

Land Regulations in DuPage County

Building Permits and Zoning

Updated 08/2007



182 N. YORK ST.
ELMHURST, IL
60126

PHONE
(630) 833-4080

FAX
(630) 833-4083

E-MAIL
cac@citizenadvocacycenter.org

WEB-SITE
www.citizenadvocacycenter.org

The use and regulation of real property affects all members of a community. The land use regulation process includes making changes to one's own property, as well as establishing and influencing zoning and building regulations at the municipal and county level. This brochure is intended to help citizens learn the general steps one must take in order to make changes on their land. The brochure will also describe the rights Illinois citizens have with regard to zoning/building issues. This brochure is meant to be purely educational; it should not be taken as legal advice. If you have a specific legal question, please contact a land use lawyer.

This brochure focuses more on land use regulations at the county level. However, keep in mind that every municipality has its own local land use regulations. Consult your local village or city code for more information.

Zoning laws

Zoning laws are regulations meant to control what type of structures can go on what type of property. Zoning laws help prevent new development from harming existing residences or businesses. These laws are commonly controlled by the local government, though some of the rules may be

determined by state or national authorities.

Zoning laws establish what activities are acceptable on particular lots. Some examples of these activities include: residential; agricultural; commercial; and industrial uses. Zoning laws may also restrict the height of buildings, their overall size, and the amount of land that is used for parking. Many public bodies have processes which allow exceptions from these zoning rules.

Do I need a permit to make changes on my land?

Most likely the answer to this question is "YES." In DuPage County, there is a process one must follow to legally make any changes to real property. This process includes obtaining a permit, learning what the permit represents, and following the rules once the permit is obtained.

In DuPage County it is unlawful to construct, alter, add to, relocate, remove, or demolish a building or structure without a permit. A permit is also required if a citizen would like to install equipment designated for the operation of a building or structure. These rules apply to such structures as homes, swimming pools, and hot tubs. Even if these structures are storable, a permit will still be required.

Who can apply for a permit?

Applications can be made by the owner of the land or an agent of the owner. If the application is made in person, it must be accompanied by a notarized authorization form, signed by both the owner and agent. There are special requirements if the work is to be done to a building or structure comprised of three or more individually owned units, and if the owners of those units are members of an owners' association. Rather than requiring permits from all owners, an affidavit executed by an authorized officer of the owners' association is required. The owners must have delegated responsibility for performing the proposed work to this officer, specifically giving him/her the authority to make the proposed changes.

How do I apply for a permit?

Any application for a permit to build, alter, install, or move any building or structure must include a survey plat of the lot bearing the seal of an Illinois registered land surveyor, or other Illinois licensed professional who has authority and certification to seal such surveys. This survey plat must show the original building or structure along with the proposed changes. All structures on the property must be depicted including, but not limited to: pools, decks, patios, and sheds. The survey plat must also indicate all attachments that could impact the proposed construction, and any other descriptive material required by the building official to help assess the situation.

The application form must be filled in completely and submitted as the building official prescribes. The applicant must also include a brief description of the proposed work. With this brief description, three sets of

complete plans, drawings, specifications, and calculations that meet architectural, mechanical, structural, and electrical needs are required. No building plans may be approved unless they are signed and sealed by an individual licensed to practice either architecture or structural engineering. If the request is for a single-family residential building, only two sets of work drawings are needed. If the structure to be added is 120 square feet or less, no drawings are needed. There may be additional information required by the building official to be submitted with the application.

The following is an example of a standard permit application: a single-family owns their home and wants to add a deck in their yard. They would first obtain a survey plat bearing the seal of an Illinois registered land surveyor. This survey plat would depict the existing buildings and structures along with the proposed changes to the land. On the application they would include the name and address of the owner of the home, a description of the proposed project, as well as two sets of work drawings that contain plans, drawings, specifications, and calculations to meet any architectural, mechanical, structural, and electrical needs of the structure. If the building official requires any additional information, the applicant would need to provide this as well.

