

ORDINANCE NUMBER 24-33  
AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE,  
COOK AND KANE COUNTIES, ILLINOIS, AMENDING VILLAGE CODE  
SECTION 157.224 AND 36.09 TO INITIATE ADMINISTRATIVE ADJUDICATION  
PROCEEDINGS FOR SPECIAL USE VIOLATIONS

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, Section 157.224 of the “Code of the Village of East Dundee,” as amended (“Village Code”), sets forth the procedural requirements for ensuring compliance with the conditions stipulated in connection with approval of a special use permit; and

**WHEREAS**, Section 36.09 of the Village Code sets forth the regulations governing the findings, decisions, and orders of hearing officers in the Village’s administrative hearing system; and

**WHEREAS**, the Village desires to amend Sections 157.224 and 36.09 of the Village Code to modify the procedures for reviewing special use permit compliance and adjudicating violations of special use permits and conditions; and

**WHEREAS**, the President and Board of Trustees have determined it to be in the best interest of the Village to amend the Village Code;

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** That the recitals above shall be and are hereby incorporated as Section 1 as if restated herein.

**SECTION 2: Amendment to Section 157.224.** That Section 157.224, titled “Special Uses,” of Chapter 157, titled “Zoning,” of the Village Code is hereby amended as follows, with additions **bold** and double-underlined and deletions ~~struck through~~:

“§157.224 SPECIAL USES. ’

\* \* \*

(D) Action by the President and Board of Trustees

1. Prior to the granting of any special use, the President and Board of Trustees shall stipulate such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the special use as deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified in this subchapter. The

**Building Inspector or village police officer may issue violation notices upon receiving competent evidence that a violation of the conditions of a special use has occurred.** In all cases in which special uses are granted, the President and Board of Trustees shall require such evidence and guarantees as it may deem necessary as proof of the conditions stipulated in connection therewith are being and will be complied with **if any of the conditions approved with the special use are alleged to have been violated, the village may revoke the special use or order abatement of the violation. All revocation proceedings will be administered through the village's administrative adjudication procedure in accordance with the provisions of Chapter 36 of this code. The property owner and/or special use permit holder shall be afforded an opportunity to testify, present witnesses, and offer evidence relevant to the issue at the hearing. The administrative hearing officer shall also hear evidence from the village relevant to the issue.**

\* \* \*

**SECTION 3: Amendment to Section 36.09.** That Section 36.09, titled "Findings, Decision and Order," of Chapter 36, titled "Administrative Adjudication," of the Village Code is hereby amended as follows, with additions **bold** and double-underlined and deletions ~~struck through~~:

"§36.09 FINDINGS, DECISION AND ORDER.

- (A) At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a code violation exists. The determination shall be in writing and shall be designated as the findings, decision, and order.
- (B) The findings, decision, and order shall include: the Hearing Officer's findings of fact, a decision of whether or not a code violation exists based upon the findings of fact, and, an order that states the sanction or dismisses the case if a violation is not proved.
- (C) In the case of a Building Code violation only, **the administrative hearing officer must enter** an order ordering the owner to correct the Building Code violation and imposing a fine or dismissing the case if a Building Code violation is not proved. In the case of a Building Code violation, if a Building Code violation is proved, the order may also impose the sanctions that are provided in the Building Code for the Building Code violation.
- (D) **In the case of a violation of a special use permit or its conditions as set forth under §157.224(D) of the village code that are**

proven to exist or have existed by a preponderance of the evidence, an administrative hearing officer must order:

- (i) the owner and/or permit holder to immediately abate the violations of the special use permit or its conditions; and/or
- (ii) revocation of the special use permit; and/or
- (iii) a fine or penalty in the amount of \$500 per day for every day the violation of the special use permit or its conditions exists, up to a maximum of \$50,000 for one violation for which daily fines are assessed.

If an order is issued to a property owner and/or special use permit holder under (D)(i) only of this Section, and the property owner and/or special use permit holder fails to abate the violation of the special use permit or conditions as set forth in the order, upon a subsequent notice and hearing held pursuant to the provisions of this chapter, and a determination by the administrative hearing officer sustaining the violation(s), the administrative hearing officer must order revocation of the special use permit pursuant to (D)(ii) of the Section and must impose at least a one-day minimum fine pursuant to (D)(iii) of this Section.

~~(D)~~**(E)** A monetary sanction for a violation under this Title III shall not exceed \$5,000 per violation per day, up to a maximum of \$50,000 for one violation for which daily fines are assessed, for all code violations relating to building or structures.

~~(E)~~**(F)** A copy of the findings, decision, and order shall be served on the violator after it is issued. Service shall be by first class mail. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Village Code.”

**SECTION 4: Continuation.** All provisions of the Village Code not amended herein shall remain in full force and effect.

**SECTION 5: Severability.** If any Section, paragraph, or provision of this Ordinance shall be held to be invalid and unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph, or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 6: Repeal.** All ordinances, resolutions, motions, or parts thereof in conflict with this Ordinance shall be hereby repealed.

**SECTION 7: Effect.** That this Ordinance shall be in full force and effect upon its adoption, approval and publication in pamphlet form as provided by law.

[SIGNATURE PAGE FOLLOWS]

**PASSED** this 7<sup>th</sup> day of October 2024 pursuant to a roll call vote as follows:

**AYES:** Mahony, Kunze, Sariano, Treiber and Sauder

**NAYES:** Ø

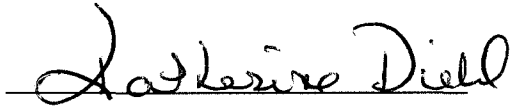
**ABSENT:** Brittin

**APPROVED** by me this 7<sup>th</sup> of October 2024.



Jeffrey Lynam, Village President

**ATTEST:**



Katherine Diehl, Village Clerk