D. The only cost associated with the ZHO will be for the Hearing Officer. The administrative staffing and support of the program will come from existing staff of EDP who are currently performing similar type roles.
1. The funds to cover the cost of the ZHO and defray the cost of the program would come from existing ZBA application fees.
  2. In addition, cost savings will be realized using the ZHO program including reduced per-diem and mileage, reduced staff overtime costs and reduced court reporter cost.
- E. The proposed administrative system herein reflects the current County policies to provide services to the public during normal business hours and at times during non-business hours. This approach generally allows the staff to process and attend the public hearings as part of their regular work hours and reduces the costs associated with additional compensation for overtime and generally reduces the attendant needs and costs associated with afterhours building usage.

**1. Hearing Date and Time:**

- a. Hearings will be held the second Wednesday of every month.
- b. Hearings will be conducted during business hours with the option that the ZHO could continue or transfer a case to the regular Zoning Board of Appeals Hearing Schedule to accommodate petitioner schedules or as needed.
- c. Hearings will begin at 1:30 p.m. and generally run no longer than three (3) hours at a time.
- d. Hearings will be held in Room 3500 B.

**2. Staffing Requirements:**

- a. ZHO would be appointed the County Board Chairman. (Staff recommends that the person be a current ZBA member as they already qualify as hearing officers and will not require training;
- b. One recording secretary to come from current staff as no court reporter required;
- c. One current county staff to assist the ZHO.
- d. Staff is recommending that the per sitting fee for the Hearing Officer be \$500.

## **STATE LAW ENABLING ZONING HEARING OFFICER:**

*(55 ILCS 5/5-12015) (From Ch. 34, par. 5-12015)*

*Sec. 5-12015. Hearing officer; duties. Notwithstanding anything to the contrary provided for in this Division:*

*(A) The county board of each county may by resolution or ordinance establish the position of hearing officer and delegate to a hearing officer the authority to conduct any public hearing otherwise required to be heard in accordance with this Division by the board of appeals. When a hearing officer is designated by the county board to conduct any such hearing: (i) notice of hearing shall be given in the same time and manner and the hearing shall be conducted in the same location provided by this Division for the giving of such notice and for the location of such hearing when any such hearing is conducted by the board of appeals; (ii) the hearing officer in acting upon any matter otherwise within the jurisdiction of the board of appeals shall be governed by the same standards and shall exercise and perform all of the powers and duties of the board of appeals in the same manner and to the same effect as provided in this Division with respect to the board of appeals provided that:*

*1. When the hearing officer is acting upon an application or petition to amend the regulations imposed or the districts created under the authority of this Division and such amendment is to be made by ordinance or resolution, the hearing officer shall render a written recommendation to the county board within such time and in such manner and form as the county board shall require;*

*2. When the hearing officer is acting upon an application or petition for a variation and the regulations by this Division authorized provide that the county board by ordinance or resolution may determine and vary the application of such regulations as set forth in this Division, then upon report of the hearing officer the county board may by ordinance or resolution without further public hearing adopt any proposed variation or may refer it back to the hearing officer for further consideration, and any proposed variation which fails to receive the approval of the hearing officer shall not be passed except by the favorable vote of 3/4 of all members of the county board, but in counties in which the county board consists of 3 members only a 2/3 vote is required;*

*3. When the hearing officer is acting upon an application or petition for a variation and the regulations by this Division authorized do not provide that the county board by ordinance or resolution may determine and vary the application of such regulations as set forth in this Division, or when the hearing officer is acting upon any matter otherwise within the jurisdiction of the board of appeals under Sections 5-12011 and 5-12012 other than a matter referred to in paragraphs 1 and 2 above of this subsection (A), the determination made by the hearing officer with respect to any such variation or matter shall constitute a final administrative decision which is subject to judicial review pursuant to the provisions of the "Administrative Review Law", as now or hereafter amended.*

*(B) The county board may provide general or specific regulations implementing but not inconsistent with the provisions of this Section, including regulations relative to the time and manner in which hearing officers are designated to conduct public hearings and regulations governing the manner in which such hearings are conducted and matters heard therein passed upon and determined.*

*(C) Hearing officers shall be appointed on the basis of training and experience which qualifies them to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard and otherwise exercise and perform the powers, duties and functions delegated in accordance with this Section. Hearing officers shall receive such compensation as the county board shall provide, and the county board may establish a schedule of fees to defray the costs of providing a hearing officer.*

*(D) This Section is intended to furnish an alternative or supplemental procedure which a county board in its discretion may provide for hearing, determining, reviewing and deciding matters which*

*arise under any ordinance, resolution or regulation adopted pursuant to this Division, but nothing in this Section shall be deemed to limit or prevent the use of any existing procedure available pursuant to this Division for hearing, approving or denying applications or petitions for a variation, amendment or other revision of any such ordinance, resolution or regulation, or for hearing and deciding appeals from and reviewing any order, requirement, decision or determination made by an administrative official charged with the enforcement of any such ordinance, resolution or regulation.*  
(Source: P.A. 86-962.)

## **II. REVISIONS TO ADD A CONDITIONAL USE PROCEDURE FOR CERTAIN TYPES OF ACCESSORY BUILDINGS, STRUCTURE AND USES IN A RESIDENTIAL ZONING DISTRICT:**

**INTRODUCTION:** To allow for a Conditional Use procedure for accessory buildings, structures and uses which have been on a residential property for at least five (5) years where the item did not receive a Building Permit or zoning authorization.

- A. Currently, if a property contains an accessory building, structure or use which never received a Building Permit, where the item does not comply with the Zoning Ordinance and where the item was on the property for a long period of time and in many instances were developed by a prior owner the only remedy for zoning compliance and hence obtaining a Building Permit is a Zoning Variation through the ZBA process.
- B. In principal, a variation, “runs with the land” and, as such, in order for the County Board to approve these types of variations the Board must essentially grant the variation in perpetuity leaving open the potential for newer structures to replace the older structure or use once it is removed.
- C. In order to provide some limited relief for property owners in these difficult circumstances and for the County to gain some long term control for the protection of future orderly development of a property, staff proposes the subject Conditional Use procedure which will enable the County Board to more easily allow the item to remain and place conditions on the zoning relief that can mitigate the circumstances long term.
- D. In addition, the Conditional Use procedure will allow the County Board to place conditions on the zoning relief to mitigate any impacts on adjacent properties or roadways where in theory as a Variation, these types of conditions can not be placed.

## **III. REVISIONS RELATIVE TO VEHICLES:**

**INTRODUCTION: Covered/ tarped over and antique vehicles:** Staff proposes regulations on the location of vehicles on a residential property which are covered/ tarped over and antique where these type of vehicles will be required to be parked or stored behind the front wall of the principal building (house) and in the buildable area of the lot, similar to the zoning application for recreational vehicles.

- A. Code Enforcement staff finds that increasingly we receive complaints from neighbors that these types of vehicles are being parked or stored for long periods of time in the driveway of residential properties where the cars are covered/tarped over or antique vehicles.
- B. Concerns have been raised that these types of vehicles, while allowed to be located in a residential district, are obtrusive and unsightly because they are effectively stored in the front yards of the property, in front of the house and seldom moved.
- C. The Zoning Ordinance establishes that driveways are generally intended to provide access to a property to the required parking spaces which must be located in the buildable area of a property (i.e.: outside the setback area and behind the front wall of the house).
- D. While it is understandable that people park their passenger vehicle in the drive, (which is typically in front of the house), those vehicles are usually itinerate in that they come and go on a regular basis throughout the day.
- E. Staff gleans from complaints from neighbors that covered/tarped over and antique passenger vehicles are similar to recreational vehicles in that they are not used for daily activity and are seldom used. The complaints we receive indicate that the vehicles are unsightly and cause obstruction to line of site to the public right-of-way.
- F. As such, staff proposes a change to the Zoning Ordinance that would treat covered/ tarped over and antique vehicles in the same manner the Zoning Ordinance regulates recreational vehicles in that these vehicles would be required to be parked in the buildable area of the lot behind the front wall of the principal structure (the house).

**IV. REVISIONS TO THE PARKING REQUIREMENTS FOR CERTAIN RESIDENTIAL, COMMERCIAL AND INDUSTRIAL USES:**

**INTRODUCTION:** To amend Section 37-1202.1: GENERAL REQUIREMENTS for off street parking and loading specifically subsections (B) and(C) permitting the reduction of required parking spaces in a residential district where transit opportunities are available within the development.

