



Rep. James D. Brosnahan

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09600HB4158ham001

LRB096 10330 HLH 25016 a

1 AMENDMENT TO HOUSE BILL 4158

2 AMENDMENT NO. _____. Amend House Bill 4158 by replacing
3 everything after the enacting clause with the following:

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

1 aesthetic importance; the corporate authorities in each
2 municipality have the following powers:

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

5 (2) to establish, regulate and limit, subject to the
6 provisions of Division 14 of this Article 11, the building
7 or set-back lines on or along any street, traffic-way,
8 drive, parkway or storm or floodwater runoff channel or
9 basin;

10 (3) to regulate and limit the intensity of the use of
11 lot areas, and to regulate and determine the area of open
12 spaces, within and surrounding such buildings;

13 (4) to classify, regulate and restrict the location of
14 trades and industries and the location of buildings
15 designed for specified industrial, business, residential,
16 and other uses;

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

23 (6) to fix standards to which buildings or structures
24 therein shall conform;

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

1 (8) to prevent additions to and alteration or
2 remodeling of existing buildings or structures in such a
3 way as to avoid the restrictions and limitations lawfully
4 imposed under this Division 13;

5 (9) to classify, to regulate and restrict the use of
6 property on the basis of family relationship, which family
7 relationship may be defined as one or more persons each
8 related to the other by blood, marriage or adoption and
9 maintaining a common household;

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

14 (11) to require the creation and preservation of
15 affordable housing, including the power to provide
16 increased density or other zoning incentives to developers
17 who are creating, establishing, or preserving affordable
18 housing; and

19 (12) to establish local standards solely for the review
20 of the exterior design of buildings and structures,
21 excluding utility facilities and outdoor off-premises
22 advertising signs, and designate a board or commission to
23 implement the review process.

24 The powers enumerated may be exercised within the corporate
25 limits or within contiguous territory not more than one and
26 one-half miles beyond the corporate limits and not included

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

1 exercise under Section 5-12001 of the Counties Code, with
2 respect to land used for agricultural purposes. This amendatory
3 Act of the 92nd General Assembly is declarative of existing
4 law. No municipality may exercise any power set forth in this
5 Division 13 outside the corporate limits of the municipality
6 with respect to a facility of a telecommunications carrier
7 defined in Section 5-12001.1 of the Counties Code.

8 Before a municipality may approve or reject the siting of a
9 telecommunications facility (as defined in Section 5-12001.1
10 of the Counties Code) within the municipality's jurisdiction,
11 the municipality shall hold a public hearing at least 30 days
12 prior to the decision. Notice of any such public hearing shall
13 be published at least 15 days before the hearing in a newspaper
14 of general circulation published in the municipality. Notice of
15 any public hearing shall also be provided by the
16 telecommunications carrier requesting approval of a
17 telecommunication facility in person, by overnight private
18 courier, or by certified mail at least 15 days prior to the
19 hearing to the owner of record of all residential property that
20 is within 250 feet of the parcel in which the
21 telecommunications facility is proposed to be sited. For the
22 purposes of this notice requirement, "owner" means the person
23 or entity identified from the authentic tax records of the
24 county in which the telecommunications facility is to be
25 located. The notice requirement applies regardless of whether
26 the owner of record owns the property within the municipality.

1 If, after a bona fide effort by the telecommunications carrier
2 to determine the owner and his or her address, the owner of the
3 property on whom the notice must be served cannot be found at
4 the owner's last known address, or if the mailed notice is
5 returned because the owner cannot be found at the last known
6 address, the notice requirement of this paragraph is deemed
7 satisfied.

8 Notwithstanding any other provision of law to the contrary,
9 at least 30 days prior to commencing construction of a new
10 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 and (ii) the address and telephone
17 number of the governmental entity that issued the building
18 permit for the telecommunications facility. The notice shall be
19 provided in person, by overnight private courier, or by
20 certified mail to all owners of property within 250 feet of the
21 parcel in which the telecommunications carrier has a leasehold
22 or ownership interest. For the purposes of this notice
23 requirement, "owners" means those persons or entities
24 identified from the authentic tax records of the county in
25 which the telecommunications facility is to be located. If,
26 after a bona fide effort by the telecommunications carrier to

1 determine the owner and his or her address, the owner of the
2 property on whom the notice must be served cannot be found at
3 the owner's last known address, or if the mailed notice is
4 returned because the owner cannot be found at the last known
5 address, the notice requirement of this paragraph is deemed
6 satisfied. For the purposes of this paragraph, "facility" means
7 that term as it is defined in Section 5-12001.1 of the Counties
8 Code.

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

22 In all ordinances passed under the authority of this
23 Division 13, due allowance shall be made for existing
24 conditions, the conservation of property values, the direction
25 of building development to the best advantage of the entire
26 municipality and the uses to which the property is devoted at

1 the time of the enactment of such an ordinance. The powers
2 conferred by this Division 13 shall not be exercised so as to
3 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 the gradual elimination
6 of uses, buildings and structures which are incompatible with
7 the character of the districts in which they are made or
8 located, including, without being limited thereto, provisions
9 (a) for the elimination of such uses of unimproved lands or lot
10 areas when the existing rights of the persons in possession
11 thereof are terminated or when the uses to which they are
12 devoted are discontinued; (b) for the elimination of uses to
13 which such buildings and structures are devoted, if they are
14 adaptable for permitted uses; and (c) for the elimination of
15 such buildings and structures when they are destroyed or
16 damaged in major part, or when they have reached the age fixed
17 by the corporate authorities of the municipality as the normal
18 useful life of such buildings or structures.

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

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

22 Section 99. Effective date. This Act takes effect upon
23 becoming law."