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<b>Title:</b>	State of Illinois State Zoning Enabling Act – Municipal Ordinance
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### ***Abstract***

Corporate municipal authorities may regulate by ordinance to provide for comprehensive regulation of beneficial uses, protection from harms, and mitigation of activities associated with the use of land within their jurisdiction. Examples include height and bulk restrictions on buildings; set-back lines along streets, trafficways, drives, parkways, or storm or floodwater runoff channels or basins; and limitations on the intensity of the use of lot areas, including the area of open space, within and surrounding such buildings. Municipal zoning authorities supersede county counterparts in all instances. Municipal jurisdiction extends to contiguous lands up to one and one-half miles outside established corporate boundaries, except where expressly limited by county authority. However, municipal authorities are required to consider the future impacts of such uses, to ensure that extra-territorial land uses are reasonable. Furthermore, regulations cannot be enforced where a landowner would be deprived of the otherwise lawful use of the lot. *See* 65 ILL. COMP. STAT. 5/11-13-1 *et seq.* (2004).

### ***Resource***

**65 ILL. COMP. STAT. 5/11-13-1 *et seq.* (2004)**

#### **Sec. 11-13-1.**

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

(1) To regulate and limit the height and bulk of buildings hereafter to be erected; (2) to establish, regulate and limit, subject to the provisions of Division 14 of this Article 11, the building or set-back lines on or along any street, traffic-way, drive, parkway or storm or floodwater runoff channel or basin; (3) to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings; (4) to classify, regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, and other uses; (5) to divide the entire municipality into districts of such number, shape, area, and of such different classes (according to use of land and buildings, height and bulk of buildings, intensity of the use of lot area, area of open spaces, or other classification) as may be deemed best suited to carry out the purposes of this Division 13; (6) to fix standards to which buildings or structures therein shall conform; (7) to prohibit uses, buildings, or structures incompatible with the character of such districts; (8) to prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Division 13; (9) to classify, to regulate and restrict the use of property on the basis of family relationship, which family relationship may be defined as one or more persons each related to the other by blood, marriage or adoption and maintaining a common household; and (10) to regulate or forbid any structure or activity which may hinder access to solar energy necessary for the proper functioning of a solar energy system, as defined in Section 1.2 of The Comprehensive Solar Energy Act of 1977.

The powers enumerated may be exercised within the corporate limits or within contiguous territory not more than one and one-half miles beyond the corporate limits and not included within any municipality. However, if any municipality adopts a plan pursuant to Division 12 of Article 11 which plan includes in its provisions a provision that the plan applies to such contiguous territory not more than one and one-half miles beyond the corporate limits and not included in any municipality, then no other municipality shall adopt a plan that shall apply to any territory included within the territory provided in the plan first so adopted by another municipality. No municipality shall exercise any power set forth in this Division 13 outside the corporate limits thereof, if the county in which such municipality is situated has adopted "An Act in relation to county zoning", approved June 12, 1935, as amended. Nothing in this Section prevents a municipality of more than 112,000 population located in a county of less than 185,000 population that has adopted a zoning ordinance and the county that adopted the zoning ordinance from entering into an intergovernmental agreement that allows the municipality to exercise its zoning powers beyond its territorial limits; provided, however, that the intergovernmental agreement must be limited to the territory within the municipality's planning jurisdiction as defined by law or any existing boundary agreement. The county and the municipality must amend their individual zoning maps in the same manner as other zoning changes are incorporated into revised zoning maps. No such intergovernmental agreement may authorize a municipality to exercise its zoning powers, other than powers that a county may exercise under Section 5-12001 of the Counties Code, with respect to land used for agricultural purposes. This amendatory Act of the 92nd General Assembly is declarative of existing law. No municipality may exercise any power set forth in this Division 13 outside the corporate

limits of the municipality with respect to a facility of a telecommunications carrier defined in Section 5-12001.1 of the Counties Code.