- A. To amend Section 37-1203: SCHEDULE OF OFF STREET PARKING REQUIREMENTS to reduce/reclassify the required parking spaces for certain types of residential, commercial and industrial land uses.
- B. In the past several years the County has researched, held public hearings and ultimately adopted new parking standards for Place of Assembly type uses based on data gathered from several sources including data from the Institute of Traffic Engineers manuals (ITE), DuPage County Division of Transportation, the Regional Transportation Authority (RTA) parking studies and studies performed by individual petitions for zoning relief.
- C. As part of the research performed for the Place of Assembly use parking changes staff has determined that there are several other land use categories wherein the current parking standards in the County Zoning Ordinance are either insufficient or obsolete.

D. As such, staff proposes parking requirement changes for several categories of land uses based on research data provided by ITE, RTA and individual studies performed by traffic consultants for individual zoning and plat cases.

**CODE CHANGES:**

**ARTICLE III. RULES AND DEFINITIONS**

**37-302: DEFINITIONS:**

**Amend:**

Derelict Vehicle: Any inoperable, and/or unregistered and/or discarded motor vehicle, regardless of title, **having lost its character as a substantial property where the vehicle** is left unattended without justification by the owner of the vehicle or property owner.

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HOUSEHOLD ACCESSORY EQUIPMENT: Any device, including any device designed for a commercial application which is used for private purposes only (not for hire) which serves an accessory purpose on a residential zoning lot including, but not limited to garbage containers, snow removal equipment, lawn and garden equipment, **and generators (not to exceed 5,000 watts)** and similar type devices.

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RESERVE LOT (FLAG LOT): A buildable lot where access is obtained by way of a narrow strip of land (reserve strip) from a dedicated street only; as follows:

Each reserve lot shall contain a minimum of forty thousand (40,000) square feet, which shall not include the portion of the lot used as the reserve strip. However, where a specific zoning district requires more than forty thousand (40,000) square feet of land area, that portion of the reserve lot used as the reserve strip may be included as part of the minimum area requirement for the zoning district;

Each reserve strip providing access to a lot shall be not less than twenty feet (20') in width;

The lot width may include the width of the reserve strip and shall comply with the minimum lot width requirements in the underlying zoning district.

That not more than three (3) lots consisting of two (2) reserve lots with reserve strips, each twenty feet (20') in width, and one key lot with a frontage of not less than **the minimum lot width requirement for the zoning district one hundred twenty five feet (125')** wide along the dedicated street shall be permitted;

That where more than one reserve lot is created, the reserve strips access to interior lots, shall be dedicated and marked as a private easement for access to all reserve lots with only one permitted entrance to the dedicated street.

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**ARTICLE VII. RESIDENCE DISTRICTS**

**37-700.7: OFF STREET PARKING AND LOADING REQUIREMENTS:**

A. Single-Family Residence Districts:

1. Parking of motor vehicles shall be permitted as follows:

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b. Any motor vehicle parked on the lot shall be limited to only those vehicles customarily kept for utility and/or enjoyment on residential lots including antique, custom, multi-purpose passenger, non-commercial and recreational vehicles; and

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e. Any passenger motor vehicle parked on the lot, which is inoperable, and/or unregistered and/or discarded may be parked within a completely enclosed structure or may be parked in the open within the buildable area of the lot behind the rear wall of the principal structure for a period not to exceed three (3) consecutive months.

d. The owner of the property may use not more than one of the six (6) resident passenger motor vehicles for off-premise commercial purpose. Such vehicle may have ladder racks, toolboxes, a snowplow and/or company name and logo, etc., on the passenger vehicle.

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**g. Passenger vehicles which are permitted within this section which are covered with a tarp or other protective covering and antique passenger vehicles which are permitted within this section shall be parked, stored or located within an enclosed building or behind the front wall of the principal building which is nearest to the front lot line and in the buildable area of the lot.**

B. General Residence Districts:

1. Parking of motor vehicles shall be permitted as follows:

b. Any motor vehicle parked on the lot shall be limited to only those vehicles customarily kept for utility and/or enjoyment on residential lots including antique, custom, multi-purpose passenger, non-commercial and recreational vehicles; and

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**37-700.8: REQUIRED CONDITIONS:**

Permitted or conditional uses established in the residence districts shall comply with the following required conditions:

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**D. Small utility trailers, used only on the lot or used with a motor vehicle on the public highways, with a gross weight rating of three thousand (3,000) pounds or less (class TA) shall be required to conform to the area and parking standards for recreational vehicles in subsections 37-700.7B2a and C2 of this chapter. (Re-letter accordingly)**

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**Add to Sections 37-701: R-1 SINGLE-FAMILY RESIDENCE DISTRICT: 37-701.1: PERMITTED USES; 37-702: R-2 SINGLE-FAMILY RESIDENCE DISTRICT: 37-702.1 PERMITTED USES; 37-703: R-1 SINGLE-FAMILY RESIDENCE DISTRICT: 37-703.1: PERMITTED USES; 37-704: R-1 SINGLE-FAMILY RESIDENCE DISTRICT: 37-704.1: PERMITTED USES the following:**

B. Permitted Encroachments: The following accessory buildings, structures and uses are permitted and may encroach in the required setback yards as follows:

(F - Denotes front yard; R - Denotes rear yard; S - Denotes interior side yard; CS - Denotes corner side yard)

Use:	Setback or Permitted encroachment into required yard	A. Required Yards			
		F	S	R	CS
Air conditioning window units	May encroach 2'	F	S	R	CS
Arbor	3' Setback	F	S	R	CS
Architectural entrance	5' Setback	F	S	R	CS
Architectural feature (not to exceed 4 feet in height)	May encroach 30%		S	R	-
Awning	May encroach 10%	F	S	R	CS
Balcony	May encroach 10%	F	-	R	CS
Basketball: Court, poles, rim, net	10' Setback	-	S	R	-
Bay window	May encroach 10%	F	S	R	CS
Chimney	May encroach 10%	F	S	R	CS
Compressors: for air conditioning units/heat pump	May encroach 10%	-	<b>-S</b>	R	-
Deck	15' Setback	-	-	R	-
Dog run	10' Setback	-	-	R	-
Driveway: side loading attached garage	1' Setback	F	S	R	CS
Driveway: detached garage, carport and open-air parking space behind the house.	1' Setback	F	S	R	CS
Eave and gutter	May encroach 10%	F	S	R	CS
Fence. (See also section 37-407 of this article)	3 inches Setback	F	S	R	CS
Firewood	3' Setback	-	S	R	-
Flagpole	10' Setback	F	S	R	CS
Fountain	10' Setback	F	S	R	CS
Gate: Entrance gates not to exceed 8 feet in height and must be at least 50% open.	5' Setback	F	-	R	CS
Gazebo	10' Setback	-	-	R	-
<b>Generator</b>	<b>May encroach 10%</b>	<b>-</b>	<b>S</b>	<b>R</b>	
Gutter and Eave	May encroach 10%	F	S	R	CS
Laundry drying equipment	10' Setback	-	-	R	-
Light standard	5' Setback	F	S	R	CS
Outside fireplace	3' Setback	-	S	R	-
Patio	3' Setback	-	S	R	-
Pond: Ornamental	10' Setback	F	S	R	CS
Porch: Open or roofed	May encroach 10%	F	-	R	CS
Portico: Open or roofed	May encroach 10%	F	-	R	CS
Recreational structure and equipment	10' Setback	-	-	R	-
Retaining wall	1' Setback	F	S	R	CS
Sidewalk, path and walkway.	1' Setback	F	S	R	CS

