

1 AN ACT concerning land development.

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

4 Section 1. Short title. This Act may be cited as the Land
5 Development Enforcement Act.

6 Section 5. Definitions. In this Act:

7 "Adversely affected" means that a land use decision has
8 or is expected to cause special harm or injury to a person,
9 neighborhood planning council, neighborhood organization, or
10 governmental unit over and above any harm of injury caused to
11 the public generally and that the asserted interests of the
12 person, organization, or governmental unit are among those
13 the unit of local government will be required to consider
14 when it makes the land use decision.

15 "Aggrieved" means that a land use decision may prejudice
16 or is likely to prejudice a person, neighborhood planning
17 council, neighborhood organization, or governmental unit and
18 that the asserted interests of the person, organization, or
19 governmental unit are among those the unit of local
20 government is required to consider when it makes the land use
21 decision.

22 "Certificate of Appropriateness" means the written
23 decision by a historic preservation or design review board
24 that a proposed development is in compliance with a historic
25 preservation or design review ordinance.

26 "Certificate of compliance" means the written
27 determination by a unit of local government that a completed
28 development complies with the terms and conditions of a
29 development permit and that authorizes the initial or changed
30 occupancy and use of the building, structure, or land to
31 which it applies. "Certificate of compliance" also includes

1 a temporary certificate issued by the unit of local
2 government during the completion of development that allows
3 partial use or occupancy for a period not to exceed 2 years
4 and under any conditions and restrictions that will
5 adequately assure the safety of the occupants and substantial
6 compliance with the terms of the development permit.

7 "Land use decision" means a decision made by a local
8 government officer or body, including the corporate
9 authorities of a unit of local government, on a development
10 permit application, an application for a conditional use,
11 variance, or remedial measure, or a formal complaint under
12 this Act and includes decisions made following a record
13 hearing or record appeal. "Land use decision" also means an
14 enforcement order or supplemental enforcement order issued
15 under this Act, but only for purposes of judicial review.

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

20 "Planning commission" means a municipal plan commission
21 or planning department, a regional planning commission
22 established under Section 5-14001 of the Counties Code, or a
23 township plan commission.

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

28 "Violation", "noncompliance" or similar terms consist of
29 one or more of the following:

30 (1) Development without a development permit
31 required by this Act or by any other ordinance or rule.

32 (2) Development contrary to the terms, provisions,
33 or conditions of a development permit issued under this
34 Act or any other ordinance or regulation.

1 (3) Engaging in a land use not permitted or allowed
2 by this Act or any other ordinance or rule.

3 Section 10. Enforcement generally.

4 (a) A unit of local government has the power and the
5 duty to enforce land development regulations, and may, by
6 ordinance, delegate that power and duty to the planning
7 commission. The ordinance may provide for, among other
8 things, the organization, staffing levels, training, and
9 compensation of the planning commission and its personnel.

10 (b) The unit of local government shall allocate funding,
11 personnel, and other resources to the planning commission at
12 levels sufficient to reasonably execute the powers and duties
13 of enforcement. If the unit of local government finds that
14 it cannot allocate sufficient resources, it must enter into
15 an implementation agreement assigning the powers and duties
16 of this Act to another governmental unit with sufficient
17 resources.

18 (c) In performance of its duty to enforce land
19 development regulations, the planning commission has the
20 power to enter upon any land and make inspections on any land
21 with the consent of the property owner or where the property
22 owner has no reasonable expectation of privacy thereon.

23 (d) In performance of its duty to enforce land
24 development regulations, and when entrance upon land or
25 inspection of land is not possible under subsection (c) of
26 this Section, the planning commission has the power to
27 petition the circuit court of the county in which the
28 property is located for an order authorizing the inspection
29 of the land.

30 The petition must set forth the facts and information
31 that are the basis for the issuance of the order and must be
32 accompanied by sworn affidavits of persons who have direct
33 knowledge of the facts and information in the petition.

1 The court shall issue an order authorizing the inspection
2 of land if the unit of local government proves that there is
3 probable cause to believe that the property is not in
4 compliance with land development regulations.

5 An order authorizing the entry to inspect land must be
6 executed by one or more agents or employees of the planning
7 commission, who may be accompanied by one or more sworn
8 officers of the law enforcement agency of the unit of local
9 government at the discretion of the planning commission. The
10 officers may not participate in the inspection and an entry
11 and inspection under this paragraph may not, by the mere
12 presence of police officers pursuant to this paragraph, be
13 considered to be a search by law enforcement officials.

14 (e) Entrance upon land and inspection under subsections
15 (c) and (d) is not a violation of Section 19-4 or 21-3 of the
16 Criminal Code of 1961 nor does any owner or occupant of the
17 property have a cause of action for trespass except for
18 intentional or reckless damage to the property.

19 (f) The planning commission may receive from any person
20 informal communications alleging that a person or persons are
21 or may be violating land development regulations or that
22 property is or may be noncompliant with land development
23 regulations. Those communications include reports or
24 memoranda from agents of other agencies of the unit of local
25 government, including but not limited to the unit of local
26 government's law enforcement agency. The planning commission
27 may act upon communications as defined in this subsection
28 that it deems appropriate given their level of credibility.