Notwithstanding any other provision of law to the contrary, at least 30 days prior to commencing construction of a new telecommunications facility within 1.5 miles of a municipality, the telecommunications carrier constructing the facility shall provide written notice of its intent to construct the facility. The notice shall include, but not be limited to, the following information: (i) the name, address, and telephone number of the company responsible for the construction of the facility and (ii) the address and telephone number of the governmental entity that issued the building permit for the telecommunications facility. The notice shall be provided in person, by overnight private courier, or by certified mail to all owners of property within 250 feet of the parcel in which the telecommunications carrier has a leasehold or ownership interest. For the purposes of this notice requirement, "owners" means those persons or entities identified from the authentic tax records of the county in which the telecommunications facility is to be located. If, after a bona fide effort by the telecommunications carrier to determine the owner and his or her address, the owner of the property on whom the notice must be served cannot be found at the owner's last known address, or if the mailed notice is returned because the owner cannot be found at the last known address, the notice requirement of this paragraph is deemed satisfied. For the purposes of this paragraph, "facility" means that term as it is defined in Section 5-12001.1 of the Counties Code.

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

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

have reached the age fixed by the corporate authorities of the municipality as the normal useful life of such buildings or structures.

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

(Source: P.A. 92-509, eff. 1-1-02; 93-698, eff. 7-9-04.)

#### **Sec. 11-13-1.1.**

The corporate authorities of any municipality may in its ordinances passed under the authority of this Division 13 provide for the classification of special uses. Such uses may include but are not limited to public and quasi-public uses affected with the public interest, uses which may have a unique, special or unusual impact upon the use or enjoyment of neighboring property, and planned developments. A use may be a permitted use in one or more zoning districts, and a special use in one or more other zoning districts. A special use shall be permitted only after a public hearing before some commission or committee designated by the corporate authorities, with prior notice thereof given in the manner as provided in Section 11-13-6 and 11-13-7. A special use shall be permitted only upon evidence that such use meets standards established for such classification in the ordinances, and the granting of permission therefor may be subject to conditions reasonably necessary to meet such standards. In addition, any proposed special use which fails to receive the approval of the commission or committee designated by the corporate authorities to hold the public hearing shall not be approved by the corporate authorities except by a favorable majority vote of all aldermen, commissioners or trustees of the municipality then holding office; however, the corporate authorities may by ordinance increase the vote requirement to two-thirds of all aldermen, commissioners or trustees of the municipality then holding office.

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

#### **Sec. 11-13-2.**

The corporate authorities in each municipality which desires to exercise the powers conferred by this Division 13, or who have exercised such power and desire to adopt a new ordinance, shall provide for a zoning commission with the duty to recommend the boundaries of districts and appropriate regulations to be enforced therein. The commission shall be appointed by the mayor or president, subject to confirmation by the corporate authorities. The commission shall prepare a tentative report and a proposed zoning ordinance for the entire municipality. After the preparation of such a tentative report and ordinance, the commission shall hold a hearing thereon and shall afford persons interested an opportunity to be heard. Notice of the hearing shall be published at least once, not more than 30 nor less than 15 days before the hearing, in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers published in the county in which the municipality is located and having a general circulation within the municipality. The notice shall state the time and place of the hearing

and the place where copies of the proposed ordinance will be accessible for examination by interested persons. The hearing may be adjourned from time to time.

Within 30 days after the final adjournment of the hearing the commission shall make a final report and submit a proposed ordinance for the entire municipality to the corporate authorities. The corporate authorities may enact the ordinance with or without change, or may refer it back to the commission for further consideration. The zoning commission shall cease to exist upon the adoption of a zoning ordinance for the entire municipality. (Source: P.A. 80-452.)

### **Sec. 11-13-3.**

(a) All ordinances passed under the terms of this Division 13 shall be enforced by those officers of the municipality that are designated by ordinance.

(b) In municipalities having a population of more than 500,000 the city council may provide for the appointment of a board of appeals consisting of 5 members to serve respectively for the following terms: one for one year, one for 2 years, one for 3 years, one for 4 years, and one for 5 years, the successor to each member so appointed to serve for a term of 5 years.

(c) The city council in cities and the president and board of trustees in villages and incorporated towns, having a population of less than 500,000, may provide for the appointment of a board of appeals consisting of 7 members to serve respectively for the following terms: one for one year, one for 2 years, one for 3 years, one for 4 years, one for 5 years, one for 6 years, and one for 7 years, the successor to each member so appointed to serve for a term of 5 years.

(d) In any municipality with a population under 5,000 that has an appointed board of appeals, a proposition to elect the board of appeals at large shall be submitted to the electors as provided in this subsection.

