



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3044

Introduced 1/5/2022, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12009.6 new

65 ILCS 5/11-13-1

65 ILCS 5/11-13-1.1

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

from Ch. 24, par. 11-13-1.1

Amends the Counties Code. Provides that if a municipality approves a special use permit for a facility regulated under the Livestock Management Facilities Act located within 1.5 miles of the border of the municipality, the parameters of the special use permit supersede the zoning powers of the county for that property. States that the provisions shall not be construed as to prevent a county from zoning property for any other agricultural use allowed under the Counties Code. Limits home rule powers. Amends the Illinois Municipal Code. Provides that facilities permitted under the Livestock Management Facilities Act may be permitted as a special use by the corporate authorities of a municipality and such special uses may be part of specified intergovernmental agreements.

LRB102 22339 AWJ 31476 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 Counties Code is amended by adding Section
5 5-12009.6 as follows:

6 (55 ILCS 5/5-12009.6 new)

7 Sec. 5-12009.6. Municipal special use permits relating to
8 facilities under the Livestock Management Facilities Act.

9 (a) If a municipality approves a special use permit for a
10 facility regulated under the Livestock Management Facilities
11 Act located within 1.5 miles of the border of the
12 municipality, the parameters of the special use permit
13 supersede the zoning powers of the county for that property.
14 This subsection shall not be construed as to prevent a county
15 from zoning property for any other agricultural use allowed
16 under this Code.

17 (b) A home rule county may not regulate property in a
18 manner inconsistent with this Section. This Section is a
19 limitation under subsection (i) of Section 6 of Article VII of
20 the Illinois Constitution on the concurrent exercise by home
21 rule units of powers and functions exercised by the State.

22 Section 10. The Illinois Municipal Code is amended by

1 changing Sections 11-13-1 and 11-13-1.1 as follows:

2 (65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

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

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

18 (2) to establish, regulate and limit, subject to the
19 provisions of Division 14 of this Article 11, the building
20 or set-back lines on or along any street, traffic-way,
21 drive, parkway or storm or floodwater runoff channel or
22 basin;

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

1 (4) to classify, regulate and restrict the location of
2 trades and industries and the location of buildings
3 designed for specified industrial, business, residential,
4 and other uses;

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

11 (6) to fix standards to which buildings or structures
12 therein shall conform;

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

15 (8) to prevent additions to and alteration or
16 remodeling of existing buildings or structures in such a
17 way as to avoid the restrictions and limitations lawfully
18 imposed under this Division 13;

19 (9) to classify, to regulate and restrict the use of
20 property on the basis of family relationship, which family
21 relationship may be defined as one or more persons each
22 related to the other by blood, marriage or adoption and
23 maintaining a common household;

24 (10) to regulate or forbid any structure or activity
25 which may hinder access to solar energy necessary for the
26 proper functioning of a solar energy system, as defined in

1 Section 1.2 of the Comprehensive Solar Energy Act of 1977;

2 (11) to require the creation and preservation of
3 affordable housing, including the power to provide
4 increased density or other zoning incentives to developers
5 who are creating, establishing, or preserving affordable
6 housing; and

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

20 The powers enumerated may be exercised within the
21 corporate limits or within contiguous territory not more than
22 one and one-half miles beyond the corporate limits and not
23 included within any municipality. However, if any municipality
24 adopts a plan pursuant to Division 12 of Article 11 which plan
25 includes in its provisions a provision that the plan applies
26 to such contiguous territory not more than one and one-half

1 miles beyond the corporate limits and not included in any
2 municipality, then no other municipality shall adopt a plan
3 that shall apply to any territory included within the
4 territory provided in the plan first so adopted by another
5 municipality. No municipality shall exercise any power set
6 forth in this Division 13 outside the corporate limits
7 thereof, if the county in which such municipality is situated
8 has adopted "An Act in relation to county zoning", approved
9 June 12, 1935, as amended. Nothing in this Section prevents a
10 municipality of more than 112,000 population located in a
11 county of less than 185,000 population that has adopted a
12 zoning ordinance and the county that adopted the zoning
13 ordinance from entering into an intergovernmental agreement
14 that allows the municipality to exercise its zoning powers
15 beyond its territorial limits; provided, however, that the
16 intergovernmental agreement must be limited to the territory
17 within the municipality's planning jurisdiction as defined by
18 law or any existing boundary agreement. The county and the
19 municipality must amend their individual zoning maps in the
20 same manner as other zoning changes are incorporated into
21 revised zoning maps. No such intergovernmental agreement may
22 authorize a municipality to exercise its zoning powers, other
23 than powers that a county may exercise under Section 5-12001
24 of the Counties Code, with respect to land used for
25 agricultural purposes, except to allow special uses for
26 facilities permitted under the Livestock Management Facilities

1 Act as provided in Section 11-13-1.1 of this Code. This
2 amendatory Act of the 92nd General Assembly is declarative of
3 existing law. No municipality may exercise any power set forth
4 in this Division 13 outside the corporate limits of the
5 municipality with respect to a facility of a
6 telecommunications carrier defined in Section 5-12001.1 of the
7 Counties Code.

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

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

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

1 provisions of this Division 13 is annexed to another
2 municipality or municipalities, the annexing unit shall
3 thereafter exercise all zoning powers and regulations over the
4 annexed area.

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

1 as the normal useful life of such buildings or structures.

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

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

6 (65 ILCS 5/11-13-1.1) (from Ch. 24, par. 11-13-1.1)

7 Sec. 11-13-1.1. The corporate authorities of any
8 municipality may in its ordinances passed under the authority
9 of this Division 13 provide for the classification of special
10 uses. Such uses may include but are not limited to public and
11 quasi-public uses affected with the public interest,
12 facilities permitted under the Livestock Management Facilities
13 Act, uses which may have a unique, special or unusual impact
14 upon the use or enjoyment of neighboring property, and planned
15 developments. A use may be a permitted use in one or more
16 zoning districts, and a special use in one or more other zoning
17 districts. A special use shall be permitted only after a
18 public hearing before some commission or committee designated
19 by the corporate authorities, with prior notice thereof given
20 in the manner as provided in Section 11-13-6 and 11-13-7. Any
21 notice required by this Section need not include a metes and
22 bounds legal description of the area classified for special
23 uses, provided that the notice includes: (i) the common street
24 address or addresses and (ii) the property index number
25 ("PIN") or numbers of all the parcels of real property

1 contained in the area classified for special uses. A special
2 use shall be permitted only upon evidence that such use meets
3 standards established for such classification in the
4 ordinances, and the granting of permission therefor may be
5 subject to conditions reasonably necessary to meet such
6 standards. In addition, any proposed special use which fails
7 to receive the approval of the commission or committee
8 designated by the corporate authorities to hold the public
9 hearing shall not be approved by the corporate authorities
10 except by a favorable majority vote of all alderpersons,
11 commissioners or trustees of the municipality then holding
12 office; however, the corporate authorities may by ordinance
13 increase the vote requirement to two-thirds of all
14 alderpersons, commissioners or trustees of the municipality
15 then holding office.

16 (Source: P.A. 102-15, eff. 6-17-21.)