



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3185

by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-13-1

from Ch. 24, par. 11-13-1

Amends the Zoning Division of the Illinois Municipal Code. Provides that a property owner, or a developer or contractor having the written permission of the property owner, shall not have any approvals under the Zoning Division denied because of a law or ordinance enacted or adopted after the date on which the property owner, developer, or contractor: (1) participated in a concept meeting for construction with representatives from a municipality regarding the subject property; (2) filed a building permit application with a municipality for the subject property; (3) presented a proposed development plan to a city council for the subject property; (4) substantially invested resources in the preparation of building plans, concept drawings, or securing building contracts for a preceding period of one year for the subject property; or (5) otherwise gave sufficient notice of an intent to develop to the pertinent regulatory authorities for the subject property. Allows suit against the State or a unit of local government that seeks to enforce or impose a more restrictive law, regulation, ordinance, or resolution against the property owner, developer, or contractor and allows for a \$5,000 civil penalty and other damages if the property owner's, developer's, or contractor's claim is successful. Limits home rule powers.

LRB101 11024 AWJ 56224 b

HOME RULE 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 Illinois Municipal Code is amended by
5 changing Section 11-13-1 as follows:

6 (65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

7 Sec. 11-13-1. (a) To the end that adequate light, pure air,
8 and safety from fire and other dangers may be secured, that the
9 taxable value of land and buildings throughout the municipality
10 may be conserved, that congestion in the public streets may be
11 lessened or avoided, that the hazards to persons and damage to
12 property resulting from the accumulation or runoff of storm or
13 flood waters may be lessened or avoided, and that the public
14 health, safety, comfort, morals, and welfare may otherwise be
15 promoted, and to insure and facilitate the preservation of
16 sites, areas, and structures of historical, architectural and
17 aesthetic importance; the corporate authorities in each
18 municipality have the following powers:

19 (1) to regulate and limit the height and bulk of
20 buildings hereafter to be erected;

21 (2) to establish, regulate and limit, subject to the
22 provisions of Division 14 of this Article 11, the building
23 or set-back lines on or along any street, traffic-way,

1 drive, parkway or storm or floodwater runoff channel or
2 basin;

3 (3) to regulate and limit the intensity of the use of
4 lot areas, and to regulate and determine the area of open
5 spaces, within and surrounding such buildings;

6 (4) to classify, regulate and restrict the location of
7 trades and industries and the location of buildings
8 designed for specified industrial, business, residential,
9 and other uses;

10 (5) to divide the entire municipality into districts of
11 such number, shape, area, and of such different classes
12 (according to use of land and buildings, height and bulk of
13 buildings, intensity of the use of lot area, area of open
14 spaces, or other classification) as may be deemed best
15 suited to carry out the purposes of this Division 13;

16 (6) to fix standards to which buildings or structures
17 therein shall conform;

18 (7) to prohibit uses, buildings, or structures
19 incompatible with the character of such districts;

20 (8) to prevent additions to and alteration or
21 remodeling of existing buildings or structures in such a
22 way as to avoid the restrictions and limitations lawfully
23 imposed under this Division 13;

24 (9) to classify, to regulate and restrict the use of
25 property on the basis of family relationship, which family
26 relationship may be defined as one or more persons each

1 related to the other by blood, marriage or adoption and
2 maintaining a common household;

3 (10) to regulate or forbid any structure or activity
4 which may hinder access to solar energy necessary for the
5 proper functioning of a solar energy system, as defined in
6 Section 1.2 of the Comprehensive Solar Energy Act of 1977;

7 (11) to require the creation and preservation of
8 affordable housing, including the power to provide
9 increased density or other zoning incentives to developers
10 who are creating, establishing, or preserving affordable
11 housing; and

12 (12) to establish local standards solely for the review
13 of the exterior design of buildings and structures,
14 excluding utility facilities and outdoor off-premises
15 advertising signs, and designate a board or commission to
16 implement the review process; except that, other than
17 reasonable restrictions as to size, no home rule or
18 non-home rule municipality may prohibit the display of
19 outdoor political campaign signs on residential property
20 during any period of time, the regulation of these signs
21 being a power and function of the State and, therefor, this
22 item (12) is a denial and limitation of concurrent home
23 rule powers and functions under subsection (i) of Section 6
24 of Article VII of the Illinois Constitution.