Sign: (See article XI)					
Statuary	10' Setback	F	S	R	CS
Stoop	May encroach 30%	F	S	R	CS
Sump pump and surface water discharge pipes/ structure	3' Setback	F	S	R	CS
Swimming pool, open air outdoor	10' Setback	-	-	R	-
Tennis court	10' Setback	-	-	R	-
Terrace	3' Setback	-	S	R	-
Trellis	3' Setback	F	S	R	CS
Volleyball Court	10' Setback	-	-	R	-
Well head	5' Setback	F	S	R	CS
Wing Wall (not to exceed 4 feet in height)	May encroach 30%		S	R	CS
Decks, gazebos, patios and terraces: Planned Development:	<p>Where a residential development, (attached or detached), is developed as a planned development which contains a Homeowners Association (HOA), and is developed on fee simple lots with rear yards of 20 feet where the rear yard is adjacent to interior common open space which is at least 20 feet wide, decks, gazebos, patios and terraces may be permitted 3 feet from the rear lot line providing the following:</p> <ol style="list-style-type: none"> <li>1. The HOA has voted to allow said structures 3 feet or greater from the rear lot line.</li> <li>2. The HOA has authorized the encroachment and sent to the County an executed document of approval as part of the building permit application.</li> </ol>				
Docks: Residential development adjacent to private lake:	<p>Where a residential development is developed on fee simple lots and the rear lot lines are adjacent to interior common open space consisting of a lake which extends into the rear yards of the lots and which contains a Homeowners Association (HOA), docks may be allowed within the rear yards of the lots extending into the lake (common open space) for a distance not to exceed ten feet (10') provided the following:</p> <ol style="list-style-type: none"> <li>1. The HOA has voted to allow docks within the rear yards of the lots extending into the lake (common open space) for a distance not to exceed ten feet (10').</li> <li>2. The HOA has authorized the encroachment and sent to the County an executed document of approval as part of the building permit application.</li> </ol>				

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Add to sections 37-701: R-1 SINGLE-FAMILY RESIDENCE DISTRICT: 37-701.2: CONDITIONAL USES; 37-702: R-2 SINGLE-FAMILY RESIDENCE DISTRICT: 37-702.2: CONDITIONAL USES; 37-703: R-3 SINGLE-FAMILY RESIDENCE DISTRICT: 37-703.2: CONDITIONAL USES; 37-704: R-4 SINGLE-FAMILY RESIDENCE DISTRICT: 37-704.2: CONDITIONAL USES the following:

**Accessory Uses on a residential zoning lot, (including buildings, structures and uses) that are accessory to the principal use, building or structure on a residential zoning lot which have been established on a residential lot for at least five (5) years but without proper authority, (e.g.: without building or zoning permits).**

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**AMEND ARTICLE XII. OFF STREET PARKING AND LOADING REQUIREMENTS**

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**37-1202.1: GENERAL REQUIREMENTS:**

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B. Location:

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~~5. No accessory off street parking facility for a building or use located in an office, business, or industrial district shall be located in a residence district except upon the granting of a variation by the county board.~~

**(Renumber Accordingly)**

6. No neighborhood retail or business use shall be conducted within a residence district except by conditional use—planned development, adopted by the county board. In such instances, and ~~As~~ as an integral part of **any** ~~the~~ planned development, where the design of **such a** retail or business use has an orientation toward pedestrian or bicycle traffic which can be justified by appropriate documentation, a reduction in the number of required off street parking spaces may be granted of up to fifteen percent (15%) of the number of **parking** spaces otherwise required by the strict application of this chapter.

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C.

2. Transit Facilities: The availability of rapid rail and scheduled bus service can decrease the parking demand in certain instances. To qualify for permissible reductions in parking space requirements because of close proximity to transit rail or bus transit services, the Petitioner shall submit evidence to the county development committee of the county board that their business location meets the general guidelines of DuPage County as follows:

- a. An exception to reduce required parking by up to ten percent (10%) based on substantiated projections (ridership) reducing parking demand, may be granted for any **residential subdivision or planned**

**development of ten (10) dwelling units or more**, office, business or industrial building or complex located within one-half (1/2) mile of any commuter rail station or other recognized transit station.

b. An exception to reduce required parking by up to five percent (5%) based on substantiated projections (ridership) reducing parking demand, may be granted for any **residential subdivision or planned development of ten (10) dwelling units or more** office, business or industrial building or complex located within one-quarter (1/4) mile of any regularly scheduled bus route with service during peak commuting hours.

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**AMEND Section 37-1203: SCHEDULE OF OFF STREET PARKING REQUIREMENTS:**

		DWELLINGS
1-1	Dwelling, Single Family Detached Separate living quarters, domestic Servants	Two (2) parking space per each dwelling unit
1-2	Dwelling , Single Family Attached Dwelling, Two Units Dwelling, Three Units Quadraplexes Mobile Home Parks	Two and one-half (2.5) parking spaces per each dwelling unit, to be located on the lot. <b>Where available the half (.5) parking space requirement may be located in a common area owned and operated by the management of the facility or by the Homeowners Association of the facility.</b>
1-3	Apartments (Multiple Family) except as shown above and except for elderly housing. Studio, Efficiency or one (1) bedroom	One and one half (1.5) parking spaces per dwelling unit; <b>Where available the half (.5) parking space requirement may be located in a common area owned and operated by the management of the facility or by the Homeowners Association of the facility.</b>
		Two Bedrooms - one and one and three quarters (1.75) parking spaces per dwelling unit; <b>Where available the half (.5) parking space requirement may be located in a common area owned and operated by the management of the facility or by the Homeowners Association of the facility.</b>
		Three or more bedrooms-two (2) parking spaces per dwelling unit. <b>Where available the half (.5) parking space requirement may be located in a common area owned and operated by the management of the facility or by the Homeowners Association of the facility.</b>
1-4	Elderly Housing	One (1) parking space per each two (2) dwelling units; plus one (1) space per each employee on the premises; plus not less than ten (10) percent of all spaces to be reserved for the disabled.
		GROUP QUARTERS
1-5	Dormitory	Five (5) parking spaces per each 1,000 square feet of gross floor

	Fraternity Lodging House	area.
<b>RESIDENTIAL CARE</b>		
1-6	Day Care Center - Adult Day Care Home Family Care Home for the Developmentally Disabled Foster Family Home Senior Citizen Home Sharing	One (1) parking space per each employee, plus One (1) parking space per each three (3) residents based on rated design capacity.
1-7	Day Care Center Night Care Facility	One (1) parking space per each employee, plus One (1) parking space per each fifteen (15) children based on rated design capacity.
1-8	Principal Arterial Office Uses	Minimum and maximum <b>three (3)</b> <del>3-3</del> spaces per 1,000 square feet of office space within the dwelling unit.
<b>PARKING CATEGORY NUMBER 2 - SCHOOLS</b>		
2-1	Business, Corporate Training Centers Dance School Music School	<b>Four (4)</b> <del>Five (5)</del> parking spaces for each 1,000 square feet of gross floor area.
2-2	Elementary, public or private Junior High, public or private	One (1) parking space per each classroom, plus One (1) parking space per each employee and visitor parking
2-3	Senior High, public or private	One (1) parking space per each employee, plus One (1) parking space per each six (6) students based on rated design capacity.
2-4	College or University Trade Schools Vocational Schools	One (1) parking space per each one (1) employee plus One (1) parking space per each four (4) students based on rated design capacity.
<b>PARKING CATEGORY NUMBER 3 - HEALTH/MEDICAL</b>		
3-1	Medical or Dental Clinic	<b>Five (5)</b> <del>Six (6)</del> parking spaces per each 1,000 square feet of gross floor area.
3-2	Hospital or Medical Center	A parking study shall be required which analyzes parking demand and supply on the basis of number of beds, employees, ratio of inpatient to outpatient usage, and other pertinent factors.
3-3	Home for the Aged Intermediate Care Facility Nursing Home Sheltered Care Facility Sheltered Care Home Skilled Nursing Facility	One (1) parking space per each two (2) beds plus One (1) parking space per each employee or one and one-half (1 ½) parking spaces per each 1,000 square feet of gross floor area, whichever is greater.
<b>PARKING CATEGORY NUMBER 4 - RECREATIONAL/CIVIC/SOCIAL</b>		
4-1	Art Gallery, private Club or Lodge Community Center Community Theater, amateur Gymnasium	<b>Four (4)</b> <del>Five (5)</del> parking spaces per each 1,000 square feet of gross floor area.

