



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4158

Introduced 2/27/2009, by Rep. James D. Brosnahan

SYNOPSIS AS INTRODUCED:

65 ILCS 5/11-13-1 from Ch. 24, par. 11-13-1
65 ILCS 5/11-13-27 new
65 ILCS 5/11-13-28 new

Amends the Illinois Municipal Code. Provides notice and hearing requirements for the erection of a telecommunication tower, an AM broadcast station, and a cell phone tower within a municipality. Provides that there shall be at least one public hearing prior to a decision by the corporate authorities of a municipality to approve the construction of a telecommunication tower, an AM broadcast station, or a cell phone tower. Provides that notice of any public hearing shall be sent by certified mail at least 30 days prior to the hearing to the owner of record of all residential property that is within 0.25 miles from the site of the proposed telecommunications facility, AM broadcast station, or cell phone tower. Effective immediately.

LRB096 10330 RLJ 20500 b

FISCAL 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 and by adding Sections 11-13-27 and
6 11-13-28 as follows:

7 (65 ILCS 5/11-13-1) (from Ch. 24, par. 11-13-1)

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

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

22 (2) to establish, regulate and limit, subject to the
23 provisions of Division 14 of this Article 11, the building

1 or set-back lines on or along any street, traffic-way,
2 drive, parkway or storm or floodwater runoff channel or
3 basin;

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

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

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

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

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

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

25 (9) to classify, to regulate and restrict the use of
26 property on the basis of family relationship, which family

1 relationship may be defined as one or more persons each
2 related to the other by blood, marriage or adoption and
3 maintaining a common household;

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

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

13 (12) to establish local standards solely for the review
14 of the exterior design of buildings and structures,
15 excluding utility facilities and outdoor off-premises
16 advertising signs, and designate a board or commission to
17 implement the review process.

18 The powers enumerated may be exercised within the corporate
19 limits or within contiguous territory not more than one and
20 one-half miles beyond the corporate limits and not included
21 within any municipality. However, if any municipality adopts a
22 plan pursuant to Division 12 of Article 11 which plan includes
23 in its provisions a provision that the plan applies to such
24 contiguous territory not more than one and one-half miles
25 beyond the corporate limits and not included in any
26 municipality, then no other municipality shall adopt a plan

1 that shall apply to any territory included within the territory
2 provided in the plan first so adopted by another municipality.
3 No municipality shall exercise any power set forth in this
4 Division 13 outside the corporate limits thereof, if the county
5 in which such municipality is situated has adopted "An Act in
6 relation to county zoning", approved June 12, 1935, as amended.
7 Nothing in this Section prevents a municipality of more than
8 112,000 population located in a county of less than 185,000
9 population that has adopted a zoning ordinance and the county
10 that adopted the zoning ordinance from entering into an
11 intergovernmental agreement that allows the municipality to
12 exercise its zoning powers beyond its territorial limits;
13 provided, however, that the intergovernmental agreement must
14 be limited to the territory within the municipality's planning
15 jurisdiction as defined by law or any existing boundary
16 agreement. The county and the municipality must amend their
17 individual zoning maps in the same manner as other zoning
18 changes are incorporated into revised zoning maps. No such
19 intergovernmental agreement may authorize a municipality to
20 exercise its zoning powers, other than powers that a county may
21 exercise under Section 5-12001 of the Counties Code, with
22 respect to land used for agricultural purposes. This amendatory
23 Act of the 92nd General Assembly is declarative of existing
24 law. No municipality may exercise any power set forth in this
25 Division 13 outside the corporate limits of the municipality
26 with respect to a facility of a telecommunications carrier

1 defined in Section 5-12001.1 of the Counties Code.

