

APPLICATION AND HEARING PROCEDURES

§ 157.480 APPLICATION.

- (A) Applications for any amendment, variance, or special use shall be filed and the original copy retained in the office of the Community Development Administrator. If such application is in proper form, a hearing date will be set before the Zoning Board of Appeals. The Zoning Board of Appeals will not consider the sufficiency of the application and evidence until after a public hearing has been held and all parties have been given an opportunity to address such application, evidence, and documents.
- (B) After said hearing, the Zoning Board of Appeals shall make a finding as to the sufficiency of the application, evidence, documents, and testimony and shall report its finding in its recommendation to the County Board in applications concerning zoning amendments. In applications for variances for special uses, the Zoning Board of Appeals shall issue a decision and findings of fact which shall be final administrative decisions for purposes of review under the Administrative Review Act, being 735 ILCS 5/3-101 et seq. In any case where the ZBA does not issue a decision, the decision of the County Board shall be the final administrative decision for the purposes of review under the Administrative Review Act, being 735 ILCS 5/3-101 et seq.
- (C) For the purposes of this Code, the following cases are hereby defined as “Class A zoning cases”:
 - a. Any case involving a petition requesting a special use for one or more of the following:
 - i. Adult Uses
 - ii. Solar Energy Facility, Commercial
 - iii. Wind energy Systems, Commercial
- (D) Additionally, the term “Class A zoning case” shall include any secondary zoning case which is related to a pending Class A zoning case as defined in (C) above. For the purposes of this paragraph, a secondary zoning case is “related to” a Class A zoning case when it is sought by the same petitioner or a related petitioner, at the same time, in connection with the same project.
- (E) Any case which is not a Class A zoning case is a “Class B zoning case” for the purposes of this Code.

(Prior Code, 7 TCC 1-27(a))

§ 157.481 NOTICE OF PUBLIC HEARING; PUBLICATION.

- (A) Notice of the time and place of any public hearing required by this chapter for zoning amendments, variances, and special uses shall be published in a newspaper of general circulation in the County not less than 15 days and not more than 45 days-before such hearing; provided that if the notification is relating to a Class A zoning case, the publication shall occur not less than 30 days and not more than 45 days prior to the date of the hearing.
- (B) The notice shall contain:
 - (1) The date, time, and place of the hearing;
 - (2) A summary of the proposal under consideration;
 - (3) The particular location of the real estate for which the amendment, variance, or special use is requested by legal description, property identification number, street address, and, if no street address, then by locating such real estate with reference to well-known landmark, highway, road, thoroughfare, or intersection;
 - (4) Whether or not the petitioner or applicant is acting for himself or herself or in the capacity of agent, alter ego, or representative of a principal and stating the name and address of the actual and true principal;
 - (5) Where petitioner or applicant is a corporation, and if a corporation, the correct names and address of all officers and directors, and of all stockholders and shareholders owning any interest in excess of 20% of all outstanding stock of such corporation;
 - (6) Whether the petitioner or applicant or his or her principal, if other than applicant, is a business or entity

doing business under an assumed name, and if so, the name and residence of all true and actual owners of such business or entity; and

- (7) Whether the petitioner or applicant is a partnership, joint venture, syndicate, or an unincorporated voluntary association, or if so, the names and addresses of all partners, joint ventures, syndicate members, or members of the unincorporated voluntary association.

- (C) Within five days of publication, a copy of the published notice shall be mailed to the applicant. The costs or charges of the publication notice shall be paid by the petitioner or applicant.

(Prior Code, 7 TCC 1-27(b))

§ 157.482 NOTICE TO ADJOINING PROPERTY OWNERS.

The Community Development Administrator, as a courtesy, shall notify all adjoining property owners of a pending application and of the hearing date, location, and nature of the request before the Zoning Board of Appeals and other pertinent information as specified in § 157.481. Adjoining property owners shall be identified by information obtained from the County Supervisor of Assessment's office. Notification shall occur not less than 15 days and not more than 45 days prior to the date of the hearing; provided that notification is relating to a Class A zoning case, the publication shall occur not less than 30 days and not more than 45 days prior to the date of the hearing.

(Prior Code, 7 TCC 1-27(c))

§ 157.483 NOTICE TO INTERESTED GOVERNMENTAL BODIES.

- (A) The Community Development Administrator shall notify the county's Soil and Water Conservation District, County Health Department, and villages and municipalities within one and one-half miles of the proposed property, Road Commissioners, and the County Highway Engineer of pending applications for an amendment, variance, and special use. Notification shall occur not less than 15 days and not more than 45 days prior to the date of the hearing; provided that notification is relating to a Class A zoning case, the publication shall occur not less than 30 days and not more than 45 days prior to the date of the hearing.
- (B) The County Land Use Planner, County Health Department, the county's Soil and Water Conservation District, and other interested official bodies, if they so desire, may provide data by oral testimony and/or written memorandum regarding their concerns and recommendation at the time of a hearing or the continuation thereof, and may likewise be subject to cross-examination of interested parties. Said data may be used as a resource by the Zoning Board of Appeals for reaching a decision or making a recommendation to the County Board.

(Prior Code, 7 TCC 1-27(d))

§ 157.484 CONDUCT OF A HEARING.