Electors of the municipality equal to not less than 10% of the total vote cast for all candidates for mayor or president in the last preceding municipal election for that office may petition for the submission to a vote of the electors of the municipality the proposition whether the board of appeals shall be elected at large. The petition shall be filed with the municipal clerk in accordance with the general election law. The clerk shall certify the proposition to the proper election authorities who shall submit the proposition at an election in accordance with the general election law.

The proposition shall be in substantially the following form: "Shall the city (or village or incorporated town) of (insert name) elect the zoning board of appeals at large instead of having an appointed board of appeals?"

If a majority of those voting on the proposition vote in favor of it, then the board of appeals shall be elected at large at the next general municipal election held at least 120

days after the referendum approval. At the initial election, 4 members shall be elected for 2-year terms and 3 members shall be elected for 4-year terms; thereafter all terms shall be for 4 years. Upon the election and qualification of the initial elected board of appeals, the terms of all sitting members of the board of appeals shall expire.

(e) One of the members of an appointed board shall be named as chairman at the time of his or her appointment. If members are elected, the members shall select a chairman. The amount of compensation to be paid to members, if any, shall be fixed by the corporate authorities. The appointing authority has the power to remove any appointed member for cause and after public hearing. Vacancies shall be filled for the unexpired term of the member whose place has become vacant. Vacancies shall be filled by the appointing authority in the case of an appointed board or by those who would otherwise be the appointing authority in the case of an elected board. All meetings of the board of appeals shall be held at the call of the chairman and at other times as the board may determine. The chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions. No hearing shall be conducted without a quorum of the board being present. A quorum shall consist of a majority of all the members. Any absent member who certifies that he or she has read the transcript of the proceedings before the board may vote upon any question before the board. Every rule or regulation and its amendment or repeal and every order, requirement, decision, or determination of the board shall immediately be filed in the office of the board and shall be a public record.

(f) In all municipalities the board of appeals shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted under this Division 13.

(g) In all municipalities the board of appeals shall also hear and decide all matters referred to it or upon which it is required to pass under such an ordinance. The concurring vote of 3 members of the board, in municipalities having a population of more than 500,000, and of 4 members of the board, in municipalities having a population of less than 500,000, is necessary to reverse any order, requirement, decision, or determination of such an administrative official, to decide in favor of the applicant any matter upon which it is required to pass under such an ordinance or to effect any variation in the ordinance, or to recommend any variation or modification in the ordinance to the corporate authorities. (Source: P.A. 87-535.)

### **Sec. 11-13-3.1.**

In municipalities of less than 500,000 inhabitants no change shall be made in the zoning ordinance nor shall any zoning variation be granted within 6 months after the date upon which an official plan is adopted by the corporate authorities unless such change in the zoning ordinance or such variation is approved by a two-thirds vote of the corporate authorities or the zoning board of appeals then holding office, as the case may be.

(Source: Laws 1967, p. 3425)

**Sec. 11-13-4.**

In municipalities of 500,000 or more population, the regulations authorized by this Division 13 may be varied in their application only by the board of appeals of the municipality, subject to the power of the corporate authorities to prohibit, in whole or in part, the granting of variations in respect to the classification, regulation and restriction of the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses. Variations shall be permitted by the board of appeals only when they are in harmony with the general purpose and intent of the regulations and only in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any of those regulations relating to the use, construction, or alteration of buildings or structures or the use of land. In its consideration of the standards of practical difficulties or particular hardship, the board of appeals shall require evidence that (1) the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone; and (2) the plight of the owner is due to unique circumstances; and (3) the variation, if granted, will not alter the essential character of the locality. A variation shall be permitted only if the evidence, in the judgment of the board of appeals, sustains each of the 3 conditions enumerated. The corporate authorities may provide general or specific rules implementing, but not inconsistent with, the rules herein provided to govern determinations of the board of appeals. A decision of the board of appeals shall not be subject to review, reversal or modification by the corporate authorities but shall be judicially reviewable under the provisions of Section 11-13-13.

(Source: P.A. 82-430.)

**Sec. 11-13-5.**

In municipalities of less than 500,000 population, the regulations authorized by this Division 13 may provide that the board of appeals or corporate authorities may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained in cases where there are practical difficulties or particular hardship in the way of carrying out the strict letter of any of those regulations relating to the use, construction, or alteration of buildings or structures or the use of land. If the authority to determine and approve variations is vested in the board of appeals it shall be exercised in accordance with the conditions prescribed in Section 11-13-4, subject to the power of the corporate authorities to prohibit, in whole or in part, the granting of variations in respect to the classification, regulation and restriction of the location of trades and industries and the location of buildings designed for specified industrial, business, residential and other uses. If the power to determine and approve variations is reserved to the corporate authorities, it shall be exercised only by the adoption of ordinances. However, no such variation shall be made by the corporate authorities as specified without a hearing before the board of appeals.