25 The powers enumerated may be exercised within the corporate
26 limits or within contiguous territory not more than one and

1 one-half miles beyond the corporate limits and not included
2 within any municipality. However, if any municipality adopts a
3 plan pursuant to Division 12 of Article 11 which plan includes
4 in its provisions a provision that the plan applies to such
5 contiguous territory not more than one and one-half miles
6 beyond the corporate limits and not included in any
7 municipality, then no other municipality shall adopt a plan
8 that shall apply to any territory included within the territory
9 provided in the plan first so adopted by another municipality.
10 No municipality shall exercise any power set forth in this
11 Division 13 outside the corporate limits thereof, if the county
12 in which such municipality is situated has adopted "An Act in
13 relation to county zoning", approved June 12, 1935, as amended.
14 Nothing in this Section prevents a municipality of more than
15 112,000 population located in a county of less than 185,000
16 population that has adopted a zoning ordinance and the county
17 that adopted the zoning ordinance from entering into an
18 intergovernmental agreement that allows the municipality to
19 exercise its zoning powers beyond its territorial limits;
20 provided, however, that the intergovernmental agreement must
21 be limited to the territory within the municipality's planning
22 jurisdiction as defined by law or any existing boundary
23 agreement. The county and the municipality must amend their
24 individual zoning maps in the same manner as other zoning
25 changes are incorporated into revised zoning maps. No such
26 intergovernmental agreement may authorize a municipality to

1 exercise its zoning powers, other than powers that a county may
2 exercise under Section 5-12001 of the Counties Code, with
3 respect to land used for agricultural purposes. This amendatory
4 Act of the 92nd General Assembly is declarative of existing
5 law. No municipality may exercise any power set forth in this
6 Division 13 outside the corporate limits of the municipality
7 with respect to a facility of a telecommunications carrier
8 defined in Section 5-12001.1 of the Counties Code.

9 (b) Notwithstanding any other provision of law to the
10 contrary, 30 days prior to the issuance of any permits for a
11 new telecommunications facility within 1.5 miles of a
12 municipality, the telecommunications carrier constructing the
13 facility shall provide written notice of its intent to
14 construct the facility. The notice shall include, but not be
15 limited to, the following information: (i) the name, address,
16 and telephone number of the company responsible for the
17 construction of the facility, (ii) the address and telephone
18 number of the governmental entity that is to issue the building
19 permit for the telecommunications facility, (iii) a site plan
20 and site map of sufficient specificity to indicate both the
21 location of the parcel where the telecommunications facility is
22 to be constructed and the location of all the
23 telecommunications facilities within that parcel, and (iv) the
24 property index number and common address of the parcel where
25 the telecommunications facility is to be located. The notice
26 shall not contain any material that appears to be an

1 advertisement for the telecommunications carrier or any
2 services provided by the telecommunications carrier. The
3 notice shall be provided in person, by overnight private
4 courier, or by certified mail to all owners of property within
5 250 feet of the parcel in which the telecommunications carrier
6 has a leasehold or ownership interest. For the purposes of this
7 notice requirement, "owners" means those persons or entities
8 identified from the authentic tax records of the county in
9 which the telecommunications facility is to be located. If,
10 after a bona fide effort by the telecommunications carrier to
11 determine the owner and his or her address, the owner of the
12 property on whom the notice must be served cannot be found at
13 the owner's last known address, or if the mailed notice is
14 returned because the owner cannot be found at the last known
15 address, the notice requirement of this paragraph is deemed
16 satisfied. For the purposes of this paragraph, "facility" means
17 that term as it is defined in Section 5-12001.1 of the Counties
18 Code.