- (A) Submission of information. Any person may appear at a public hearing and give testimony or submit written materials, either individually or as a representative of an organization. The ZBA may exclude information that it finds to be irrelevant, immaterial, or unduly repetitious. The witness information form, described below, shall inform potential witnesses of how many copies they are expected to provide of any written materials.
- (B) Witnesses. Prior to testifying, each witness shall state his/her name and address, and complete a witness information form. A witness who submits the form at least 24 hours in advance of the hearing shall be known as a "participating witness" for purposes of this section. Non-participating witnesses shall not be allowed to ask questions of the petitioner as described in (C)(3)(c) below.
- (C) Evidence. Evidence shall be presented in the following order:
 - (3) Witness presentations.
 - a. Each witness in turn shall present his or her case, as follows, and shall be known as the "presenting witness" during this process:
 - b. Each presenting witness may make an opening statement;
 - c. If the presenting witness is a participating witness, the presenting witness may then question the

petitioner and any of his/her associated witnesses;

- d. The petitioner may then question the presenting witness and any of his/her associated witnesses, regardless of whether the petitioner was questioned;
 - e. The presenting witness may make a closing comment. New evidence or facts should not be introduced during closing comments.
- (4) The members of the ZBA and the Land Use Committee may question anyone who has previously testified;
 - (5) The petitioner may present a rebuttal.
 - (6) The chairperson may, in his/her discretion, allow surrebuttal and further presentation of evidence by any or all witnesses, if it is reasonably required to address new facts in the petitioner's rebuttal, or in any surrebuttal.
 - (7) The petitioner may present closing comments. New evidence or facts should not be introduced during closing comments.
 - (8) In any case where ten or more witnesses are signed up at the time of the hearing, the following maximum time limits shall apply, unless modified by the ZBA at the start of the hearing.
 - a. Petitioner's presentation – 60 minutes
 - b. Participating Witness presentations:
 - i. Primary presentation – 30 minutes
 - ii. Presenting witness's questioning of petitioner – 30 minutes
 - iii. Petitioner's questioning of presenting witness – 30 minutes
 - iv. Presenting witness's closing comments – 30 minutes
 - c. Non-participating witness presentations – 5 minutes
 - d. Petitioner's rebuttal and closing comments – 60 minutes

(Prior Code, 7 TCC 1-27(e))

§ 157.485 DUTIES OF THE COMMUNITY DEVELOPMENT ADMINISTRATOR AND LAND USE PLANNER.

The Community Development Administrator and Land Use Planner shall present information concerning pertinent application considerations and the standards set out in these regulations.

(Prior Code, 7 TCC 1-27(f))

§ 157.486 EXHIBITS.

All exhibits or written materials used at the public hearing by an interested party shall be submitted to the Community Development Administrator and shall be retained for the ZBA's record. If not so submitted, the record shall not be considered by the ZBA and shall not become a part of the record.

(Prior Code, 7 TCC 1-27(g))

§ 157.487 CONTINUANCE.

The ZBA may, at its discretion, for good cause shown, grant a continuance in a case to any interested party who has entered his or her appearance. After one continuance, request for continuances will be considered only if reasonable notice in writing has been given to all persons who have previously filed an appearance in the case.

(Prior Code, 7 TCC 1-27(h))

§ 157.488 FAILURE TO APPEAR.

- (A) If any applicant fails to appear before the ZBA for an item on the agenda for the first time, that item may be continued until the next regularly scheduled public hearing.
- (B) If an applicant fails to appear before the ZBA for an item which has previously been continued, that item may be dismissed by the ZBA.

(Prior Code, 7 TCC 1-27(i))

§ 157.489 RECORD OF HEARING.

- (A) The Community Development Administrator shall ensure that the proceedings are recorded by appropriate means.
- (B) The record of proceedings shall consist of the recording of testimony, all proceedings, exhibits, and papers submitted in any proceeding with respect to the matter being considered, and the summary and report of the Community Development Administrator and Land Use Planner.
- (C) All summaries and reports of the Community Development Administrator and Land Use Planner shall be public records, open to inspection at a reasonable time and upon reasonable notice.

(Prior Code, 7 TCC 1-27(j))

§ 157.490 CONTRACTS OUTSIDE OF THE HEARING.

If any member of the ZBA receives a substantive communication from any person outside the hearing concerning a subject matter under consideration by that body, he or her shall make a statement at the hearing describing the circumstances and substance of such communication.

(Prior Code, 7 TCC 1-27(k))

§ 157.491 ACTION BY THE ZONING BOARD OF APPEALS.

- (A) Except as otherwise provided herein, the ZBA shall render its decision within a reasonable time after completion of the public hearing. For application for amendments and Class A zoning cases, the ZBA shall make report of its findings to the County Board and in said report the ZBA shall indicate its recommendation. Such report shall contain a findings of fact specifying, where applicable, the reason for the ZBA's recommendation of approval or denial.
- (B) In applications for variances and Class B special uses, the ZBA shall make a report indicating its approval or denial of the request. Such report shall contain a findings of fact, where applicable, the reason for the ZBA's approval or denial.

(Prior Code, 7 TCC 1-27(l))

§ 157.492 RESUBMISSION OF DENIED REQUEST.

Whenever any petition for amendment, variance, or special use or combination thereof is denied, an application involving the same property shall not be brought back before the Zoning Board of Appeals again until six months have passed from the date of the first public hearing, unless the prayer of the petitioner shall request a substantially different amendment, variance, or special use.

(Prior Code, 7 TCC 1-27(m))