	Health Club Indoor Arena Indoor Stadium Labor Union Halls Library, public or private Museum, private Other Indoor Recreation Other Meeting Places for an organization Recreation Building	
4-2	Golf Courses	Forty (40) parking spaces per each nine (9) holes, plus, one (1) parking space per each two (2) employees, plus additional parking spaces as applicable for any accessory retail/service area in accordance with the provisions of Sec. 37-12.1.
4-3	Theater Race Track	Thirty (30) parking spaces per each 1,000 square feet of gross floor area.
4-4	Theater, Drive-In	<b>Reservoir/stacking parking spaces equal in number to 10 percent of rated design capacity use</b>  <del>Reservoir spaces as determined by the Director, County Development Department.</del>
4-6	Swimming Facilities	One (1) parking space per each seventy-five (75) square feet of water, plus One (1) parking space per each two (2) employees, <del>plus additional parking spaces, as applicable, in accordance with the provisions of Sec. 37-12.1 of this Ordinance.</del>
4-7	Handball Club Racquetball Club	Two (2) parking spaces per each court, plus One (1) parking space per each employee, <del>plus additional parking spaces, as applicable, for any accessory use in accordance with the provisions of Sec. 37-12.1 of this Ordinance.</del>
<b>PARKING CATEGORY NUMBER 5 – PLACE OF ASSEMBLY USE RELIGIOUS USE/INSTITUTIONAL</b>		
5-1	Cemetery Columbarium Crematory Mausoleum	Two (2) parking spaces per each 1,000 square feet of gross floor area.
5-2	Main Place of Assembly	One (1) space for every two (2) seats in the main assembly area based on designed rated occupant load.
5-3	Convent Monastery Nunnery Religious Retreat	One (1) parking space per each nonresident employee, plus One (1) parking space per each five (5) residents, <del>visitor parking to be determined by the Director, County Department of Economic Development and Planning.</del>
<b>PLACE OF ASSEMBLY USE- CIVIC/SOCIAL</b>		
5-4	Private Club or Lodge	One (1) space for every two (2) seats in the main assembly area based on designed rated occupant load.
<b>PARKING CATEGORY NUMBER 6 - BUSINESS USES</b>		

RETAIL

6-1	Amusement Arcades Auction Facilities Recreation Centers	Ten (10) parking spaces per each 1,000 square feet of gross floor area.
6-2	Antique Shops Art Shops or Gallery Automobile Accessory Stores Automobile Service Stations Bakery Stores Bicycle Sales, Rental and Repair Book and Stationery Stores Business Machine Store, Sales and Service Camera and Photographic Supply Stores Candy and Ice Cream Stores Car Radios & Mobile Telephones, Sales Only Catering Establishments Coin and Philatelic Stores Dairy Product Establishments Department Stores Discount Stores Drug Stores Dry Cleaning & Laundry, Automatic Dry Cleaning & Laundry Receiving Stations Dry Goods Stores Electrical Appliance Stores Electrical Show Rooms Florist Shops Flower Shops with Conservatories Frozen Food Store Fruit Markets Garden Supply, Tool, and Seed Stores Gift Shops Hardware Stores Hobby Shops Household Appliance Stores Interior Decorating Shops Jewelry Stores Meat Markets Mini-marts Package Liquor Stores Pawn Shops Pet Shops Photography Studios Plumbing Showrooms Prepared Food Delivery Store Quick Print Shops Radio and Television Sales, Service, and Repair Shops Roadside Stands Sewing Machine Sales and Service	<b>Four (4)</b> <del>Five (5)</del> parking spaces per each 1,000 square feet of gross floor area.

	Shoe Stores Sporting Goods Stores Tattoo Parlors Tile Stores Tobacco Shops Toy Shops Variety Stores Wearing Apparel Shops	
6-3	Carpet and Rug Stores China and Glassware Stores Clothing and Costume Rental Stores Electrical Showrooms Exterminating Shops Furniture Stores Furrier Shops Hearing Aid Stores Leather Goods and Luggage Stores Live Bait Stores Locksmith Shops Mail Order and Catalog Sales Stores Motor Vehicle Sales - New and Used Music Stores Office Machine Sales Open Sales Lots Optical Office & Sales Orthopedic and Medical Appliance Stores Packaging and Crating Paint, Glass and Wallpaper Stores Tailors	Three (3) parking spaces per 1,000 square feet of gross floor area.
6-4	Boats, Campers, Mobile Homes and Recreational Van Sales and Rental	One (1) parking space per each 2,000 square feet of gross land area.
<b>MOTEL/HOTEL</b>		
6-5	Hotel, Motel Lodging Room	One (1) parking space per each lodging room, plus One(1) parking space per each employee, plus additional parking spaces applicable, per the accessory retail service/entertainment area in accordance with the provisions of Sec. 37-12.1 of this Ordinance.
<b>RESTAURANT, TAVERN, AND BANQUET FACILITY</b>		

6-6	Class "A" Restaurant	Fifteen (15) parking spaces per each 1,000 square feet of gross floor area. Plus Five (5) reservoir spaces per each drive-in window.
	Class "B" Restaurant	Fifteen (15) parking spaces per each 1,000 square feet of gross floor area- <b>plus five (5) reservoir spaces per each drive-in window.</b>
	Class "C" Restaurant	Twenty (20) parking spaces per each 1,000 square feet of gross floor area. - <b>plus five (5) reservoir spaces per each drive-in window.</b>
	Banquet Facility	One (1) parking space for every <b>four (4) three (3)</b> seats, plus One (1) parking space per each employee
	Carry Out Restaurants	Four (4) parking spaces per each 1,000 square feet of gross floor area.

**SERVICES**

6-7	Office, Business, Professional & Governmental, excluding Medical/Dental	<b>Three (3) Three &amp; three tenths (3.3)</b> parking spaces per each 1,000 square feet of gross floor area.
6-8	Animal Grooming Animal Pound Automobile Repair Garages Building or Related Trades Caskets & Cemetery Vaults Carpenter Shops, Air Conditioning, Plumbing and Heating Shops Duplicating and Letter Service Firms Ice Sales and Storage <b>Public Garages</b>	Three (3) parking spaces per each 1,000 square feet of gross floor area.
6-9	Animal Hospitals & Veterinarian Art Work, Commercial Graphics Banks Barber Shops Beauty Parlors Blueprinting Establishments Currency Exchanges Dry Cleaning Plants Employment Agency Financial Institutions Kennels Laundromats Laundry Plants Linen, Towel, Diaper and similar supplies Machine Sales Medical/Dental Laboratories Pet Cemeteries	Four (4) parking spaces per each 1,000 square feet of gross floor area, plus Five (5) reservoir parking spaces per each drive-in window.

	Photostating Establishment Radio Stations or Studios Recording or Sound Studios Service, general Shoe and Hat Repair Stores Taxidermist Television Stations or Studios Ticket Agency Transportation Ticket Office Travel Bureaus Utility Facilities Offices, private Utility Facilities Offices, public	
<b>SERVICES/TRADE</b>		
6-10	Automobile Rentals Building Materials & Products, Sales and Storage Contractor or Construction Offices, Shops or Yards Greenhouses and Nurseries Model Homes and Garage Displays	One (1) parking space per each 1,000 square feet of gross floor area plus One (1) parking space per <b>each employee 2,000 square feet of gross land area.</b>
<b>SERVICE/MISCELLANEOUS</b>		
6-11	Funeral Homes	Four (4) parking spaces per each 1,000 square feet of chapel area or four (4) parking spaces per each seventy-two (72) lineal inches of seating space. In addition, there shall be not less than one (1) parking space per each vehicle used in conducting business and one (1) parking space per each employee. <del>There shall also be off-street reservoir spaces equal to thirty (30) percent of the number of parking spaces required which may include the use of parking lot access aisles.</del>
6-12	Automobile Laundries, Manual	One (1) parking space per each two (2) employees, plus <del>One (1) parking space per each manager,</del> plus Two (2) reservoir parking spaces per each washing bay, one (1) of which shall be located in front of, and one (1) directly in back of each manual car wash bay.
	<b>Automobile Laundries</b> Automatic	One (1) parking space per each two (2) employees plus <del>One (1) parking space per each manager</del> plus Fifteen (15) reservoir parking spaces.
<b>INTEGRATED SHOPPING CENTERS</b>		
Integrated Shopping Centers which do not contain theaters, restaurants, medical offices or other uses requiring spaces in excess of five (5) spaces per 1,000 square feet of gross floor area as determined by the Director, County Development Department, shall provide parking spaces in accordance with the following:		

6-13	Shopping Centers, CLASS A, with up to 24,000 square feet of gross floor area.	<b>Three (3)</b> <del>Four (4)</del> parking spaces per each 1,000 square feet of gross floor area.
6-14	Shopping Centers, CLASS B, with 24,000 square feet, but less than 400,000 square feet of floor area.	<b>Four (4)</b> <del>Four and one half (4 ½)</del> parking spaces per each 1,000 square feet of gross floor area.
6-15	Shopping Centers, CLASS C, with 400,000 square feet or more of gross floor area.	<b>Four and one half (4.5)</b> <del>Five (5)</del> parking spaces per each 1,000 square feet of gross floor area.

