



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB2520

Introduced 2/26/2007, by Rep. Michael J. Madigan - Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12001

from Ch. 34, par. 5-12001

Amends the Counties Code. Makes a technical change in a Section concerning county zoning powers.

LRB095 01288 HLH 21290 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 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.

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

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

1 time of the enactment of any such ordinance or resolution.

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

1 with a population in excess of 400,000, or with respect to the
2 erection, maintenance, repair, alteration, remodeling or
3 extension of buildings or structures used or to be used for
4 agricultural purposes upon such land except that such buildings
5 or structures for agricultural purposes may be required to
6 conform to building or set back lines and counties may
7 establish a minimum lot size for residences on land used for
8 agricultural purposes; nor shall any such powers be so
9 exercised as to prohibit the temporary use of land for the
10 installation, maintenance and operation of facilities used by
11 contractors in the ordinary course of construction activities,
12 except that such facilities may be required to be located not
13 less than 1,000 feet from any building used for residential
14 purposes, and except that the period of such temporary use
15 shall not exceed the duration of the construction contract; nor
16 shall any such powers include the right to specify or regulate
17 the type or location of any poles, towers, wires, cables,
18 conduits, vaults, laterals or any other similar distributing
19 equipment of a public utility as defined in the Public
20 Utilities Act, if the public utility is subject to the Messages
21 Tax Act, the Gas Revenue Tax Act or the Public Utilities
22 Revenue Act, or if such facilities or equipment are located on
23 any rights of way and are used for railroad purposes, nor shall
24 any such powers be exercised with respect to uses, buildings,
25 or structures of a public utility as defined in the Public
26 Utilities Act, nor shall any such powers be exercised in any

1 respect as to the facilities, as defined in Section 5-12001.1,
2 of a telecommunications carrier, as also defined therein,
3 except to the extent and in the manner set forth in Section
4 5-12001.1. As used in this Act, "agricultural purposes" do not
5 include the extraction of sand, gravel or limestone, and such
6 activities may be regulated by county zoning ordinance even
7 when such activities are related to an agricultural purpose.

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

22 Nothing in this Division shall be construed to prohibit the
23 corporate authorities of a county from adopting an ordinance
24 that exempts pleasure driveways or park districts, as defined
25 in the Park District Code, with a population of greater than
26 100,000, from the exercise of the county's powers under this

1 Division.

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

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