29 (g) In performance of its duty to enforce land
30 development regulations, the planning commission may notify
31 or warn persons that they are or may be violating land
32 development regulations or that their property is or may be
33 noncompliant with land development regulations. The notices
34 or warnings shall have no legal effect, except that they may

1 be used as evidence of the duration of a violation. The
2 notices or warnings must notify the person of the alleged
3 violation or noncompliance in sufficient detail that they may
4 act upon the notice or warning and cease the violation or
5 place the property in compliance. The notices or warnings
6 must state the provision or provisions of the land
7 development regulations alleged to have been violated and may
8 notify the person of the terms of this Act and of the powers
9 of the unit of local government under this Section. No
10 notice or warning may be designed in a manner that it gives
11 the person the impression or belief that enforcement
12 proceedings are being commenced or have already been
13 commenced. A notice or warning, however, may state that if
14 the property is not compliant by a reasonable date prescribed
15 in the notice or warning, enforcement proceedings may be
16 commenced after that date.

17 Section 15. Adoption of administrative enforcement.

18 (a) The corporate authorities of a unit of local
19 government may adopt an ordinance establishing an
20 administrative enforcement procedure under Sections 25
21 through 40 of this Act. The ordinance shall be referred to
22 in this Act as an "administrative enforcement ordinance."

23 The adoption by a unit of local government of an
24 administrative enforcement ordinance does not preclude a unit
25 of local government from using any other methods to enforce
26 land development regulations.

27 (b) An administrative enforcement ordinance must create
28 hearing boards or positions for hearing officers.

29 Hearing officers must be employees, officers, or agents
30 of the unit of local government. A unit of local government
31 may appoint persons who are not residents of the unit of
32 local government to be hearing officers or members of hearing
33 boards.

1 Hearing officers or members of hearing boards may be
2 retained on a full-time or part-time basis. Hearing officers
3 or members of a hearing board shall serve for not less than
4 one year.

5 If a unit of local government chooses to employ a hearing
6 board or boards, the number of members of the board or boards
7 must always be an odd number and the ordinance creating the
8 hearing board must provide that any action or decision
9 approved by a majority of members of the board is approved by
10 the board.

11 Hearing officers and members of hearing boards must
12 successfully complete a formal training program that includes
13 the following:

- 14 (1) instruction on the rules of procedure of the
15 hearings they will conduct;
- 16 (2) orientation to land development regulations;
- 17 (3) observation of administrative hearings; and
- 18 (4) participation in hypothetical cases, including
19 rules of evidence and issuing final orders.

20 In addition, every hearing officer or member of a hearing
21 board must be an attorney licensed to practice law in the
22 State of Illinois for at least 3 years.

23 The unit of local government must provide in the
24 ordinance for the reimbursement of reasonable expenses of
25 hearing officers or members of hearing boards. It may provide
26 for compensation in the form of a salary for hearing officers
27 or members of hearing boards for whom the position is not
28 their full-time employment and it must provide for
29 compensation in the form of a salary for hearing officers or
30 members of hearing boards for whom the position is their
31 full-time employment. The compensation for any particular
32 hearing officer or member of a hearing board may not be
33 diminished during his or her term in the position.

34 (c) An administrative enforcement ordinance must include

1 reasonable rules of procedure for all proceedings before the
2 hearing officers or boards. The hearing officer or board may
3 make reasonable rules of procedure for proceedings before
4 him, her, or it, in order to resolve issues not addressed in
5 the rules of procedure enacted by the unit of local
6 government. The rules of procedure of any hearing officer or
7 board may not be contrary in any way to the rules enacted by
8 the unit of local government and may not address any issue of
9 substantive law. A copy of all rules made by a hearing
10 officer or board must be provided to the corporate
11 authorities of the unit of local government and to all
12 parties to cases before the hearing officer or board and must
13 be posted prominently in and just outside the hearing room.
14 Any amendment to rules of procedure may not affect cases
15 pending when the amendment takes effect.

16 (d) To ensure that there is neither impropriety nor an
17 appearance of impropriety in any proceeding under Sections 25
18 through 40 of this Act, any hearing officer or member of a
19 hearing board must immediately recuse him or her self from a
20 case in which the hearing officer or member:

21 (1) engages in significant ex parte communications
22 with a party to the case or a person who has a direct or
23 indirect interest in any issue in the case, but a
24 communication with local government staff in the hearing
25 officer or member's capacity as an employee of the local
26 government and not related to any particular case, is not
27 an ex parte communication for purposes of this paragraph;
28 or

29 (2) has a direct or indirect financial interest in
30 property that is the subject of a case, who is related by
31 blood, adoption, or marriage to any party to a case or to
32 an owner of property that is the subject of a case, or
33 who resides at or owns property within 500 feet of
34 property that is the subject of a case.

1 Failure of a hearing officer or member to recuse himself or
2 herself when it is required by this subsection voids any
3 decision made by the hearing officer or board in the case.