Where theaters, restaurants, medical offices or other uses requiring spaces in excess of five (5) spaces per 1,000 square feet of gross floor area as determined by the Director, County Development Department, are established as a portion of any Integrated Shopping Center, such uses shall provide parking spaces calculated on the basis of the individual use(s) using the schedule of Off-street Parking Requirements under Sec. 37-12.3.

**PARKING CATEGORY NUMBER 7 - INDUSTRIAL USES**

7-1	Agricultural Implement Sales and Service Asphalt Products Manufacture Bakeries Beverages, Bottling and Distribution Boiler and Tank Manufacturing Boot and Shoe Manufacturing Concrete Mixing Plants Dairy Products Processing Electronic & Scientific Precision Instruments Mfg. Food Mfg., Packaging & Processing Fuel Distribution, Gasoline, LP gas Furniture, Bedding and Carpet Manufacture General Manufacturing and Industrial Activities Glass Products Production & Sales Laboratories for Engineering and Testing Activities Light Machinery Production & Assembly Machine Shops Mail Order Houses Metal Stamping Mining, Loading, Hauling of Sand, Gravel and other Aggregate Paper Products Manufacture Pottery and Ceramics Manufacture Printing and Publishing Establishment Sheet Metal Shops Stone Products Manufacture Wearing Apparel Manufacture Woodworking Other Industrial, Processing, Assembly and Finishing	One (1) parking space per each 1,000 square feet of gross floor area or one (1) parking space per each two (2) employees, whichever is greater.
7-2	Air Freight Terminal Cartage & Express Facility Motor Freight Terminal	Two (2) parking spaces per 1,000 square feet of gross floor area or two (2) parking spaces per each three (3) employees, whichever is greater.

	Railroad Freight Terminal	plus Reservoir area as determined by the Director, County Development Department.
7-3	Warehouses, Storage & Distribution Facilities Wholesaling	One (1) parking space per each 1,000 square feet of gross floor area up to 100,000 square feet of gross floor area. Thereafter, one (1) additional parking space per each 2,000 square feet of gross floor area.
7-4	Automobile Graveyard Automobile Salvage Junkyard Sanitary Landfill Solid Waste Collection Transfer Station	Two (2) parking spaces per each employee.
TRANSPORTATION/ COMMUNICATION/ PUBLIC UTILITIES		
7-5	Airport/Heliport Bus Station Self-Storage Facilities Essential services, including fully automated gas regulating stations, telephone exchanges and electric substations. Railroad passenger stations when not located on railroad property. Towers and antennas, commercial, for radio, television, and telephone transmitting, receiving or relay stations. Waste water treatment plants. Water works, reservoirs, pumping stations, filtration plants and wells. Other governmental and utility service uses.	Parking spaces and reservoir area as determined by the Director, County Development Department.

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**37-1403: ZONING BOARD OF APPEALS AND ZONING HEARING OFFICER:**

**37-1403.1: CREATION AND MEMBERSHIP:**

- A. **ZONING BOARD OF APPEALS:** The zoning board of appeals is hereby established, which board shall consist of the seven (7) members heretofore appointed by the chairman of the county board and confirmed by the members of the county board. All members of the zoning board of appeals shall be residents of separate congressional townships of DuPage County. All subsequent members of the zoning board of appeals shall be appointed for terms of five (5) years each. The chairman of the county board shall have the power to remove any member of the zoning board of appeals for cause, after a public hearing. (2005 Code)
- B. **CHAIRMAN OF THE ZONING BOARD OF APPEALS:** The chairman of the county board shall name one of the members of the zoning board of appeals as chairman upon appointment, and in case of a vacancy the appointing power shall designate a chairman.

- C. **ZONING HEARING OFFICER: The zoning hearing officer position is hereby established, which position shall consist of one (1) zoning hearing officer. The Zoning Hearing Officer shall be appointed by the chairman of the county board and confirmed by the members of the county board.**

**37-1403.2: CHAIRMAN AND MEETINGS:**

- A. ~~The chairman of the county board shall name one of the members of the zoning board of appeals as chairman upon appointment, and in case of a vacancy the appointing power shall designate a chairman.~~ All meetings of the zoning board of appeals shall be held at the call of the chairman and at such time and places within the county as the zoning board of appeals may determine. The chairman **of the Zoning Board of Appeals**, or in the absence of the chairman, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the zoning board of appeals **and Zoning Hearing officer** shall be open to the public.
- B. The zoning board of appeals **and Zoning Hearing officer** shall keep minutes of its proceedings showing the vote of each member upon every question, or if a member is absent or fails to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the zoning board of appeals **and Zoning Hearing officer** shall immediately be filed in the office of the zoning board of appeals located in the office of the zoning division of the department of economic development and planning, and shall be a public record. In the performance of its duties, the zoning board of appeals **and Zoning Hearing officer** may make such expenditures as shall be authorized by the county board. The zoning board of appeals shall adopt its own rules of procedure not in conflict with the Illinois Compiled Statutes. (2005 Code)

**37-1403.3: JURISDICTION:**

The zoning board of appeals **and zoning hearing officer are** ~~is~~ hereby vested with the following jurisdiction and authority:

- A. To hear appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter.
- B. To conduct public hearings on and make recommendations to the **County Development Committee and** county board on applications for variation, conditional use, amendment, and planned development in the manner prescribed by and subject to the standards established in this chapter.
- C. Receive from the director, department of economic development and planning, the recommendations as to the effectiveness of this chapter and report its conclusions and recommendations to the county board not less frequently than once each year.
- D. To hear and decide all matters referred to it or upon which it is required to pass under this chapter, or prescribed by the applicable provisions of the Illinois Compiled Statutes. (2005 Code)

**37-1403.4: DECISION OF THE ZONING BOARD OF APPEALS AND ZONING HEARING OFFICER:**

Decisions and findings by the zoning board of appeals **or the zoning hearing officer** on any appeal after a public hearing, shall be the final administrative decision. All final administrative decisions of the zoning board of appeals **or the zoning hearing officer** shall be subject to judicial review pursuant to the provisions of the administrative review law, and all amendments and modifications thereof, and the rules adopted pursuant thereto.

The concurring vote of the four (4) members of the zoning board of appeals shall be necessary to reverse an order, requirement, decision, or determination of the administrative official or to decide in favor of the applicant any matter upon which it is required to pass. (2005 Code)

### **37-1404: COUNTY DEVELOPMENT COMMITTEE OF THE COUNTY BOARD:**

#### **37-1404.1: CREATION:**

The county development committee is a standing committee of the county board appointed by the chairman and confirmed by the members of the county board. (2005 Code)

#### **37-1404.2: CHAIRMAN AND MEETINGS:**

The chairman of the county development committee shall be appointed by the chairman of the county board and confirmed by the members of the county board. Meetings of the county development committee of the county board shall be held at the direction of the county board or at the call of the chairman. (2005 Code)

#### **37-1404.3: JURISDICTION RELATIVE TO THE COUNTY ZONING ORDINANCE:**

The county development committee of the county board is hereby vested with the following jurisdiction and authority relative to regulations promulgated by this code:

- A. To receive and review recommendations from the zoning board of appeals and the zoning hearing officer on variations, conditional uses, amendments, air rights development and planned developments and make their recommendations to the members of the county board.
- B. To review and approve the development and implementation of unlisted uses, after review and recommendation by the department of economic development and planning.
- C. To review and approve plans where variations or conditional uses have been granted by the county board to determine compliance with the ordinance and after site plan review and recommendation by the department of economic development and planning adoption of minor changes to the approved plan.
- D. To establish bonding requirements as required by conditions of the ordinance adopted by the county board when granting variations, conditional uses, or planned developments.
- E. Receive from the director, department of economic development and planning, and the zoning board of appeals their recommendations as to the effectiveness of this chapter and report its conclusions and recommendations to the county board not less frequently than once each year.
- F. To hear and decide all matters referred to it or upon which it is required to pass under this chapter, or prescribed by the applicable provisions of the Illinois Compiled Statutes.
- G. To review proposed changes in site plans for zoning petitions which have been granted previously by the county board and to make determination that the proposed changes are or are not essentially in accordance with the approved site plan.

