



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2160

Introduced 2/10/2023, 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.

LRB103 27338 RLC 53709 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.)