4 Section 20. Election of procedures.

5 (a) When the planning commission has reason to believe
6 that a person or persons is in violation of land development
7 regulations and that a resort to informal enforcement methods
8 will not achieve or has not achieved compliance, it may, at
9 its option, either (i) commence a civil enforcement
10 proceeding under Section 45 or (ii) if an administrative
11 enforcement ordinance has been adopted under Section 15,
12 commence an administrative enforcement proceeding under
13 Section 15.

14 (b) When any adult resident, lessee, or owner of
15 property within 500 feet of the property in question; or a
16 resident of, an owner of any real property in, or an owner of
17 any business with premises located within the unit of local
18 government; or any other person files with the planning
19 commission a petition in compliance with the requirements of
20 this subsection that a person or persons is in violation of
21 land development regulations, the planning commission must
22 review the petition and give it due regard in determining
23 whether or not to commence civil or administrative
24 enforcement proceedings based upon the allegations of the
25 petition under subsection (a) of this Section. The planning
26 commission may conduct its own investigation of the
27 allegations in the petition in making its determination. The
28 planning commission must make a decision on the petition
29 within 30 days after receiving the petition and must notify
30 in writing the person or persons who signed the petition of
31 the decision and the basis therefor.

32 A petition filed under this subsection must set forth a
33 description of the alleged violation in sufficient detail

1 that the unit of local government may commence an enforcement
2 proceeding, civil or administrative, in response to the
3 petition. A petition must be signed and the signatory must
4 attest with his or her signature that (i) the signatory has
5 personal knowledge of the facts that are the foundations of
6 the allegations in the petition; (ii) the allegations in the
7 petition are true to the best knowledge of the signatory; and
8 (iii) the signatory is aware of the penalty provided in this
9 subsection. It is a Class C misdemeanor to sign or file, or
10 cause to be signed or filed, a petition under this subsection
11 or a document purporting to be a petition under this
12 subsection with the knowledge that any material allegation in
13 the petition or document is untrue.

14 A person or persons alleged in an enforcement proceeding
15 pursuant to a petition to be, or have been, in violation of
16 land development regulations and the owner or owners of
17 property alleged in an enforcement proceeding pursuant to a
18 petition to be in noncompliance with land development
19 regulations when (i) the resulting enforcement order or court
20 judgment is a determination that no violation has occurred or
21 is occurring and (ii) the person or persons who signed or
22 filed, or caused to be signed or filed, the petition did so
23 in bad faith or with the knowledge that any material
24 allegation in the petition is untrue, have a cause of action
25 against the person or persons who signed, filed, or caused to
26 be signed or filed for all expenses incurred as a result of
27 the enforcement proceeding, plus costs and reasonable
28 attorney fees, in the circuit court of the county in which
29 the unit of local government is located.

30 If the unit of local government decides not to commence
31 an enforcement proceeding based on a petition that was filed
32 by a person or persons who may file a petition under this
33 subsection, that person or persons may appeal the decision in
34 the same manner as a land-use decision.

1 (c) The adoption of an administrative enforcement
2 ordinance does not, by itself, preclude or prohibit the unit
3 of local government from enforcing its land development
4 regulations through a civil proceeding under Section 45 of
5 this Act.

6 (d) Nothing in this Act shall be interpreted as
7 eliminating or amending any cause of action for nuisance or
8 in the nature of nuisance that any person may have or
9 eliminating or limiting the right of any person to commence
10 and prosecute a civil action based upon such a cause of
11 action.

12 Section 25. Notice.

13 (a) The planning commission must commence an enforcement
14 proceeding by preparing and serving an enforcement notice
15 under this Section.

16 (b) An enforcement notice must contain:

17 (1) The names and addresses of all persons to whom
18 the enforcement notice must be sent under subsection (c)
19 of this Section.

20 (2) A legal and common description of the property
21 or properties where the alleged violations have occurred
22 or are occurring.

23 (3) A description of the alleged violation in
24 sufficient detail that the person or persons may
25 reasonably respond to the allegations.

26 (4) A description of the relief or penalties that
27 are sought by the planning commission for the alleged
28 violation.

29 (5) The date, time, and place of the hearing
30 required by Section 35 of this Article that may be not
31 less than 30 but not more than 60 days after the first
32 service of the enforcement notice.

33 (6) Notification of the right, under subsection (f)

1 of Section 35, to testify, present reasonable evidence,
2 summon and question witnesses, and have counsel present
3 at the hearing.

4 (7) Notification of the right of the person or
5 persons to respond to the allegations in writing before
6 the hearing under subsection (d) of Section 35, including
7 a statement of the time limitations for a written
8 response.

9 (8) The address, telephone, and facsimile number at
10 which the planning commission may be contacted, including
11 for purposes of a written response as provided in
12 subsection (d) of Section 35.

13 (c) An enforcement notice must be served upon:

14 (1) all persons alleged in the enforcement notice
15 under paragraph (3) of subsection (b) to have violated
16 land development regulations; and

17 (2) all owners of record of the property or
18 properties upon which the alleged violations have
19 occurred or are occurring.