2 Before the approval or rejection of a telecommunications
3 facility (as defined in Section 5-12001.1 of the Counties Code)
4 to be erected within a municipality's boundaries, the
5 municipality shall give notice of the proposed erection site.
6 There shall be at least one public hearing prior to a decision
7 by the corporate authorities of the municipality. Notice of any
8 such public hearing shall be published at least 30 days before
9 the hearing in a newspaper of general circulation published in
10 the municipality. Notice of any public hearing shall also be
11 sent by certified mail at least 30 days prior to the hearing to
12 the owner of record of all residential property that is within
13 0.25 miles from the site upon which the telecommunications
14 facility is proposed to be sited. For the purposes of this
15 notice requirement, "owner" means the person or entity
16 identified from the authentic tax records of the county in
17 which the telecommunications facility is to be located. The
18 notice requirement applies regardless of whether the owner of
19 record owns property within the municipality.

20 Notwithstanding any other provision of law to the contrary,
21 at least 30 days prior to commencing construction of a new
22 telecommunications facility within 1.5 miles of a
23 municipality, the telecommunications carrier constructing the
24 facility shall provide written notice of its intent to
25 construct the facility. The notice shall include, but not be
26 limited to, the following information: (i) the name, address,

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

21 If a municipality adopts a zoning plan covering an area
22 outside its corporate limits, the plan adopted shall be
23 reasonable with respect to the area outside the corporate
24 limits so that future development will not be hindered or
25 impaired; it is reasonable for a municipality to regulate or
26 prohibit the extraction of sand, gravel, or limestone even when

1 those activities are related to an agricultural purpose. If all
2 or any part of the area outside the corporate limits of a
3 municipality which has been zoned in accordance with the
4 provisions of this Division 13 is annexed to another
5 municipality or municipalities, the annexing unit shall
6 thereafter exercise all zoning powers and regulations over the
7 annexed area.

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

1 such buildings and structures when they are destroyed or
2 damaged in major part, or when they have reached the age fixed
3 by the corporate authorities of the municipality as the normal
4 useful life of such buildings or structures.

5 This amendatory Act of 1971 does not apply to any
6 municipality which is a home rule unit.

7 (Source: P.A. 94-303, eff. 7-21-05; 95-475, eff. 1-1-08.)

8 (65 ILCS 5/11-13-27 new)

9 Sec. 11-13-27. AM broadcast station towers. Before the
10 approval or rejection of an AM broadcast station tower to be
11 erected within a municipality's boundaries, the municipality
12 shall give notice of the proposed erection site. There shall be
13 at least one public hearing prior to a decision by the
14 corporate authorities of the municipality. Notice of any such
15 public hearing shall be published at least 30 days before the
16 hearing in a newspaper of general circulation published in the
17 municipality. Notice of any public hearing shall also be sent
18 by certified mail at least 30 days prior to the hearing to the
19 owner of record of all residential property that is within 0.25
20 miles from the site upon which the AM broadcast station tower
21 is proposed to be sited. For the purposes of this notice
22 requirement, "owner" means the person or entity identified from
23 the authentic tax records of the county in which the AM
24 broadcast station tower is to be located. The notice
25 requirement applies regardless of whether the owner of record

1 owns property within the municipality.

2 (65 ILCS 5/11-13-28 new)

3 Sec. 11-13-28. Cell phone towers. Before the approval or
4 rejection of a cell phone tower to be erected within a
5 municipality's boundaries, the municipality shall give notice
6 of the proposed erection site. There shall be at least one
7 public hearing prior to a decision by the corporate authorities
8 of the municipality. Notice of any such public hearing shall be
9 published at least 30 days before the hearing in a newspaper of
10 general circulation published in the municipality. Notice of
11 any public hearing shall also be sent by certified mail at
12 least 30 days prior to the hearing to the owner of record of
13 all residential property that is within 0.25 miles from the
14 site upon which the cell phone tower is proposed to be sited.
15 For the purposes of this notice requirement, "owner" means the
16 person or entity identified from the authentic tax records of
17 the county in which the cell phone tower is to be located. The
18 notice requirement applies regardless of whether the owner of
19 record owns property within the municipality.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.