(Source: Laws 1961, p. 576.)

**Sec. 11-13-6.**

No variation shall be made by the board of appeals in municipalities of 500,000 or more population or by ordinance in municipalities of lesser population except in a specific case and after a public hearing before the board of appeals of which there shall be a notice of the time and place of the hearing published at least once, not more than 30 nor less than 15 days before the hearing, in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality which is published in the county where the municipality is located. This notice shall contain the particular location for which the variation is requested as well as a brief statement of what the proposed variation consists.

(Source: P.A. 80-452.)

**Sec. 11-13-7.**

In addition to the notice requirements otherwise provided for in this Division 13, in municipalities of 500,000 or more population, an applicant for variation or special use shall, not more than 30 days before filing an application for variation or special use with the board of appeals, serve written notice, either in person or by registered mail, return receipt requested, on the owners, as recorded in the office of the recorder of deeds or the registrar of titles of the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of the location for which the variation or special use is requested; provided, the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement. The notice herein required shall contain the address of the location for which the variation or special use is requested, a brief statement of the nature of the requested variation or special use, the name and address of the legal and beneficial owner of the property for which the variation or special use is requested, a statement that the applicant intends to file an application for variation or special use and the approximate date on which the application will be filed. If, after a bona fide effort to determine such address by the applicant for variation or special use, the owner of the property on which the notice is served cannot be found at his or her last known address, or the mailed notice is returned because the owner cannot be found at the last known address, the notice requirements of this sub-section shall be deemed satisfied. In addition to serving the notice herein required, at the time of filing application for variation or special use, the applicant shall furnish to the board of appeals a complete list containing the names and last known addresses of the owners of the property required to be served, the method of service and the names and last known addresses of the owners of the service and the names and addresses of the persons so served. The applicant shall also furnish a written statement certifying that he or she has complied with the requirements of this subsection. The board of appeals shall hear no application for variation or special use unless the applicant for variation or special use furnishes the list and certificate herein required. The board of appeals shall, not more than 30 days nor less than 15 days before



the hearing at which the application for variation or special use is to be considered, send written notice to the persons appearing on the list furnished by the applicant, which notice shall contain the time and place of the hearing, the address of the location for which the variation or special use is requested and the name and address of the applicant for variation or special use and a brief statement of the nature of the variation or special use requested.

Any property owner within the above stated 250 feet notice requirement, who entered his or her appearance and objected at the board of appeals hearing, and who shows that his or her property will be substantially affected by the outcome of the decision of the board may, without proof of any specific, special, or unique damages to himself or herself or his or her property or any adverse effect upon his property from the proposed variation or special use, seek judicial relief from any order or decision of the board of appeals under the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. If the board of appeals determines that the property of any such owner will not be substantially affected by the outcome of the decision of the board, such owner may initiate or join in judicial review under the Administrative Review Law, as provided in this Section.

(Source: P.A. 84-452.)

**Sec. 11-13-7a.**

Zoning variation and special use applicants and property owners, as set forth in Section 11-13-7 of this Act, shall have the following rights, in addition to any others they may possess in law, at any hearing before a board of appeals:

(a) to have subpoenas issued for persons to appear at board of appeals' hearings and for examination of documents by the person requesting the subpoena either before or at board of appeals hearings subject to the limitations in this Section. The board of appeals shall issue subpoenas as requested by zoning variation and special use applicants and by property owners within the terms of Section 11-13-7. Subpoenas shall only be enforceable against persons or for documents which have a substantial evidentiary connection with (i) the property for which a zoning variation or special use is requested, (ii) facts which would support or negate the requisite legal standards for granting a zoning variation or special use, and (iii) facts which support or negate the conclusion that property within the 250 feet notice requirement of Section 11-13-7 will be substantially affected by the outcome of the decision of the board. All matters relating to subpoenas concerning a particular zoning variation or special use case, including all enforcement and motions to quash, shall be heard in a single action, however, the court obtaining jurisdiction over any such matter may retain jurisdiction until the disposition of the case by the board of appeals. Service of such subpoenas shall be made in the same manner as summons in a civil action.

