

SB1179



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1179

Introduced 2/5/2019, by Sen. Dan McConchie

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12001

from Ch. 34, par. 5-12001

Amends the Counties Code. Provides that counties may impose regulations, eliminate uses, buildings, or structures or require permits for parcels of land consisting of less than 20 acres being used for animal husbandry (other than equine activity) within or adjacent to residential zoning districts in counties with a population in excess of 675,000.

LRB101 04095 AWJ 49103 b

FISCAL NOTE ACT
MAY APPLY

HOUSING
AFFORDABILITY
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

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

4 Section 5. The Counties Code is amended by changing Section
5 5-12001 as follows:

6 (55 ILCS 5/5-12001) (from Ch. 34, par. 5-12001)

7 Sec. 5-12001. Authority to regulate and restrict location
8 and use of structures. For the purpose of promoting the public
9 health, safety, morals, comfort and general welfare,
10 conserving the values of property throughout the county,
11 lessening or avoiding congestion in the public streets and
12 highways, and lessening or avoiding the hazards to persons and
13 damage to property resulting from the accumulation or runoff of
14 storm or flood waters, the county board or board of county
15 commissioners, as the case may be, of each county, shall have
16 the power to regulate and restrict the location and use of
17 buildings, structures and land for trade, industry, residence
18 and other uses which may be specified by such board, to
19 regulate and restrict the intensity of such uses, to establish
20 building or setback lines on or along any street, trafficway,
21 drive, parkway or storm or floodwater runoff channel or basin
22 outside the limits of cities, villages and incorporated towns
23 which have in effect municipal zoning ordinances; to divide the

1 entire county outside the limits of such cities, villages and
2 incorporated towns into districts of such number, shape, area
3 and of such different classes, according to the use of land and
4 buildings, the intensity of such use (including height of
5 buildings and structures and surrounding open space) and other
6 classification as may be deemed best suited to carry out the
7 purposes of this Division; to prohibit uses, buildings or
8 structures incompatible with the character of such districts
9 respectively; and to prevent additions to and alteration or
10 remodeling of existing buildings or structures in such a way as
11 to avoid the restrictions and limitations lawfully imposed
12 hereunder: Provided, that permits with respect to the erection,
13 maintenance, repair, alteration, remodeling or extension of
14 buildings or structures used or to be used for agricultural
15 purposes shall be issued free of any charge. The corporate
16 authorities of the county may by ordinance require the
17 construction of fences around or protective covers over
18 previously constructed artificial basins of water dug in the
19 ground and used for swimming or wading, which are located on
20 private residential property and intended for the use of the
21 owner and guests. In all ordinances or resolutions passed under
22 the authority of this Division, due allowance shall be made for
23 existing conditions, the conservation of property values, the
24 directions of building development to the best advantage of the
25 entire county, and the uses to which property is devoted at the
26 time of the enactment of any such ordinance or resolution.

1 The powers by this Division given shall not be exercised so
2 as to deprive the owner of any existing property of its use or
3 maintenance for the purpose to which it is then lawfully
4 devoted, but provisions may be made for (i) the gradual
5 elimination of the uses of unimproved lands or lot areas when
6 the existing rights of the persons in possession are terminated
7 or when the uses to which they are devoted are discontinued,
8 (ii) the gradual elimination of uses to which the buildings and
9 structures are devoted if they are adaptable to permitted uses,
10 and (iii) the gradual elimination of the buildings and
11 structures when they are destroyed or damaged in major part;
12 nor shall they be exercised so as to impose regulations,
13 eliminate uses, buildings, or structures, or require permits
14 with respect to land used for agricultural purposes, which
15 includes the growing of farm crops, truck garden crops, animal
16 and poultry husbandry, apiculture, aquaculture, dairying,
17 floriculture, horticulture, nurseries, tree farms, sod farms,
18 pasturage, viticulture, and wholesale greenhouses when such
19 agricultural purposes constitute the principal activity on the
20 land, other than parcels of land consisting of less than 5
21 acres from which \$1,000 or less of agricultural products were
22 sold in any calendar year in counties with a population between
23 300,000 and 400,000 or in counties contiguous to a county with
24 a population between 300,000 and 400,000, ~~and~~ other than
25 parcels of land consisting of less than 5 acres in counties
26 with a population in excess of 400,000, and other than parcels

1 of land consisting of less than 20 acres being used for animal
2 husbandry (other than equine activity) within or adjacent to
3 residential zoning districts in counties with a population in
4 excess of 675,000, or with respect to the erection,
5 maintenance, repair, alteration, remodeling or extension of
6 buildings or structures used or to be used for agricultural
7 purposes upon such land except that such buildings or
8 structures for agricultural purposes may be required to conform
9 to building or set back lines and counties may establish a
10 minimum lot size for residences on land used for agricultural
11 purposes; nor shall any such powers be so exercised as to
12 prohibit the temporary use of land for the installation,
13 maintenance and operation of facilities used by contractors in
14 the ordinary course of construction activities, except that
15 such facilities may be required to be located not less than
16 1,000 feet from any building used for residential purposes, and
17 except that the period of such temporary use shall not exceed
18 the duration of the construction contract; nor shall any such
19 powers include the right to specify or regulate the type or
20 location of any poles, towers, wires, cables, conduits, vaults,
21 laterals or any other similar distributing equipment of a
22 public utility as defined in the Public Utilities Act, if the
23 public utility is subject to the Messages Tax Act, the Gas
24 Revenue Tax Act or the Public Utilities Revenue Act, or if such
25 facilities or equipment are located on any rights of way and
26 are used for railroad purposes, nor shall any such powers be

1 exercised with respect to uses, buildings, or structures of a
2 public utility as defined in the Public Utilities Act, nor
3 shall any such powers be exercised in any respect as to the
4 facilities, as defined in Section 5-12001.1, of a
5 telecommunications carrier, as also defined therein, except to
6 the extent and in the manner set forth in Section 5-12001.1. As
7 used in this Act, "agricultural purposes" do not include the
8 extraction of sand, gravel or limestone, and such activities
9 may be regulated by county zoning ordinance even when such
10 activities are related to an agricultural purpose.

11 Nothing in this Division shall be construed to restrict the
12 powers granted by statute to cities, villages and incorporated
13 towns as to territory contiguous to but outside of the limits
14 of such cities, villages and incorporated towns. Any zoning
15 ordinance enacted by a city, village or incorporated town shall
16 supersede, with respect to territory within the corporate
17 limits of the municipality, any county zoning plan otherwise
18 applicable. The powers granted to counties by this Division
19 shall be treated as in addition to powers conferred by statute
20 to control or approve maps, plats or subdivisions. In this
21 Division, "agricultural purposes" include, without limitation,
22 the growing, developing, processing, conditioning, or selling
23 of hybrid seed corn, seed beans, seed oats, or other farm
24 seeds.

25 Nothing in this Division shall be construed to prohibit the
26 corporate authorities of a county from adopting an ordinance

1 that exempts pleasure driveways or park districts, as defined
2 in the Park District Code, with a population of greater than
3 100,000, from the exercise of the county's powers under this
4 Division.

5 The powers granted by this Division may be used to require
6 the creation and preservation of affordable housing, including
7 the power to provide increased density or other zoning
8 incentives to developers who are creating, establishing, or
9 preserving affordable housing.

10 (Source: P.A. 94-303, eff. 7-21-05.)