The committee shall determine that proposed changes are not essentially in accordance with the approved site plan and the approved zoning relief if either of the following is present:

1. The proposed change violates the conditions which were placed on the approval of the zoning petition by the county board, or

2. The proposed change requires zoning relief which was not granted by the county board. (2005 Code)

**37-1405: COUNTY BOARD:**

The county board is the elected legislative branch of the county government and has reserved unto itself the final authority on variations, conditional uses, amendments, air rights development and planned developments. (2005 Code)

**37-1406: VOTING REQUIREMENTS FOR ZONING CASES:**

- A. Variation: May be passed at a county board meeting by a simple majority of the elected county board members. Any proposed variation which fails to receive the approval of the zoning board of appeals shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board.
- B. Text amendment: may be passed at a county board meeting by a simple majority of the elected county board members, except in the following circumstances:
  - 1. In the case of a written protest against the proposed text amendment signed by five percent (5%) of the land owners of the county, in which case such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board.
  - 2. In the case where the land affected lies within one and one-half (1 1/2) miles of the limits of a municipality, and said municipality files a resolution in objection with the county clerk, in which case such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board.
- C. Map Amendments: May be passed at a county board meeting by a simple majority of the elected county board members, except in the following circumstances:
  - 1. In the case of a written protest against any proposed map amendment signed by the owner or owners of at least twenty percent (20%) of the land to be rezoned in which case such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board; and/or
  - 2. In the case of a written protest against any proposed map amendment signed by the owner or owners of land immediately touching, or immediately across a street, alley, or public right of way from, at least twenty percent (20%) of the perimeter of the land to be rezoned in which case such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board; and/or
  - 3. In the case where the land affected lies within one and one-half (1 1/2) miles of the limits of a municipality, and said municipality files a resolution in objection with the county clerk in which case such amendment shall not be passed except by the favorable vote of three-fourths (3/4) of all the members of the county board. (2005 Code)

**D. Conditional Uses: May be passed at a county board meeting consistent with the County Board Rules or by a simple majority of the quorum.**

**37-1407: RESERVED:**

**37-1408: RESERVED:**

**37-1409: APPEALS:**

**37-1409.1: SCOPE OF APPEALS:**

An appeal may be taken to the zoning board of appeals by any person aggrieved, or by any office, department, board or bureau of the county. Such an appeal shall be taken within ten (10) days after the action complained of, by filing with the director, department of economic development and planning, and with the zoning board of appeals, a notice of appeal specifying the grounds thereof. The director, department of economic development and planning, shall forthwith transmit to the zoning board of appeals all of the papers constituting a record upon which the action appealed from was taken. (2005 Code)

**37-1409.2: FINDINGS ON APPEALS:**

An appeal shall stay all proceedings in furtherance of the action appealed from unless the director, department of economic development and planning, certifies to the zoning board of appeals, after the notice of the appeal has been filed with the director, that by reason of facts stated in the certificate to stay would, in the director's opinion, cause imminent peril to life and property, in which case the proceedings shall not be stayed unless otherwise by a restraining order which may be granted by the zoning board of appeals or by a court of record on application, on notice of the director, department of economic development and planning, and on due cause shown. (2005 Code)

**37-1409.3: HEARING AND ADMINISTRATIVE ACTION:**

- A. For all hearing requirements and procedures, see section 37-1415, "Public Hearings", of this chapter.
- B. The board shall reach its decision within a reasonable period of time after the hearing of the appeal. The board may affirm or may reverse, wholly or in part, or modify the order, requirements, decision, or determination that, in its opinion, ought to be done and, to that end, shall have all the powers of the officer from whom the appeal is taken. The director, department of economic development and planning, shall maintain records of all actions of the zoning board of appeals relative to appeals. (2005 Code)

**37-1409.4: REFUND OF FILING FEE:**

If the zoning board of appeals shall reverse an order, requirement, decision or determination, the person filing the appeal shall be refunded any filing fee which he shall have paid.

A refund shall be made only where the action complained of in the notice of appeal is wholly reversed or where the notice of appeal is withdrawn as provided below.

Where the notice of appeal shall be withdrawn by written notice thereof actually received by the secretary to the zoning board of appeals prior to the publication or mailing of the notice of appeal, the entire filing fee shall be refunded except any portion thereof which the county board may provide by resolution be retained to cover filing costs. Where the notice of appeal shall be withdrawn by written notice actually received by the secretary of zoning board of appeals after publication or mailing of notice of appeal, but before the public hearing, one-half (1/2) of the filing fee shall be refunded. No refund shall be made where the notice of appeal is withdrawn after the public hearing.

Refunds of filing fees for appeals shall be made only as provided for in this section and in strict accordance with practices established by the county treasurer's office for any refunds or release from the zoning trust fund. (2005 Code)

**37-1410: PETITION (APPLICATION) PROCEDURE:**

**37-1410.1: PETITION FOR VARIATION, AMENDMENT, CONDITIONAL USE, AIR RIGHTS DEVELOPMENT AND PLANNED DEVELOPMENT:**

Request for variation, amendment, conditional use, air rights development and planned development shall be filed as follows:

- A. Requests for variation, conditional use, air rights development and planned development may be initiated by resolution or motion of the county board or by petition (application) which seeks to vary the provisions of the zoning ordinance or to obtain a conditional use, air rights development or planned development as specified within the zoning ordinance.
- B. Map amendments may be initiated by resolution or motion of the county board or by petition (application) which seeks to change or modify the standards and requirements imposed on a particular parcel or parcels of property by the zoning district maps of this chapter.
- C. Text amendments may be initiated by resolution or motion of the county board or by petition (application) and shall state in particular the section, subsection and/or paragraph of the zoning ordinance to be amended. (2005 Code)

**37-1410.2: PETITIONER; APPLICANT REQUIREMENTS:**

- A. Petitioner shall be the fee owner, agent or attorney or other person having a proprietary interest in the property, and/or any person having the right to represent the owner.
- B. In the case where the fee owner has entered into a contract for the sale of the property sought to be affected, the contract purchaser shall be a co petitioner to the petition or application or shall provide a letter of authorization to represent the fee owner.
- C. In case of property that is the subject of a land trust agreement, the trustee of such trust, in his or her capacity as trustee, shall be the petitioner or co-petitioner to the petition or application or the applicant shall provide a letter of authorization from the trustee authorizing the applicant to represent the beneficial interest of the land trust.
- D. Where the petitioner or applicant is a corporation the petition or application shall include the correct names and addresses of all officers and directors, and of all stockholders or shareholders owning any interest in excess of twenty percent (20%) of all outstanding stock of such corporation.
- E. Where the petitioner or applicant, or his principal, if other than applicant, is a business or entity doing business under an assumed name, the petition or application shall include the name and residence of all true and actual owners of such business or entity.

F. Where the petitioner or applicant is a partnership, joint venture, syndicate or an unincorporated voluntary association, the petition or application shall include the names and addresses of all partners, joint ventures, syndicate members or members of the unincorporated voluntary association. (2005 Code)

### **37-1410.3: TRUST DISCLOSURE:**

Where property is the subject of a land trust agreement, the applicant shall provide a trust disclosure in compliance with "an act to require disclosure of all beneficial interests", chapter 148, section 71 et seq., Illinois Compiled Statutes, signed by the trustee of the trust. (2005 Code)

### **37-1411: VARIATIONS:**

Variations to this zoning ordinance may be affected as follows. (2005 Code)

#### **37-1411.1: PURPOSE:**

The zoning board of appeals **or the zoning hearing officer**, after a public hearing, may recommend that the regulations of this chapter be varied in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the board makes findings in accordance with the standards hereinafter prescribed, and further finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this chapter. (2005 Code)

#### **37-1411.2: PUBLIC HEARING:**

A. For all hearing requirements and procedures, see section 37-1415, "Public Hearings", of this chapter.

B. Such hearing shall be held **in a county building with adequate facilities for such hearing** ~~in each township affected by the proposed variation or in the county court house~~, provided that if the owner of any property affected by such proposed variation so requests, such hearing shall be held in the township affected by the proposed variation. (2005 Code)

#### **37-1411.3: STANDARDS FOR VARIATIONS:**

The zoning board of appeals **or the zoning hearing officer** shall not recommend variations to the regulations of this chapter unless it shall make findings based upon the evidence presented to it in each specific case demonstrating consideration with respect to the following:

A. That the granting of any variation is in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, detrimental to the public welfare, or in conflict with the county's comprehensive plan for development.