What occurs once a permit is approved?

Once a permit is approved, work on the project must start within ninety (90) days. It is unlawful to change the plans for which the permit was given. If there are desired changes to the plan, notice must be given to the building official with the amended plan. Deviations from the original plan can only be made after an amended plan

showing the alteration to the project is obtained.

The approved stamped drawings and plans must be on file at the construction site while the work is in progress. The building permit must also be posted on site. Within the first ninety days of work, an inspection of the property must be on record.

If work does not start or there is no inspection recorded within ninety days, a new permit must be obtained before work begins. When obtaining a new permit, a fee will apply to the process. This fee may be waived if hardship is shown.

The foregoing is a general overview of the building permitting process in DuPage County. For more information visit the DuPage county website:
<http://www.dupageco.org/building>

You may also wish to visit your local government website to learn more about the permitting process in your town.

How can I have a voice in the zoning process?

DuPage County makes it easy for citizens to request a change or exception to their zoning boundaries. The application form is online at:

<http://www.dupageco.org/building/zbaApplication.pdf>

This application must be filled out completely and submitted to the DuPage County Zoning Board of Appeals in order for a citizen to be eligible for changes or exceptions to the zoning regulations.

Along with the application, one must include a copy of the current survey plat (sized to scale) with an accurate legal description of the property, ten copies of

the site plan, and proof of ownership of the property. Payment of the required fees is due when the application is submitted.

For more information, visit the DuPage County website. The site contains contact information, forms, and tutorials on zoning and building permits. The website is located at:

<http://www.dupageco.org/building/index.cfm>

For Cook County, visit:

<http://www.co.cook.il.us/agencyDetail.php?pAgencyID=12>

What are my rights at a public hearing?

Before being approved, most zoning changes and special use permits are subject to a public hearing. These hearings are public meetings under both the Illinois Open Meetings Act and the Illinois Freedom of Information Act. As with any other meeting, advance notice must be provided for the public hearing. Additionally, all property owners within 250 feet of the property in question must receive special notice of the public hearing.

At a public hearing, citizens are afforded the opportunity to speak. Whether a citizen is supporting or opposing the specific zoning regulation or special-use permit, citizens possess the same rights. Under the First Amendment, citizens are afforded wide latitude to speak their minds on an issue. However, the public body may place reasonable time, place and manner restrictions on public comment. Therefore, the public body may place a time limit on each person's comments, though the time limit must be

reasonable and applied equally to all citizens who make a comment.

The Illinois Supreme Court has also found that citizens have due process rights at a public hearing. The Court found "that municipal bodies act in administrative or quasi-judicial capacities when those bodies conduct zoning hearings concerning a special use petition." People ex rel. Klaeren v. Village of Lisle, 781 N.E.2d 223, 234 (2002). The due process rights at any given hearing will depend on the capacity in which the public body is serving. However, when acting in this administrative or quasi-judicial manner, the Illinois Supreme Court has provided citizens with "the due process rights normally granted to individuals whose property rights are at stake." Klaeren at 234. These due process rights include the right to cross-examine witnesses. Therefore, when a public body is acting in an administrative or quasi-judicial capacity at a special use hearing, citizens have a right to cross-examine witnesses who have previously testified at the hearing.

Be advised that this right may not vest when the public body is merely conducting initial fact-determination hearings or does not make final adjudications. Additionally, the right of cross-examination may be reasonably limited, so that only those persons with a special interest (persons residing within 250 feet of the property) or only those persons who pre-register may conduct cross-examination. Klaeren at 235-36.

How can I protest or organize around a land use issue?

Citizens have many rights when seeking to organize around a zoning or land use issue. These rights include due process rights, First Amendment rights, and rights provided by the Illinois Open Meetings Act and Illinois

Freedom of Information Act. These rights provide an opportunity to be present at a meeting, speak at a meeting, cross-examine witnesses at a public hearing, and obtain public documents from the public body. These rights are useful when attempting to organize around a zoning or land use issue.