20 (d) An enforcement notice is duly served upon a person
21 when it has been (i) personally served upon the person; (ii)
22 personally served upon an agent of the person, including but
23 not limited to a registered agent for service of process;
24 (iii) personally served upon a person over the age of 13
25 years living in the household of the person; (iv) sent by
26 certified mail, return receipt requested, to the person or to
27 the person's registered agent for service of process, if any;
28 or (v) served by publication notice under Section 2-206 of
29 the Code of Civil Procedure, but only if reasonable attempts
30 to use the other methods prescribed in this subsection are
31 not successful.

32 (e) An enforcement notice may be personally served by
33 any employee or agent of the planning commission or by any
34 sworn law enforcement officer.

1 (f) Except as provided in subsection (e) of this
2 Section, the requirements of, and terms used in, subsection
3 (d) of this Section shall be interpreted and applied as in
4 judicial decisions concerning the service of process in civil
5 actions in this State.

6 (g) The planning commission must transmit the
7 enforcement notice within one business day after the first
8 service of the enforcement notice to any person to a hearing
9 board or officer of the unit of local government chosen
10 randomly by a process prescribed by ordinance. The hearing
11 board or officer so assigned must be the hearing board or
12 officer for the case unless otherwise provided.

13 Section 30. Preliminary orders.

14 (a) After an enforcement notice is prepared, but before
15 it is served, the unit of local government may petition the
16 hearing board or officer for a preliminary order under this
17 Section.

18 (b) The unit of local government may present evidence
19 supporting the allegations of the petition and that evidence
20 must be attached to or accompany this petition.

21 (c) No hearing board or officer may issue a preliminary
22 order unless it is determined, based upon the petition and
23 attached evidence, that it is reasonable to believe that a
24 violation is occurring and that the alleged violation
25 presents, or will present if it continues, a significant
26 threat of irreparable harm. Death or injury to any person
27 presumptively constitutes irreparable harm.

28 (d) A preliminary order may require only that the
29 persons to whom it is directed:

30 (1) cease and desist from continuing violation of
31 land development regulations; or

32 (2) refrain from a specific act, or specific acts,
33 that frustrate the purpose of paragraph (1) of this

1 subsection.

2 (e) All persons who receive an enforcement notice under
3 Section 25 are subject to the preliminary order and must
4 receive a copy of the preliminary order when they are served
5 with the enforcement notice.

6 (f) A preliminary order is an enforcement order for the
7 purposes of subsections (e), (f), and (g) of Section 40 and
8 and for the purposes of Sections 45 and 50.

9 (g) If any person subject to a preliminary order
10 requests in writing a hearing on the order, a hearing on the
11 preliminary order must be held within 5 days after the
12 request. Due notice of the time, place, and nature of the
13 hearing must be given to all parties as well as a copy of the
14 petition and accompanying evidence that was used to obtain
15 the preliminary order. The hearing is subject to the same
16 rules and must be held according to the same procedures as an
17 enforcement hearing under Section 35.

18 If the hearing officer or board finds at hearing that the
19 preliminary order should not have been issued, he, she, or it
20 must state in writing this determination and the legal and
21 factual bases for the determination. The preliminary order
22 must expire upon the issuance to all parties of the written
23 determination.

24 (h) A preliminary order shall be in effect until an
25 enforcement order is issued, except as otherwise provided in
26 subsection (g) of this Section.

27 Section 35. Hearings.

28 (a) For the purposes of this Section, "parties" refers
29 to the planning commission and all persons to whom an
30 enforcement notice must be sent under Section 25 of this Act.

31 (b) The unit of local government, through a hearing
32 officer or board, must hold a hearing on the allegations of
33 the enforcement notice at the date, time, and place set forth

1 in that notice.

2 (c) At any time before the scheduled date of the
3 hearing, any party may request, in writing, from the hearing
4 officer or board a postponement or advancement of the hearing
5 and must transmit a copy of the request to all parties. All
6 parties may respond, in writing, to the request within 15
7 days after the request. The hearing officer or board may
8 grant a request for postponement or advancement if the
9 requesting party shows good cause to grant the request and no
10 other party shows good cause to deny the request. A request
11 for postponement or advancement may be denied if any party
12 shows good cause why it should be denied. The hearing officer
13 or board must notify all parties, in writing, whether or not
14 a postponement or advancement has been granted and, if so,
15 its duration.

16 It shall constitute good cause to postpone the hearing
17 when one or more of the persons alleged in the enforcement
18 notice to have violated land development regulations has not
19 been duly served with the enforcement notice at least 15 days
20 before the hearing.

21 It shall constitute good cause to postpone the hearing
22 when a party other than one alleged in the enforcement notice
23 to have violated land development regulations has not been
24 duly served with the enforcement notice at least 15 days
25 before the hearing.

26 (d) Any party may submit to the hearing officer or board
27 a written response to the enforcement notice not more than 10
28 days before the hearing. A copy of the response must be
29 submitted to all other parties not less than 5 days before
30 the hearing.