(b) To cross examine all witnesses testifying.

(c) To present witnesses on their behalf.

Property owners within the terms of Section 11-13-7 who object to the zoning application or special use application may, upon request, be granted 1 continuance for the purpose of presenting evidence to rebut testimony given by the applicant. The date of such continued hearing shall be in the discretion of the board of appeals.

This amendatory act of 1973 is not a limit upon any municipality which is a home rule unit.

(Source: P.A. 79-1363.)

#### **Sec. 11-13-8.**

In municipalities of 500,000 or more population, when any zoning ordinance, rule or regulation is sought to be declared invalid by means of a declaratory judgment proceeding, not more than 30 days before filing suit for a declaratory judgment the person filing such suit shall serve written notice in the form and manner and to all property owners as is required of applicants for variation in Section 11-13-7, and shall furnish to the clerk of the court in which the declaratory judgment suit is filed, and at the time of filing such suit, the list of property owners, the written certificate and such other information as is required in Section 11-13-7 to be furnished to the board of appeals by an applicant for variation. A property owner entitled to notice who shows that his property will be substantially affected by the outcome of the declaratory judgment proceeding may enter his appearance in the proceeding, and if he does so he shall have the rights of a party. The property owner shall not, however, need to prove any specific, special, or unique damages to himself or his property or any adverse effect upon his property from the declaratory judgment proceeding.

(Source: P. A. 76-583.)

#### **Sec. 11-13-9.**

The provisions of an amendatory Act of 1955, which was approved June 30, 1955 and which was Senate Bill No. 328 of the Sixty-Ninth General Assembly and which amended certain provisions now contained in Section 11-13-4 through 11-13-8, shall not affect the validity of any variations approved by the corporate authorities or by the board of appeals and in force prior to July 1, 1955.

(Source: Laws 1961, p. 576.)

#### **Sec. 11-13-10.**

In municipalities of less than 500,000 population, where a variation is to be made by ordinance, upon the report of the board of appeals, the corporate authorities, by ordinance, without further public hearing, may adopt any proposed variation or may refer it back to the board for further consideration, and any proposed variation which fails to receive the approval of the board of appeals shall not be passed except by the favorable vote of two-thirds of all aldermen or trustees of the municipality.

(Source: Laws 1961, p. 576.)

**Sec. 11-13-11.**

Every variation or special use, whether made by the board of appeals directly, or by an ordinance after a hearing before the board of appeals, shall be accompanied by findings of facts and shall refer to any exhibits containing plans and specifications for the proposed use or variation, which shall remain a part of the permanent records of the board of appeals. The findings of facts shall specify the reason or reasons for making the variation.

The terms of the relief granted shall be specifically set forth in a conclusion or statement separate from the findings of fact of the board of appeals or ordinance. Property for which relief has been granted shall not be used in violation of the specific terms of the board of appeals' findings of fact or ordinance, as the case may be, unless its usage is changed by further findings of fact of a board of appeals or additional ordinances.

(Source: P. A. 76-584.)

**Sec. 11-13-12.**

An appeal to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality. The appeal shall be taken within 45 days of the action complained of by filing, with the officer from whom the appeal is taken and with the board of appeals a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of appeals, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In this event the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of appeals or by a circuit court on application and on notice to the officer from whom the appeal is taken, and on due cause shown.

The board of appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the appeal within a reasonable time. Upon the hearing, any party may appear in person or by agent or by attorney. The board of appeals may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end has all the powers of the officer from whom the appeal is taken.

(Source: P. A. 76-1507.)

**Sec. 11-13-13.**

All final administrative decisions of the board of appeals under this Division 13 shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. (Source: P.A. 82-783.)

**Sec. 11-13-14.**

The regulations imposed and the districts created under the authority of this Division 13 may be amended from time to time by ordinance after the ordinance establishing them has gone into effect, but no such amendments shall be made without a hearing before some commission or committee designated by the corporate authorities. Notice shall be given of the time and place of the hearing, not more than 30 nor less than 15 days before the hearing, by publishing a notice thereof at least once in one or more newspapers published in the municipality, or, if no newspaper is published therein, then in one or more newspapers with a general circulation within the municipality. In municipalities with less than 500 population in which no newspaper is published, publication may be made instead by posting a notice in 3 prominent places within municipality. In case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjoining or across an alley therefrom, or by the owners of the 20% of the frontage directly opposite the frontage proposed to be altered, is filed with the clerk of the municipality, the amendment shall not be passed except by a favorable vote of two-thirds of the aldermen or trustees of the municipality then holding office. In such cases, a copy of the written protest shall be served by the protestor or protestors on the applicant for the proposed amendments and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

(Source: P.A. 81-705.)