19 (c) Notwithstanding any other provision of law to the
20 contrary, a property owner, or a developer or contractor having
21 the written permission of the property owner, shall not have
22 any approvals under this Division denied because of a law or
23 ordinance enacted or adopted after the date on which the
24 property owner, developer, or contractor:

25 (1) participated in a concept meeting for construction
26 with representatives from a municipality regarding the

1 subject property;

2 (2) filed a building permit application with a
3 municipality for the subject property;

4 (3) presented a proposed development plan to a city
5 council for the subject property;

6 (4) substantially invested resources in the
7 preparation of building plans, concept drawings, or
8 securing building contracts for a preceding period of one
9 year for the subject property; or

10 (5) otherwise gave sufficient notice of an intent to
11 develop to the pertinent regulatory authorities for the
12 subject property.

13 A unit of local government, including a home rule unit,
14 shall not maintain or enforce an ordinance or resolution in a
15 manner inconsistent with this subsection. This subsection is a
16 limitation under subsection (i) of Section 6 of Article VII of
17 the Illinois Constitution on the concurrent exercise by home
18 rule units of powers and functions exercised by the State.

19 (d) If a municipality adopts a zoning plan covering an area
20 outside its corporate limits, the plan adopted shall be
21 reasonable with respect to the area outside the corporate
22 limits so that future development will not be hindered or
23 impaired; it is reasonable for a municipality to regulate or
24 prohibit the extraction of sand, gravel, or limestone even when
25 those activities are related to an agricultural purpose. If all
26 or any part of the area outside the corporate limits of a

1 municipality which has been zoned in accordance with the
2 provisions of this Division 13 is annexed to another
3 municipality or municipalities, the annexing unit shall
4 thereafter exercise all zoning powers and regulations over the
5 annexed area.

6 (e) In all ordinances passed under the authority of this
7 Division 13, due allowance shall be made for existing
8 conditions, the conservation of property values, the direction
9 of building development to the best advantage of the entire
10 municipality and the uses to which the property is devoted at
11 the time of the enactment of such an ordinance. The powers
12 conferred by this Division 13 shall not be exercised so as to
13 deprive the owner of any existing property of its use or
14 maintenance for the purpose to which it is then lawfully
15 devoted, but provisions may be made for the gradual elimination
16 of uses, buildings and structures which are incompatible with
17 the character of the districts in which they are made or
18 located, including, without being limited thereto, provisions:
19 (i) ~~(a)~~ for the elimination of such uses of unimproved lands or
20 lot areas when the existing rights of the persons in possession
21 thereof are terminated or when the uses to which they are
22 devoted are discontinued; (ii) ~~(b)~~ for the elimination of uses
23 to which such buildings and structures are devoted, if they are
24 adaptable for permitted uses; and (iii) ~~(c)~~ for the elimination
25 of such buildings and structures when they are destroyed or
26 damaged in major part, or when they have reached the age fixed

1 by the corporate authorities of the municipality as the normal
2 useful life of such buildings or structures.

3 (f) If item (1), (2), (3), (4), or (5) of subsection (c)
4 has occurred and the State or a unit of local government seeks
5 to enforce or impose a more restrictive law, regulation,
6 ordinance, or resolution against the property owner, or a
7 developer or contractor with the written permission of the
8 property owner, or otherwise condition issuance of a building
9 permit on meeting requirements not in place at the occurrence
10 of item (1), (2), (3), (4), or (5) of subsection (c), then the
11 property owner, developer, or contractor may file suit for
12 injunctive or declaratory relief, or both, including, but not
13 limited to, a quo warranto action or mandamus petition. If the
14 property owner's, developer's, or contractor's claim is
15 sustained by the court, the court shall impose upon the State
16 or the unit of local government a civil penalty of not less
17 than \$5,000 and nor more than the aggregate of: (i) the
18 additional carrying costs per day incurred by the property
19 owner, developer, or contractor, or any combination, for any
20 delays in issuance of a building permit; and (ii) reasonable
21 attorney's fees.

22 (g) This amendatory Act of 1971 does not apply to any
23 municipality which is a home rule unit, except as provided in
24 item (12) of subsection (a).

25 (Source: P.A. 96-904, eff. 1-1-11; 97-496, eff. 8-22-11.)