31 If all persons alleged in the enforcement notice to be
32 violating or to have violated land development regulations
33 submit a written response in which they admit the validity of
34 all allegations of the enforcement notice and consent to the

1 remedies and penalties requested by the planning commission
2 in the enforcement notice, then (i) there shall be no
3 hearing; (ii) the allegations of the enforcement notice shall
4 be the determination of the hearing officer or board in the
5 enforcement order as if there were a hearing on the
6 allegations; and (iii) the remedies and penalties applied in
7 the enforcement order shall be those requested in the
8 enforcement notice or any other remedies and penalties that
9 are proposed by the parties and approved by the hearing
10 officer or board.

11 If all persons alleged in the enforcement notice to be
12 violating or to have violated land development regulations
13 submit a written response in which they admit the validity
14 of all allegations of the enforcement notice but one or more
15 parties contest or object to the remedies or penalties
16 requested in the enforcement notice, then (i) the allegations
17 of the enforcement notice shall be the determination of the
18 hearing officer or board in the enforcement order as if there
19 were a hearing on the allegations and (ii) a hearing shall be
20 held, but only on the issue of the remedies and penalties to
21 be applied in the enforcement order.

22 If one or more, but not all, persons alleged in the
23 enforcement notice to be violating or to have violated land
24 development regulations submit a written response in which
25 they admit the validity of all allegations of the enforcement
26 notice, the response or responses shall be given due weight
27 by the hearing officer or board but the hearing shall proceed
28 on all relevant issues as provided in subsection (g).

29 (e) All persons alleged in the enforcement notice to be
30 violating or to have violated land development regulations
31 must be present at the hearing either in person or through an
32 attorney or other legal representative or agent. A default
33 decision that the person has violated land development
34 regulations as alleged may be made if the person (i) was duly

1 served with an enforcement notice, (ii) is not present at the
2 hearing, and (iii) there is a finding that there is or was a
3 violation of land development regulations.

4 (f) At the hearing, any party, except for parties who
5 under subsection (d) of this Section are not entitled to a
6 hearing, may present evidence and testimony, summon
7 witnesses, question all witnesses, and be represented by and
8 receive the advice of an attorney.

9 (g) The issues for the hearing officer or board to
10 determine, by a preponderance of the evidence, are:

11 (1) Whether the alleged violator or violators are
12 violating or have violated any land development
13 regulations.

14 (2) What remedies or penalties are appropriate and
15 just, taking into consideration the requests of the
16 planning commission in the enforcement notice.

17 (h) The interpretation or meaning of any land
18 development regulation is a valid issue for the hearing
19 officer or board to determine. The validity or
20 constitutionality of any land development regulation is not a
21 valid issue for determination at the hearing, except in those
22 cases that a person alleged to have violated a regulation
23 claims in good faith that the regulation in question is
24 directly contrary to another regulation of equal or superior
25 force that he or she alleges he or she has not violated. A
26 party may, however, reserve questions of validity or
27 constitutionality of any land development regulation for
28 appeal under subsection (g) of Section 40 of this Act.

29 Section 40. Orders; remedies and penalties.

30 (a) Within 10 days after the conclusion of the
31 enforcement hearing, or after the date upon which the hearing
32 was to be held if there was no hearing, the hearing officer
33 or board must issue in writing an enforcement order. It must

1 be sent by certified mail or facsimile to all parties.

2 (b) The enforcement order must state the determination
3 of the hearing officer or board regarding the allegations of
4 the enforcement notice and must state in reasonable detail
5 all of the hearing officer's or board's findings of fact. If
6 the hearing officer or board determines that no violation of
7 land development regulations is being or has been committed
8 by any person alleged to have done so in the enforcement
9 notice, the enforcement notice must be dismissed and the
10 enforcement order must so state.

11 If the hearing officer or board determines that a
12 violation of land development regulations is being or has
13 been committed, the enforcement order must state the
14 appropriate and just remedies or penalties and must state the
15 party or parties against which the enforcement order is
16 effective. The remedies and penalties may include:

17 (1) An order to cease and desist from continuing
18 and future violations of land development regulations.

19 (2) An order to bring the property in question into
20 compliance with land development regulations.

21 (3) An order to perform a specific act or acts, or
22 to refrain from specific act or acts, that effectuates
23 the purposes of this subsection (b).

24 (4) An authorization to the planning commission to
25 enter upon the property and take all reasonably necessary
26 steps to place the property in compliance with land
27 development regulations combined with an order to
28 compensate the planning commission for all reasonable
29 expenses incurred under this paragraph (4).

30 (5) An order to pay to the unit of local government
31 a fine, but only if the hearing officer or board
32 determines that the violation is or was intentional,
33 knowing, or reckless. The fine may not exceed \$1,000 for
34 each day of violation.

1 (c) Any owner of the property may be subject to an order
2 under paragraphs (1), (2), (3), and (4) of subsection (b),
3 even if he or she is not determined in the enforcement order
4 to be a violator. Only a violator may be subject to an order
5 under paragraph (5) of subsection (b).

6 (d) The enforcement order may include authorization for
7 employees or agents of the planning commission to enter upon
8 the property in question in order to determine that the
9 enforcement order is being or has been complied with.

10 Entrance upon land under an enforcement order, or any
11 supplemental enforcement order, and under this Section is not
12 a violation of Sections 19-4 and 21-3 of the Criminal Code of
13 1961, nor does any owner or occupant of the property have a
14 cause of action for trespass except for intentional or
15 reckless damage to the property.

