



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB5492

by Rep. Diane Pappas

#### SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-13-1

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

Amends the Illinois Municipal Code. Provides that the corporate authorities of a municipality may regulate any organization, business, or housing development that has the potential to increase overnight population of the municipality by more than 2% on any night. Defines "population" as those persons residing in the municipality or those working in the municipality. Effective immediately.

LRB101 15895 AWJ 65252 b

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. To the end that adequate light, pure air, and  
8 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; ~~and-~~

25 (13) to regulate any organization, business, or  
26 housing development that has the potential to increase

1       overnight population of the municipality by more than 2% on  
2       any night; for purposes of this item (13), "population"  
3       means those persons residing in the municipality or those  
4       working in the municipality.

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

1 be limited to the territory within the municipality's planning  
2 jurisdiction as defined by law or any existing boundary  
3 agreement. The county and the municipality must amend their  
4 individual zoning maps in the same manner as other zoning  
5 changes are incorporated into revised zoning maps. No such  
6 intergovernmental agreement may authorize a municipality to  
7 exercise its zoning powers, other than powers that a county may  
8 exercise under Section 5-12001 of the Counties Code, with  
9 respect to land used for agricultural purposes. This amendatory  
10 Act of the 92nd General Assembly is declarative of existing  
11 law. No municipality may exercise any power set forth in this  
12 Division 13 outside the corporate limits of the municipality  
13 with respect to a facility of a telecommunications carrier  
14 defined in Section 5-12001.1 of the Counties Code.

15 Notwithstanding any other provision of law to the contrary,  
16 30 days prior to the issuance of any permits for a new  
17 telecommunications facility within 1.5 miles of a  
18 municipality, the telecommunications carrier constructing the  
19 facility shall provide written notice of its intent to  
20 construct the facility. The notice shall include, but not be  
21 limited to, the following information: (i) the name, address,  
22 and telephone number of the company responsible for the  
23 construction of the facility, (ii) the address and telephone  
24 number of the governmental entity that is to issue the building  
25 permit for the telecommunications facility, (iii) a site plan  
26 and site map of sufficient specificity to indicate both the

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

25 If a municipality adopts a zoning plan covering an area  
26 outside its corporate limits, the plan adopted shall be

1 reasonable with respect to the area outside the corporate  
2 limits so that future development will not be hindered or  
3 impaired; it is reasonable for a municipality to regulate or  
4 prohibit the extraction of sand, gravel, or limestone even when  
5 those activities are related to an agricultural purpose. If all  
6 or any part of the area outside the corporate limits of a  
7 municipality which has been zoned in accordance with the  
8 provisions of this Division 13 is annexed to another  
9 municipality or municipalities, the annexing unit shall  
10 thereafter exercise all zoning powers and regulations over the  
11 annexed area.

12 In all ordinances passed under the authority of this  
13 Division 13, due allowance shall be made for existing  
14 conditions, the conservation of property values, the direction  
15 of building development to the best advantage of the entire  
16 municipality and the uses to which the property is devoted at  
17 the time of the enactment of such an ordinance. The powers  
18 conferred by this Division 13 shall not be exercised so as to  
19 deprive the owner of any existing property of its use or  
20 maintenance for the purpose to which it is then lawfully  
21 devoted, but provisions may be made for the gradual elimination  
22 of uses, buildings and structures which are incompatible with  
23 the character of the districts in which they are made or  
24 located, including, without being limited thereto, provisions  
25 (a) for the elimination of such uses of unimproved lands or lot  
26 areas when the existing rights of the persons in possession



1       thereof are terminated or when the uses to which they are  
2       devoted are discontinued; (b) for the elimination of uses to  
3       which such buildings and structures are devoted, if they are  
4       adaptable for permitted uses; and (c) for the elimination of  
5       such buildings and structures when they are destroyed or  
6       damaged in major part, or when they have reached the age fixed  
7       by the corporate authorities of the municipality as the normal  
8       useful life of such buildings or structures.

9               This amendatory Act of 1971 does not apply to any  
10       municipality which is a home rule unit, except as provided in  
11       item (12).

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

13               Section 99. Effective date. This Act takes effect upon  
14       becoming law.