**Sec. 11-13-14.1.**

Notwithstanding any other provision to the contrary in this Division 13:

(A) The corporate authorities of any municipality may by ordinance establish the position of hearing officer and delegate to a hearing officer the authority to: (i) conduct any public hearing -- other than a public hearing provided for in Section 11-13-2 -- required to be held under this Division 13 in connection with applications for any special use, variation, amendment or other change or modification in any ordinance of the municipality adopted pursuant to this Division 13; and (ii) hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Division 13.

(B) When a hearing officer is designated to conduct a public hearing in a matter otherwise required to be heard in accordance with this Division 13 by some commission or

committee designated by the corporate authorities of the municipality: (i) notice of such hearing shall be given in the same time and manner as is provided by this Division 13 for the giving of notice of hearing when any such matter is to be heard by some commission or committee designated by the corporate authorities; (ii) the hearing officer shall exercise and perform the same powers and duties as such commission or committee is required to exercise and perform when conducting a public hearing in any such matter; and (iii) the hearing officer shall render a written recommendation to the corporate authorities within such time and in such manner and form as the corporate authorities shall require.

(C) When a hearing officer is designated to conduct a public hearing in a matter otherwise required to be heard in accordance with this Division 13 by the board of appeals, or when a hearing officer is designated to hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Division 13: (i) notice of hearing shall be given in the same time and manner as is provided by this Division 13 for the giving of notice of hearing when any such matter is to be heard by the board of appeals; (ii) the hearing officer in passing upon and determining any matter otherwise within the jurisdiction of the board of appeals shall be governed by all of the standards, rules and conditions imposed by this Division 13 to govern the board of appeals when it passes upon and determines any such matter; and (iii) the hearing officer shall exercise and perform all of the powers and duties of the board of appeals in the same manner and to the same effect as provided in this Division 13 with respect to the board of appeals, provided that:

1. When the hearing officer is passing upon an application for variation or special use and the power to determine and approve such variation or special use is reserved to the corporate authorities, then upon report of the hearing officer the corporate authorities may by ordinance without further public hearing adopt any proposed variation or special use or may refer it back to the hearing officer for further consideration, and any proposed variation or special use which fails to receive the approval of the hearing officer shall not be passed except by the favorable vote of 2/3 of all alderman or trustees of the municipality;

2. When the hearing officer is passing upon an application for variation or special use and the power to determine and approve such variation or special use is not reserved to the corporate authorities, or when the hearing officer is hearing and deciding appeals from or reviewing any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Division 13, the determination made by the hearing officer with respect to any such matter shall constitute a final administrative decision which is subject to judicial review pursuant to the provisions of the "Administrative Review Law", as now or hereafter amended.

(D) The corporate authorities of the municipality may provide general or specific rules implementing but not inconsistent with the provisions of this Section, including rules relative to the time and manner in which hearing officers are designated to conduct public hearings and rules governing the manner in which such hearings are conducted and matters heard therein passed upon and determined.

(E) Hearing officers shall be appointed on the basis of training and experience which qualifies them to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard and otherwise exercise and perform the powers, duties and functions delegated in accordance with this Section. Hearing officers shall receive such compensation as the corporate authorities of the municipality shall provide, and any municipality may establish a schedule of fees to defray the costs of providing a hearing officer.

(F) This Section is intended to furnish an alternative or supplemental procedure which a municipality in its discretion may provide for hearing, determining, reviewing and deciding matters which arise under any ordinance adopted by the municipality pursuant to this Division 13, but nothing in this Section shall be deemed to limit or prevent the use of any existing procedure available to a municipality under this Division 13 for hearing, approving or denying applications for a special use, variation, amendment or other change or modification of any such ordinance, or for hearing and deciding appeals from and reviewing any order, requirement, decision or determination made by an administrative official charged with the enforcement of any such ordinance.

(Source: P.A. 84-960.)