16 (e) The planning commission must monitor compliance with
17 the enforcement order. If the planning commission has reason
18 to believe that any person subject to the enforcement order
19 is not complying with the enforcement order, the planning
20 commission may, at its option, either:

21 (1) refer the matter to the unit of local
22 government's attorney for the commencement of a civil
23 action under Section 45; or

24 (2) commence a supplemental enforcement action
25 under subsection (f) of this Section.

26 A referral or commencement under this subsection (e) does
27 not preclude a later referral or commencement when
28 noncompliance is alleged to be continuing or a new act of
29 noncompliance is alleged.

30 (f) A supplemental enforcement action is commenced by
31 the planning commission by filing a petition with the hearing
32 officer or board stating its belief that one or more persons
33 subject to the enforcement order is not complying with the
34 enforcement order and the reasons for that belief.

1 A copy of the petition must be sent by the planning
2 commission to all parties by certified mail or by facsimile.
3 Any party alleged in the petition to be in noncompliance must
4 respond to the petition in writing and any other party may
5 respond to the petition in writing.

6 Upon receipt of the petition and of the responses of all
7 parties required to respond, the hearing officer or board
8 must schedule a hearing on the petition and must notify all
9 parties of the date, time, and place by certified mail or
10 facsimile. If any party required to respond to the petition
11 does not do so within 15 days after receiving the petition,
12 the hearing officer or board may schedule the hearing
13 regardless.

14 The hearing is subject to the same rules and must be held
15 according to the same procedures as an enforcement hearing
16 under Section 35 of this Act.

17 The hearing officer or board must issue a supplemental
18 enforcement order within 5 days after the completion of the
19 hearing.

20 If the hearing officer or board finds that there is no
21 significant noncompliance with the enforcement order, then
22 the petition shall be dismissed and the supplemental
23 enforcement order shall so state.

24 If the hearing officer or board finds that there is
25 significant noncompliance with the enforcement order, then
26 the board must include in the supplemental enforcement order
27 an order or authorization:

28 (1) that the person or persons in noncompliance pay
29 an additional fine, either a single fine or a fine
30 assessed for each day of noncompliance;

31 (2) that the planning commission enter upon the
32 property and take all reasonably necessary steps to place
33 the property in compliance with land development
34 regulations and that the person or persons in

1 noncompliance compensate the planning commission for all
2 reasonable expenses incurred pursuant to this item (2);

3 (3) that the matter be referred to the unit of
4 local government's attorney for the commencement of a
5 civil action under Section 45 of this Act; or

6 (4) that the matter be referred to the State's
7 Attorney for the commencement of criminal proceedings
8 under Section 50 of this Act, but only if the hearing
9 officer or board determines that the noncompliance was
10 intentional.

11 (g) Enforcement orders and supplemental enforcement
12 orders shall be subject to review in the circuit court of the
13 county in which the unit of local government is located. The
14 provisions of the Administrative Review Law, and the rules
15 adopted under the Administrative Review Law, apply to and
16 govern every action for judicial review of the enforcement
17 order and supplemental enforcement order of a hearing officer
18 or board under this Act.

19 Section 45. Civil proceedings.

20 (a) A unit of local government has a cause of action in
21 the circuit court of the county in which the property in
22 question is located against:

23 (1) all persons who have violated or are violating
24 land development regulations of the unit of local
25 government; and

26 (2) the owner or owners of the property upon which
27 a violation of land development regulations has occurred
28 or is occurring to the extent that it is reasonably
29 necessary for the owner or owners to be subject to the
30 judgment of the court to obtain relief.

31 (b) A unit of local government that (i) has issued an
32 administrative enforcement order under Section 40 of this Act
33 when a person or persons subject to the administrative

1 enforcement order has not complied with or is not complying
2 with that order; or (ii) issues a supplemental administrative
3 enforcement order under paragraph (2) of subsection (e) of
4 Section 40 of this Act that (A) determines that a person or
5 persons subject to an administrative enforcement order has
6 not complied with or is not complying with that order and (B)
7 directs that the case be referred to the unit of local
8 government's attorney for proceedings under this Section has
9 a cause of action in the circuit court of the county in which
10 the property in question is located against the person or
11 persons in noncompliance or determined in the supplemental
12 administrative enforcement order to be in noncompliance.

13 (c) Except as otherwise provided in this Section, the
14 procedures governing a civil action under this Section shall
15 be the procedures applicable by statute and Supreme Court
16 rule to all civil actions.

17 (d) In any civil action under subsection (b) of this
18 Section, (i) the administrative enforcement order and any
19 supplemental administrative enforcement orders to which the
20 defendant or defendants are subject must be attached to the
21 complaint and by that attachment shall be incorporated in the
22 order; and (ii) the judge may enter the administrative
23 enforcement order and any supplemental administrative
24 enforcement orders that the judgment of the court after 30
25 days after the date upon which the last answer is due to be
26 filed, accounting as in other civil cases for postponements
27 in that date due to motions pursuant to Sections 2-615,
28 2-619, 2-1005, and 2-1009 of the Code of Civil Procedure,
29 unless one or more defendants requests a trial in his or her
30 answer. If a default occurs and (i) there is no supplemental
31 administrative enforcement order or (ii) the supplemental
32 administrative enforcement order does not specify an
33 appropriate and just remedy or penalty beyond the
34 commencement of a civil action under this Section, there must

1 be a hearing limited to determining the appropriate and just
2 remedies and penalties to be applied.