In order to rally your community or organization around a specific land use issue, the following steps are recommended:

STEP ONE: Identify the Issue and Goals

The first step in organizing around a specific land use issue is to identify the precise issue involved. Does the issue involve a special use permit? A building permit? Approving variances to the zoning regulations?

Once the exact issue has been identified, formulate a list of goals or desired results. It is best to list not only the best-case results, but also any results that would satisfy your group.

STEP TWO: Identify the Decision-Makers

The next step is to identify the decision-makers. Essentially, you will be identifying the person(s) who can ultimately make the final decision regarding this specific land use issue. It is also helpful to brainstorm reasons these decision-makers have for ruling in favor and in opposition to your position. Creating this list is useful to formulate your arguments and ensure that you have a counter-argument to any arguments presented by the opposing side. Make sure to also identify any outside influences which may affect the decision-makers. Are the decision-makers elected? If so, citizens have enormous power to influence their elected representatives and ensure that these representatives are accountable to their constituents. This power is not as readily available if the decision-makers are part of a volunteer or appointed board, who are not accountable to any group of citizens.

STEP THREE: Create an Action Plan

After completing the two previous steps, you are ready to create an action plan. Your action plan will consist of a list of the tools and resources available to your group in order to accomplish your desired goals. Once this list is completed, brainstorm and write down ideas of how to use these tools and resources to influence the decision-makers and achieve your desired results. Suggestions for achieving your goals may include making a public comment at the public hearing or circulating a petition seeking support from other residents.

Do not underestimate the influence of the local media. Make sure to include the local media in your action plan. You can accomplish your goals with the assistance of the media by writing letters to the editor or speaking to reporters who are covering the meetings. Bring extra copies of your public comment to the meetings, so that you may provide them to any media present at the meeting. Many public bodies try to avoid negative press, so you may be able to achieve your desired results by pressuring the public body through the local media.

STEP FOUR: Enact the Action Plan

Once your action plan is created, devise a timeline of suggested completion dates for the tasks and assign the tasks among the members of your group. Meet regularly with the members of your group to assist each other in completing tasks and ensuring that nothing is left undone.

Where can I obtain documents on the permitting and zoning process?

Whether you have questions about building and zoning issues at the municipal or county level, the first and best place to start looking for applications, building codes, transcripts

of zoning board minutes, etc. is online at your local government website. If you do not have access to a computer, your local government offices can be located in the government pages of the phone book.

Furthermore, Illinois citizens have the right to access documents of the proceedings and records of their local government organizations per the Illinois Freedom of Information Act. The Act states that Illinois citizens should have access to the policies and acts of local public bodies. 5 ILCS 140/1. Local county boards and zoning commissions fall within the definition of a "public body" as listed in the Act. 5 ILCS 140/2. The Act does allow a public body to charge a reasonable fee for accessing public documents. However, the fee is meant to reflect the actual cost of reproducing and copying such documents rather than serve to discourage the dissemination of information. 5 ILCS 140/6. There are certain exceptions to access under the FOIA, and for questions concerning this or the process of applying to receive documents under the Act, please contact the public body from which you wish to obtain the documents. Please keep in mind that this Act is meant to facilitate access to "public" documents, which would include most documents and meeting minutes from a county or municipal zoning board.

The Citizen Advocacy Center, a nonpartisan, 501(c)(3), not-for-profit organization, is dedicated to building democracy for the 21st Century by strengthening the public's capacities, resources, and institutions for self-government. If you are interested in more information, becoming a volunteer, or making a tax-deductible contribution to the Center, please feel free to contact us at:

**182 N. York Rd.
Elmhurst, IL
60126-0420
(630) 833-4080
Fax: (630) 833-4083
E-Mail: cac@citizenadvocacycenter.org
Web site: www.citizenadvocacycenter.org**

©2007. Citizen Advocacy Center. All rights reserved. No part of this brochure may be reproduced in any form or by any means without the prior, written permission of the Citizen Advocacy Center.