B. That the granting of the variation will not:

1. Impair an adequate supply of light and air to adjacent property;
2. Increase the hazard from fire or other dangers to said property;
3. Diminish the value of land and buildings throughout the county;

4. Unduly increase traffic congestion in the public streets and highways;
5. Increase the potential for flood damages to adjacent property;
6. Incur additional public expense for flood protection, rescue or relief; or
7. Otherwise impair the public health, safety, comfort, morals or general welfare of the inhabitants of DuPage County.

In addition, the zoning board of appeals **or the zoning hearing officer** may recommend that conditions and restrictions be imposed upon the premises benefited by a variation as may be necessary to comply with the criteria established in this subsection to reduce or minimize the effect of such variation upon other property in the area, and to better carry out the general intent of this chapter. (2005 Code)

**37-1411.4: TERMS OF RELIEF: ZONING BOARD OF APPEALS **OR THE ZONING HEARING OFFICER**:**

The terms of relief recommended shall be specifically set forth in a conclusion or statement separate from the findings of the zoning board of appeals **or the zoning hearing officer**. (2005 Code)

**37-1411.5: COUNTY DEVELOPMENT COMMITTEE ACTION:**

The recommendation of the zoning board of appeals **or the zoning hearing officer** shall be transmitted to the county development committee of the county board for its review and recommendation. The county development committee, in its recommendation to the county board may concur with the recommendation from the zoning board of appeals **or the zoning hearing officer**, may recommend that the county board not concur with the recommendation, or may concur in part and amend the recommendation. (2005 Code)

**37-1411.6: COUNTY BOARD ACTION:**

Except as provided in section 37-1411.9 of this article, no variation shall be granted except by ordinance duly passed and approved by the county board after public hearing and written recommendation from the zoning board of appeals **or the zoning hearing officer**. (2005 Code)

**37-1411.7: ORDINANCE; FINDINGS:**

Without further public hearing, the county board may grant, deny or amend the recommendation for variation. Every variation which is granted by ordinance of the county board shall be accompanied by findings and shall refer to any exhibits containing plans and specifications for the proposed variation, which shall remain a part of the permanent records of the zoning board of appeals **or the zoning hearing officer**. (2005 Code)

**37-1411.8: ORDINANCE; TERMS OF RELIEF:**

The terms of relief granted shall be specifically set forth in a conclusion or statement separate from the findings of the ordinance. The county board may establish such conditions and restrictions upon the establishment, location, construction, maintenance and operation of variations, as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in section 37-1411.3 of this chapter. (2005 Code)

### **37-1411.9: PROCEDURES FOR VARIATIONS OF TEN PERCENT OR LESS:**

A. Petitions seeking variations of ten percent (10%) or less from provisions of this chapter governing Bulk and location of structures may be filed with the director of the department of economic development and planning **or his designee**. The director **or his designee** may review the petition and determine whether the variation requested in the petition or other variation as he may deem appropriate shall be granted. No variation shall be granted unless it complies with the requirements set forth in section 37-1411.3 of this chapter.

1. Applicants requirements:

a. Four (4) copies of the proposed site plan. Said plan to show all existing building and structures, driveways, utilities and the proposed development.

b. One plat of survey.

c. Statement of hardship.

d. Application fees.

e. Notarized letters from all adjoining property owners stating the following:

(1) Name of the petitioner seeking the variation.

(2) Legal description of the subject property and address, if any.

(3) Name and signature of owners and address adjoining property.

(4) A statement of intended variation.

(5) A statement that the adjacent property owner does not object to the variation. The adjacent property owner shall affix his name to the statement and have same notarized.

B. Should the applicant be unable to receive notarized letters from all adjacent property owners, and if the director **or his designee** determines that the variation requested in the petition or other appropriate variation should be granted, he shall mail, by certified mail, to all owners of land adjoining the property for which relief is sought a notice of his intent to grant such variation. The notice shall give the legal description of the property and street address, if any; the name of the owners of the property; the name of the petitioner; and a statement of the variation which the director intends to grant. Additionally, the notice shall state that any objection to the granting of the variation must be filed with the director of the department of economic development and planning within thirty (30) days of the certified mailing.

If the director **or his designee** receives no objection after notice of his intent to grant the variation from any adjoining landowner within the period for the filing of such, he may grant the requested variation or the variation which he has determined to be appropriate. Such variation so granted shall be effective without hearing and recommendation by the county development committee and without adoption by ordinance of the county board as required in section 37-1411 of this chapter.

If the director or **his designee** receives a written objection to his intent to grant the variation from an adjoining landowner within the period for filing such, the director **or his designee** shall not grant any

variation but shall advise the petitioner that an objection has been filed. The director **or his designee** may grant the variation if the person making the objection subsequently files written withdrawal of his objection with the director **or his designee**. A variation to which an objection has been filed and not withdrawn as provided herein shall be granted only after a hearing and recommendation by the zoning board of appeals **or the zoning hearing officer**, review and recommendation by the county development committee, and adoption by ordinance of the county board as provided for in section 37-1411 of this chapter.

Variations may be granted under this section only for relief from requirements as to bulk and location of structures which do not exceed ten percent (10%). Further, a variation granted under this section shall be placed for recording with the office of the DuPage County recorder by the director; the petitioner to bear all costs of recording. (2005 Code)

### **37-1412: AMENDMENTS:**

For purposes of this article, terms shall have the following meanings:

MAP AMENDMENT: An amendment to the map or zoning district of the zoning ordinance, which affects an individual parcel or parcels of land.

TEXT AMENDMENT: An amendment to the text of the zoning ordinance which affects the whole county.

The regulations imposed and the districts created under this zoning ordinance may be amended from time to time by ordinance, after the ordinance establishing same has gone into effect. (2005 Code)

#### **37-1412.1: AUTHORITY:**

For the purpose of promoting the public health, safety and general welfare, the county board may, from time to time, in the manner hereinafter set forth, amend the regulations imposed in the districts created by this chapter or amend district boundary lines, provided that in all amendments to this chapter adopted under the authority of this chapter, due allowance shall be made for existing conditions, the conservation of property values, the direction of building development to the best advantage of the entire county, and the uses to which property is devoted at the time of the adoption of this chapter. (2005 Code)

#### **37-1412.2: PUBLIC HEARING:**

A. For all hearing requirements and procedures, see section 37-1415, "Public Hearings", of this chapter.

B. Such hearing shall be held **in a county building with adequate facilities for such hearing**, in each township affected by terms of the proposed amendment. ~~In considering text amendments, the hearing shall be held in the county court house.~~ The zoning board of appeals **or Zoning Hearing Officer** shall consider and make recommendations on all proposed amendments, taking into account:

1. The testimony at the hearing.
2. Site inspection of the property in question when determined to be necessary.
3. Letters and recommendations from all interested persons. (2005 Code)

#### **37-1412.3: FINDINGS AND RECOMMENDATIONS, ZONING BOARD OF APPEALS:**

Within a reasonable period of time after the close of the public hearing, the zoning board of appeals shall make written findings and submit same together with its recommendation to the county board. Where the purpose and effect of the proposed amendment is to change the zoning district classification of particular property, the zoning board of appeals shall make findings and transmit a recommendation to the county board based upon the evidence presented to it in each specific case with respect to the following matters:

- A. Existing uses of property within the general area of the property in question.
- B. The zoning classification of property within the general area of the property in question.
- C. The suitability of the property in question for the uses permitted under the existing zoning classification.
- D. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the property in question was placed in its present zoning classification.
- E. The length of time the property has been vacant as zoned, considered in the context of the land development in the area surrounding the subject property.
- F. The extent to which property values are diminished by particular zoning restrictions.