3 (e) The issues before the court in a trial of a civil
4 action under this Section are limited to determining by a
5 preponderance of the evidence:

6 (1) Whether the alleged violator or violators are
7 violating or have violated any constitutionally and
8 statutorily valid land development regulations.

9 (2) What remedies or penalties are appropriate and
10 just. In a civil action commenced pursuant to subsection
11 (b), the court must, in determining the appropriate and
12 just remedies or penalties, take into consideration the
13 requests of the planning commission in the administrative
14 enforcement notice and the provisions of the
15 administrative enforcement order.

16 (f) The appropriate and just remedies and penalties that
17 may be imposed in a judgment under this Section include:

18 (1) An order to cease and desist from continuing
19 and future violation of land development regulations.

20 (2) An order to bring the property in question into
21 compliance with land development regulations.

22 (3) An order to perform a specific act or acts, or
23 to refrain from a specific act or acts, that effectuates
24 the purposes of paragraphs (1) and (2) of this
25 subsection.

26 (4) An authorization to the planning commission to
27 enter upon the property and take all reasonably necessary
28 steps to place the property in compliance with land
29 development regulations combined with an order to
30 compensate the planning commission for all reasonable
31 expenses incurred under this paragraph (4).

32 (5) An order to pay to the unit of local government
33 a fine, but only if the hearing officer or board
34 determines that the particular defendant intentionally,

1 knowingly, or recklessly committed the violation. The
2 fine may not exceed \$1,000 for each day of violation.

3 (g) Entrance upon land under paragraph (4) of subsection
4 (f) is not a violation of Sections 19-4 and 21-3 of the
5 Criminal Code of 1961, nor shall any owner or occupant of the
6 property have a cause of action for trespass except for
7 intentional or reckless damage to the property.

8 (h) The unit of local government need not post bond in
9 order for an injunction, whether preliminary or final, to
10 issue against any defendant.

11 (i) Costs may be taxed in any civil action under this
12 Section as in other civil actions, as may reasonable attorney
13 fees if it is the judgment of the court that there is not and
14 was not any noncompliance by the defendant or defendants as
15 alleged in the complaint.

16 Section 50. Criminal penalties.

17 (a) An intentional violation of the land development
18 regulations of a unit of local government is a Class B
19 misdemeanor. Each day of violation shall be considered a
20 separate offense.

21 If a violation of a land development regulation causes a
22 significant risk of death or injury to persons or of
23 destruction of the property of another of a value of \$25,000
24 or more and the person or person violating the regulation
25 knows of the risk at the time of the violation, the violation
26 is a Class A misdemeanor.

27 If a violation of a land development regulation causes
28 the death or injury of persons or destruction of the property
29 of another to a value of \$25,000 or more and the person or
30 person violating the regulation knows of the risk of death,
31 injury, or destruction at the time of the violation, the
32 violation is an Class 4 felony.

33 (b) No prosecution under this Section may be commenced

1 unless a supplementary administrative enforcement order under
2 paragraph (4) of subsection (f) of Section 40 recommends that
3 the case be referred to the State's Attorney for the
4 commencement of criminal proceedings.

5 (c) The circuit court must determine whether, beyond a
6 reasonable doubt, a violation of local land development
7 regulations is occurring or has occurred and is not required
8 in any way to defer to the findings of the administrative
9 enforcement hearing as expressed in the administrative
10 enforcement order and supplementary administrative
11 enforcement order or orders.

12 Section 800. The Criminal Code of 1961 is amended by
13 changing Section 19-4 and 21-3 as follows:

14 (720 ILCS 5/19-4) (from Ch. 38, par. 19-4)

15 Sec. 19-4. Criminal trespass to a residence.

16 (a) (1) A person commits the offense of criminal
17 trespass to a residence when, without authority, he knowingly
18 enters or remains within any residence, including a house
19 trailer.

20 (2) A person commits the offense of criminal trespass to
21 a residence when, without authority, he or she knowingly
22 enters the residence of another and knows or has reason to
23 know that one or more persons is present or he or she
24 knowingly enters the residence of another and remains in the
25 residence after he or she knows or has reason to know that
26 one or more persons is present.

27 (3) For purposes of this Section, in the case of a
28 multi-unit residential building or complex, "residence" shall
29 only include the portion of the building or complex which is
30 the actual dwelling place of any person and shall not include
31 such places as common recreational areas or lobbies.

32 (b) Sentence.

1 (1) Criminal trespass to a residence under
2 paragraph (1) of subsection (a) is a Class A misdemeanor.

3 (2) Criminal trespass to a residence under
4 paragraph (2) of subsection (a) is a Class 4 felony.

