



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB2927

Introduced 2/19/2021, 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.

LRB102 13609 AWJ 18959 b

FISCAL NOTE ACT  
MAY APPLY

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  
8 air, and safety from fire and other dangers may be secured,  
9 that the taxable value of land and buildings throughout the  
10 municipality may be conserved, that congestion in the public  
11 streets may be lessened or avoided, that the hazards to  
12 persons and damage to property resulting from the accumulation  
13 or runoff of storm or flood waters may be lessened or avoided,  
14 and that the public health, safety, comfort, morals, and  
15 welfare may otherwise be promoted, and to insure and  
16 facilitate the preservation of sites, areas, and structures of  
17 historical, architectural and aesthetic importance; the  
18 corporate authorities in each municipality have the following  
19 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  
12 of such number, shape, area, and of such different classes  
13 (according to use of land and buildings, height and bulk  
14 of buildings, intensity of the use of lot area, area of  
15 open spaces, or other classification) as may be deemed  
16 best 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  
14 review 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; except that, other than  
18 reasonable restrictions as to size, no home rule or  
19 non-home rule municipality may prohibit the display of  
20 outdoor political campaign signs on residential property  
21 during any period of time, the regulation of these signs  
22 being a power and function of the State and, therefor,  
23 this item (12) is a denial and limitation of concurrent  
24 home rule powers and functions under subsection (i) of  
25 Section 6 of Article VII of the Illinois Constitution.

26 The powers enumerated may be exercised within the

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

1 revised zoning maps. No such intergovernmental agreement may  
2 authorize a municipality to exercise its zoning powers, other  
3 than powers that a county may exercise under Section 5-12001  
4 of the Counties Code, with respect to land used for  
5 agricultural purposes. This amendatory Act of the 92nd General  
6 Assembly is declarative of existing law. No municipality may  
7 exercise any power set forth in this Division 13 outside the  
8 corporate limits of the municipality with respect to a  
9 facility of a telecommunications carrier defined in Section  
10 5-12001.1 of the Counties Code.

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

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

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

1           (1) participated in a concept meeting for construction  
2           with representatives from a municipality regarding the  
3           subject property;

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

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

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

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

15           If any item of this subsection has occurred and the State  
16           or a unit of local government seeks to enforce or impose a more  
17           restrictive law, regulation, ordinance, or resolution against  
18           the property owner, or a developer or contractor with the  
19           written permission of the property owner, or otherwise  
20           condition issuance of a building permit on meeting  
21           requirements not in place at the occurrence of any item of this  
22           subsection, then the property owner, developer, or contractor  
23           may file suit for injunctive or declaratory relief, or both,  
24           including, but not limited to, a quo warranto action or  
25           mandamus petition. If the property owner's, developer's, or  
26           contractor's claim is sustained by the court, the court shall



1 impose upon the State or the unit of local government a civil  
2 penalty of not less than \$5,000 and nor more than the aggregate  
3 of: (i) the additional carrying costs per day incurred by the  
4 property owner, developer, or contractor, or any combination,  
5 for any delays in issuance of a building permit; and (ii)  
6 reasonable attorney's fees.

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

13 (d) If a municipality adopts a zoning plan covering an  
14 area outside its corporate limits, the plan adopted shall be  
15 reasonable with respect to the area outside the corporate  
16 limits so that future development will not be hindered or  
17 impaired; it is reasonable for a municipality to regulate or  
18 prohibit the extraction of sand, gravel, or limestone even  
19 when those activities are related to an agricultural purpose.  
20 If all or any part of the area outside the corporate limits of  
21 a municipality which has been zoned in accordance with the  
22 provisions of this Division 13 is annexed to another  
23 municipality or municipalities, the annexing unit shall  
24 thereafter exercise all zoning powers and regulations over the  
25 annexed area.

26 (e) In all ordinances passed under the authority of this

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

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

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