~~The zoning board of appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant.~~ (2005 Code)

**37-1412.4: COUNTY DEVELOPMENT COMMITTEE ACTION:**

The recommendation of the zoning board of appeals shall be transmitted to the county development committee of the county board for its review and recommendation. The county development committee, in its recommendation to the county board may concur with the recommendation from the zoning board of appeals, may recommend that the county board not concur with the recommendation, or may concur in part and amend the recommendation. (2005 Code)

**37-1412.5: COUNTY BOARD ACTION:**

After public hearing, findings and written recommendation by the zoning board of appeals, the county board may take action as follows:

- A. Text Amendments: Text amendments may be passed at a county board meeting by a simple majority of the elected county board members, unless written protests against the proposed text amendment are signed by five percent (5%) of the land owners of the county, or where a zoned municipality within DuPage County protests such amendment by resolution of the corporate authorities, filed with the county clerk, in which case such amendment shall not be passed except by the favorable vote of three-quarters (3/4) of all the members of the county board.
- B. Map Amendments: Map amendments may be passed at a county board meeting by a simple majority of the elected county board members except that in case of written protest against any proposed map amendment, signed and acknowledged by the owners of twenty percent (20%) of the frontage immediately adjoining or across an alley therefrom, or by the owners of twenty percent (20%) of the frontage directly opposite the frontage proposed to be altered, or in cases where the land affected lies within one and one-half (1 1/2) miles

of the limits of a zoned municipality, by resolution of the corporate authorities of the zoned municipality with limits nearest adjacent, filed with the county clerk, such amendment shall not be passed except by the favorable vote of three-quarters (3/4) of all members of the county board.

- C. Protests; Notification: In case of protests, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney as shown in the application for the proposed amendment. (2005 Code)

### **37-1413: CONDITIONAL USES:**

#### **37-1413.1: PURPOSE:**

This chapter is based upon the division of the county into districts, within which districts the use of land, and the uses and bulk of buildings and structures, are substantially uniform. It is recognized, however, that there are **conditional uses special uses** which, because of their unique characteristics, can only be properly classified in any particular district or districts upon consideration in each case of the impact of those uses upon neighboring land at the particular location. Such **conditional uses special uses** fall into three (3) **two (2)** categories:

- A. Uses publicly operated or traditionally affected with a public interest; **and**
- B. Uses entirely private in character, but of an unusual nature where their operation may give rise to unique problems or benefits with respect to their impact upon neighboring property, public facilities, or the county as a whole; **and**

**C. Accessory Uses on a residential zoning lot, (including buildings, structures and uses) that are accessory to the principal use, building or structure on a residential zoning lot which have been established on a residential lot for at least five (5) years but without proper authority, (e.g.: without building or zoning permits).**

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#### **37-1413.3: PUBLIC HEARING:**

- A. For all hearing requirements and procedures, see section 37-1415, "Public Hearings", of this chapter.
- B. Such hearing shall be held **in a county building with adequate facilities for such hearing** ~~in each township affected by the proposed conditional use, or in the county court house~~, provided that if the owner of any property affected by such proposed conditional use so requests, such hearing shall be held in the township affected by the proposed conditional use. (2005 Code)

#### **37-1413.4: FINDINGS AND RECOMMENDATIONS, ZONING BOARD OF APPEALS AND ZONING HEARING OFFICER:**

All final actions by the zoning board of appeals **and the Zoning Hearing Officer** concerning proposed conditional uses shall be transmitted **to the County Development Committee of the County Board** ~~county board~~ and shall be accompanied by findings which refer to any exhibits containing plans and specifications for the proposed conditional use and shall also be accompanied by recommendations for approval or denial by the county board. Those proposed conditional uses which go to the county board with no recommendation shall be

accompanied by a summary of the record of the public hearing and of the deliberations of the zoning board of appeals **or zoning hearing officer**. All exhibits containing plans and specifications shall remain part of the permanent records of the zoning board of appeals **or zoning hearing officer**. (2005 Code)

### **37-1415: PUBLIC HEARINGS:**

- A. When the provisions of this chapter require a public hearing in connection with any application, petition, or appeal, the zoning board of appeals **or the Zoning Hearing Officer** shall, upon receipt of a properly completed application, petition, or notice, fix a reasonable time and place for such hearing or meeting; provided, however, that such hearing or meeting shall be commenced no later than sixty (60) days, and shall be concluded no later than one hundred (120) days, following the submission of the subject application, or petition, unless the hearing or meeting agenda of the zoning board of appeals **or the Zoning Hearing Officer** is completely committed during that time.
- B. All hearings shall be open to the public and shall be held before the zoning board of appeals **or the Zoning Hearing Officer**.
- C. The zoning board of appeals **or the Zoning Hearing Officer** public hearing notice shall contain a description of the subject matter to be heard or considered at the hearing, the address or particular location of the subject development, and the time, place, and date of the hearing. The notice shall also contain a reference to the particular sections of this chapter involved.
- D. Notice of every hearing shall be given by mail or personal delivery to the applicant or petitioner. Notice by mail shall be mailed no fewer than fourteen (14) days in advance of the hearing by regular U.S. mail, except as otherwise specifically provided in this chapter.
- E. The zoning board of appeals **or the Zoning Hearing Officer** shall publish notice of the public hearing at least once, not less than fifteen (15) days before the date for the hearing, in a newspaper of general circulation in the geographic area where the property which is the subject of the hearing is located.
- F. Any interested person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence; provided, however, that the zoning board of appeals **or the Zoning Hearing Officer** may exclude irrelevant, immaterial, or unduly repetitious evidence.
- G. Subject to the discretion of the zoning board of appeals **or the Zoning Hearing Officer**, the applicant or petitioner, or any other party to the hearing, may be allowed any or all of the following rights:
  - 1. To present witnesses on their behalf.
  - 2. To cross examine all witnesses testifying in opposition to the application, petition, or appeal.
  - 3. To examine and reproduce any documents produced at the hearing.
  - 4. To have subpoenas issued by the zoning board of appeals **or the Zoning Hearing Officer** as may be provided by Illinois law for persons to appear at the hearings and for examination of documents by the person requesting the subpoena either before or during the hearing, where such persons or documents are shown to have a substantial evidential connection with:
    - a. The development to which the request applies; or

b. Facts that would support or negate the legal standards for granting or denying the request or appeal.

5. To a continuance, upon request, for the purpose of presenting evidence to rebut evidence introduced by any other person.

In determining whether to grant or withhold such rights, the discretion of the zoning board of appeals **or the Zoning Hearing Officer** shall be governed by the goal of securing all information and opinions relevant and material to its deliberations. Such rights shall not be granted, however, when undue and unwarranted delay would result or when to do so would tend to produce no new evidence to aid the zoning board of appeals **or the Zoning Hearing Officer** in reaching its decision.

H. The zoning board of appeals **or the Zoning Hearing Officer** may at any time, on its own motion or at the request of any person, adjourn the hearing for a reasonable time and to a fixed date, time, and place, for the purpose of giving further notice, taking further evidence, gathering further information, deliberating further, or for such other reason as the zoning board of appeals **or the Zoning Hearing Officer** may find sufficient. Proper notice of such a recess shall be given to all parties to the hearing, and any other person designated by the zoning board of appeals **or the Zoning Hearing Officer**.

I. All testimony at every hearing shall be given under oath.

J. Any person may at any time prior to the commencement of a hearing hereunder, or during such hearing, or within such time as may be allowed by the zoning board of appeals **or the Zoning Hearing Officer** following such hearing, submit written statements in support of or in opposition to the application, petition, or appeal being heard.

K. All other matters pertaining to the conduct of hearings shall be governed by the provisions of this chapter pertaining to, and the rules promulgated by, the zoning board of appeals **or the Zoning Hearing Officer**.

L. The record of the public meeting shall include:

1. All notices and responses thereto; and

2. A transcript or notes, if any, of all oral testimony received, and all written information, if any, submitted by parties or the public; and

3. Any recommendation or report by the hearing body; and

4. All memoranda or data submitted to the zoning board of appeals **or the Zoning Hearing Officer** in connection with its consideration of the subject matter of the hearing.

M. The decision or recommendation of the zoning board of appeals **or the Zoning Hearing Officer** shall be in writing and shall include findings of fact specifying the reasons for the decision. The copy of the written decision shall be provided to the applicant or petitioner and transmitted to the county board. (2005 Code)

END