5 (c) For the purposes of this Section, a person does not
6 commit criminal trespass to a residence if he or she enters
7 or remains in a residence pursuant to the Land Development
8 Enforcement Act.

9 (Source: P.A. 91-895, eff. 7-6-00.)

10 (720 ILCS 5/21-3) (from Ch. 38, par. 21-3)
11 Sec. 21-3. Criminal trespass to real property.

12 (a) Whoever:

13 (1) knowingly and without lawful authority enters
14 or remains within or on a building; or

15 (2) enters upon the land of another, after
16 receiving, prior to such entry, notice from the owner or
17 occupant that such entry is forbidden; or

18 (3) remains upon the land of another, after
19 receiving notice from the owner or occupant to depart; or

20 (4) enters upon one of the following areas in or on
21 a motor vehicle (including an off-road vehicle,
22 motorcycle, moped, or any other powered two-wheel
23 vehicle), after receiving prior to that entry, notice
24 from the owner or occupant that the entry is forbidden or
25 remains upon or in the area after receiving notice from
26 the owner or occupant to depart:

27 (A) any field that is used for growing crops
28 or which is capable of being used for growing crops;
29 or

30 (B) an enclosed area containing livestock; or

31 (C) or an orchard; or

32 (D) a barn or other agricultural building
33 containing livestock;

1 commits a Class B misdemeanor.

2 For purposes of item (1) of this subsection, this Section
3 shall not apply to being in a building which is open to the
4 public while the building is open to the public during its
5 normal hours of operation; nor shall this Section apply to a
6 person who enters a public building under the reasonable
7 belief that the building is still open to the public.

8 (b) A person has received notice from the owner or
9 occupant within the meaning of Subsection (a) if he has been
10 notified personally, either orally or in writing including a
11 valid court order as defined by subsection (7) of Section
12 112A-3 of the Code of Criminal Procedure of 1963 granting
13 remedy (2) of subsection (b) of Section 112A-14 of that Code,
14 or if a printed or written notice forbidding such entry has
15 been conspicuously posted or exhibited at the main entrance
16 to such land or the forbidden part thereof.

17 (c) This Section does not apply to any person, whether a
18 migrant worker or otherwise, living on the land with
19 permission of the owner or of his agent having apparent
20 authority to hire workers on such land and assign them living
21 quarters or a place of accommodations for living thereon, nor
22 to anyone living on such land at the request of, or by
23 occupancy, leasing or other agreement or arrangement with the
24 owner or his agent, nor to anyone invited by such migrant
25 worker or other person so living on such land to visit him at
26 the place he is so living upon the land. This Section does
27 not apply to any person entering land or a building pursuant
28 to the Land Development Enforcement Act.

29 (d) A person shall be exempt from prosecution under this
30 Section if he beautifies unoccupied and abandoned residential
31 and industrial properties located within any municipality.
32 For the purpose of this subsection, "unoccupied and abandoned
33 residential and industrial property" means any real estate
34 (1) in which the taxes have not been paid for a period of at

1 least 2 years; and (2) which has been left unoccupied and
2 abandoned for a period of at least one year; and "beautifies"
3 means to landscape, clean up litter, or to repair dilapidated
4 conditions on or to board up windows and doors.

5 (e) No person shall be liable in any civil action for
6 money damages to the owner of unoccupied and abandoned
7 residential and industrial property which that person
8 beautifies pursuant to subsection (d) of this Section.

9 (f) This Section does not prohibit a person from
10 entering a building or upon the land of another for emergency
11 purposes. For purposes of this subsection (f), "emergency"
12 means a condition or circumstance in which an individual is
13 or is reasonably believed by the person to be in imminent
14 danger of serious bodily harm or in which property is or is
15 reasonably believed to be in imminent danger of damage or
16 destruction.

17 (Source: P.A. 89-346, eff. 1-1-96; 89-373, eff. 1-1-96;
18 89-626, eff. 8-9-96; 90-419, eff. 8-15-97.)

19 Section 805. The Code of Civil Procedure is amended by
20 changing Section 11-103 as follows:

21 (735 ILCS 5/11-103) (from Ch. 110, par. 11-103)

22 Sec. 11-103. Bond. The court in its discretion, may
23 before entering a restraining order or a preliminary
24 injunction, require the applicant to give bond in such sum,
25 upon such condition and with such security as may be deemed
26 proper by the court, for the payment of such costs and
27 damages as may be incurred or suffered by any party who is
28 found to have been wrongfully enjoined or restrained.

29 No such bond shall be required of any governmental office
30 or agency.

31 No bond may be required of any unit of local government
32 for an injunction issued under Section 45 of the Land

1 Development Enforcement Act.

2 A surety upon a bond or undertaking under Article XI of
3 this Act submits to the jurisdiction of the court and
4 irrevocably appoints the clerk of the court as the surety's
5 agent upon whom any papers affecting the surety's liability
6 on the bond or undertaking may be served. Such liability may
7 be enforced on motion without the necessity of an independent
8 action. The motion and such notice of motion as the court
9 prescribes may be served on the clerk of the court who shall
10 forthwith mail copies to the persons giving the security if
11 their addresses are known.

12 (Source: P.A. 83-707.)