



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4164

Introduced 11/2/2007, by Rep. William B. Black

SYNOPSIS AS INTRODUCED:

55 ILCS 5/5-12009.5

65 ILCS 5/11-13-1.1

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

Amends the Counties Code and the Illinois Municipal Code. Provides that a special use permit may not be granted for a term of more than 5 years. Provides that special use permits granted before the effective date of the amendatory Act expire 5 years after that effective date. Denies home rule powers. Effective immediately.

LRB095 14130 HLH 39988 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

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 5-12009.5 as follows:

6 (55 ILCS 5/5-12009.5)

7 Sec. 5-12009.5. Special uses.

8 (a) The county board may, by an ordinance passed under this
9 Division, provide for the classification of special uses. Those
10 uses may include, but are not limited to, public and
11 quasi-public uses affecting the public interest; uses that have
12 a unique, special, or unusual impact upon the use or enjoyment
13 of neighboring property; and uses that affect planned
14 development. A use may be permitted in one or more zoning
15 districts and may be a special use in one or more other zoning
16 districts.

17 (b) A special use may be granted only after a public
18 hearing conducted by the board of appeals. There must be at
19 least 15 days' notice before the hearing. The notice must
20 include the time, place, and date of the hearing and must be
21 published in a newspaper published in the township or road
22 district where the property is located. If there is no
23 newspaper published in the township or road district where the

1 property is located, the notice must be published in a
2 newspaper of general circulation in the county. The notice must
3 also contain (i) the particular location of the property for
4 which the special use is requested by legal description and by
5 street address, or if there is no street address, by locating
6 the property with reference to any well-known landmark,
7 highway, road, thoroughfare, or intersection; (ii) whether the
8 petitioner or applicant is acting for himself or herself or as
9 an agent, alter ego, or representative of a principal and the
10 name and address of the principal; (iii) whether the petitioner
11 or applicant is a corporation, and if so, the correct names and
12 addresses of all officers and directors of the corporation and
13 of all stockholders or shareholders owning any interest in
14 excess of 20% of all of the outstanding stock or shares of the
15 corporation; (iv) whether the petitioner or applicant, or his
16 or her principal, is a business or entity doing business under
17 an assumed name, and if so, the name and residence of all
18 actual owners of the business or entity; (v) whether the
19 petitioner or applicant, or his or her principal, is a
20 partnership, joint venture, syndicate, or an unincorporated
21 voluntary association, and if so, the names and addresses of
22 all partners or members of the partnership, joint venture,
23 syndicate, or unincorporated voluntary association; and (vi) a
24 brief statement of the proposed special use.

25 In addition to any other notice required by this Section,
26 the board of appeals must give at least 15 days' notice before

1 the hearing to (i) any municipality whose boundaries are within
2 1-1/2 miles of any part of the property proposed as a special
3 use and (ii) the owner or owners of any land adjacent to or
4 immediately across any street, alley, or public right-of-way
5 from the property proposed as a special use.

6 The petitioner or applicant must pay the cost of the
7 publication of the notice required by this Section.

8 (c) A special use may be granted only upon evidence that
9 the special use meets the standards established for that
10 classification in the ordinance. The special use may be subject
11 to conditions reasonably necessary to meet those standards.

12 (d) The board of appeals shall report to the county board a
13 finding of fact and a recommendation as to whether the county
14 board should deny, grant, or grant subject to conditions the
15 special use. The county board may, by ordinance and without a
16 further public hearing, adopt any proposed special use on
17 receiving the report or it may refer the proposal back to the
18 board of appeals for further consideration.

19 (e) The county board may, by ordinance, delegate to the
20 board of appeals the authority to grant special uses subject to
21 the restrictions and requirements of this Section. The
22 ordinance may delegate the authority to grant all special uses
23 or to grant only certain classes of special uses while
24 reserving to the county board the authority to grant other
25 classes of special uses. If the county board enacts an
26 ordinance delegating its authority, the board of appeals must,

1 after conducting the required public hearing, issue a finding
2 of fact and final decision in writing on the proposed special
3 use.

4 (f) On and after the effective date of this amendatory Act
5 of the 95th General Assembly, a special use permit may not be
6 granted for a term of more than 5 years. Special use permits
7 granted before the effective date of this amendatory Act of the
8 95th General Assembly expire 5 years after that effective date.
9 A subsequent special use permit may be granted as otherwise
10 provided under this Section. Establishing time limits on the
11 terms of special use permits is an exclusive power and function
12 of the State. This subsection is a denial and limitation under
13 subsection (h) of Section 6 of Article VII of the Illinois
14 Constitution on the exercise by home rule units of powers and
15 functions exercised by the State.

16 (Source: P.A. 90-175, eff. 1-1-98; 91-334, eff. 7-29-99.)

17 Section 10. The Illinois Municipal Code is amended by
18 changing Section 11-13-1.1 as follows:

19 (65 ILCS 5/11-13-1.1) (from Ch. 24, par. 11-13-1.1)

20 Sec. 11-13-1.1.

21 (a) The corporate authorities of any municipality may in
22 its ordinances passed under the authority of this Division 13
23 provide for the classification of special uses. Such uses may
24 include but are not limited to public and quasi-public uses

1 affected with the public interest, uses which may have a
2 unique, special or unusual impact upon the use or enjoyment of
3 neighboring property, and planned developments. A use may be a
4 permitted use in one or more zoning districts, and a special
5 use in one or more other zoning districts. A special use shall
6 be permitted only after a public hearing before some commission
7 or committee designated by the corporate authorities, with
8 prior notice thereof given in the manner as provided in Section
9 11-13-6 and 11-13-7. A special use shall be permitted only upon
10 evidence that such use meets standards established for such
11 classification in the ordinances, and the granting of
12 permission therefor may be subject to conditions reasonably
13 necessary to meet such standards. In addition, any proposed
14 special use which fails to receive the approval of the
15 commission or committee designated by the corporate
16 authorities to hold the public hearing shall not be approved by
17 the corporate authorities except by a favorable majority vote
18 of all aldermen, commissioners or trustees of the municipality
19 then holding office; however, the corporate authorities may by
20 ordinance increase the vote requirement to two-thirds of all
21 aldermen, commissioners or trustees of the municipality then
22 holding office.

23 (b) On and after the effective date of this amendatory Act
24 of the 95th General Assembly, a special use permit may not be
25 granted for a term of more than 5 years. Special use permits
26 granted before the effective date of this amendatory Act of the

1 95th General Assembly expire 5 years after that effective date.
2 A subsequent special use permit may be granted as otherwise
3 provided under this Section. Establishing time limits on the
4 terms of special use permits is an exclusive power and function
5 of the State. This subsection is a denial and limitation under
6 subsection (h) of Section 6 of Article VII of the Illinois
7 Constitution on the exercise by home rule units of powers and
8 functions exercised by the State.

9 (Source: P.A. 86-330.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.