#### **Sec. 11-13-15.**

In case any building or structure, including fixtures, is constructed, reconstructed, altered, repaired, converted, or maintained, or any building or structure, including fixtures, or land, is used in violation of an ordinance or ordinances adopted under Division 13, 31 or 31.1 of the Illinois Municipal Code, or of any ordinance or other regulation made under the authority conferred thereby, the proper local authorities of the municipality, or any owner or tenant of real property, within 1200 feet in any direction of the property on which the building or structure in question is located who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding (1) to prevent the unlawful construction, reconstruction, alteration, repair, conversion, maintenance, or use, (2) to prevent the occupancy of the building, structure, or land, (3) to prevent any illegal act, conduct, business, or use in or about the premises, or (4) to restrain, correct, or abate the violation. When any such action is instituted by an owner or tenant, notice of such action shall be served upon the municipality at the time suit is begun, by serving a copy of the complaint on the chief executive officer of the municipality, no such action may be maintained until such notice has been given.

In any action or proceeding for a purpose mentioned in this section, the court with jurisdiction of such action or proceeding has the power and in its discretion may issue a restraining order, or a preliminary injunction, as well as a permanent injunction, upon such terms and under such conditions as will do justice and enforce the purposes set forth above.

If an owner or tenant files suit hereunder and the court finds that the defendant has engaged in any of the foregoing prohibited activities, then the court shall allow the plaintiff a reasonable sum of money for the services of the plaintiff's attorney. This allowance shall be a part of the costs of the litigation assessed against the defendant, and may be recovered as such.

An owner or tenant need not prove any specific, special or unique damages to himself or his property or any adverse effect upon his property from the alleged violation in order to maintain a suit under the foregoing provisions.

(Source: P.A. 80-419.)

**Sec. 11-13-16.**

All zoning ordinances and regulations adopted prior to January 1, 1942, by any municipality pursuant to the provisions of "An Act to confer certain additional powers upon city councils in cities and presidents and boards of trustees in villages and incorporated towns concerning buildings and structures, the intensity of use of lot areas, the classification of trades, industries, buildings, and structures, with respect to location and regulation, the creation of districts of different classes, the establishment of regulations and restrictions applicable thereto, the establishment of boards of appeals and the review of the decisions of such boards by the court", approved June 28, 1921, as amended, and all committees, commissions, boards, and officers designated or appointed by any municipality pursuant to the provisions of that Act, or pursuant to the provisions of any ordinance or regulations adopted under that Act, shall be recognized, considered, and treated as having been properly adopted, designated, established, or appointed under this Division 13.

(Source: Laws 1961, p. 576.)

**Sec. 11-13-17.**

In addition to all rights and powers conferred by this Division 13, the corporate authorities in each municipality may acquire by purchase, condemnation or otherwise any buildings or structures which do not conform to the standards fixed by the corporate authorities pursuant to Section 11-13-1, and all land which is necessary or appropriate for the rehabilitation or redevelopment of any area blighted by substandard buildings or structures; may remove or demolish all substandard buildings and structures so acquired; may hold and use any remaining property for public purposes; and may sell, lease or exchange such property as is not required for public purposes, subject to the provisions of the existing zoning ordinance.

(Source: Laws 1961, p. 576.)

**Sec. 11-13-18.**

All testimony by witnesses in any hearing provided for in this Division 13 shall be given under oath.

(Source: Laws 1961, p. 576.)

**Sec. 11-13-19.**

Except as otherwise provided in this section, the corporate authorities shall cause to be published no later than March 31 of each year a map clearly showing the existing zoning uses, divisions, restrictions, regulations and classifications of such municipality for the preceding calendar year. The first map published in 1960 shall reflect all zoning uses, divisions, restrictions, regulations and classifications in effect on and prior to December 31, 1959. If in any calendar year after the first map is published there are no changes in zoning uses, divisions, restrictions, regulations and classifications in such municipality, no map shall be published for such calendar year.

The map published by the corporate authorities shall be the official zoning map. The corporate authorities may establish a fee to be charged any person desiring a copy of such map. Such fee shall be paid to the appropriate zoning officer and shall be applied to defray the cost of publication of the official map. (Source: Laws 1963, p. 3136.)

**Sec. 11-13-20.**

In any hearing before a zoning commission, board of appeals, or commission or committee designated pursuant to Section 11-13-14, any school district within which the property in issue, or any part thereof, is located shall have the right to appear and present evidence.

(Source: Laws 1963, p. 2259.)