



Adopted	Rejected
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COMMITTEE REPORT

YES: 10
NO: 0

MR. SPEAKER:

*Your Committee on Government and Regulatory Reform, to which was referred Senate Bill 392, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 36-7-1-6.5 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2021]: **Sec. 6.5. "Excluded city" means a city or town that is**
- 5 **located within a county having a consolidated city as described in**
- 6 **IC 36-3-1-7.**
- 7 SECTION 2. IC 36-7-4-201, AS AMENDED BY P.L.145-2015,
- 8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 9 JULY 1, 2021]: Sec. 201. (a) For purposes of IC 36-1-3-6, a unit
- 10 wanting to exercise planning and zoning powers in Indiana, including
- 11 the issuance of permits under IC 8-1-32.3 (except as otherwise
- 12 provided in IC 8-1-32.3), must do so in the manner provided by this
- 13 chapter.

1 (b) The purpose of this chapter is to encourage units to improve the
 2 health, safety, convenience, and welfare of their citizens and to plan for
 3 the future development of their communities to the end:

4 (1) that highway systems be carefully planned;

5 (2) that new communities grow only with adequate public way,
 6 utility, health, educational, and recreational facilities;

7 (3) that the needs of agriculture, forestry, industry, and business
 8 be recognized in future growth;

9 (4) that residential areas provide healthful surroundings for family
 10 life; and

11 (5) that the growth of the community is commensurate with and
 12 promotive of the efficient and economical use of public funds.

13 (c) Furthermore, municipalities and counties may cooperatively
 14 establish single and unified planning and zoning entities to carry out
 15 the purpose of this chapter on a countywide basis.

16 (d) METRO. Expanding urbanization in each county having a
 17 consolidated city has created problems that have made the unification
 18 of planning and zoning functions a necessity to insure the health,
 19 safety, morals, economic development, and general welfare of the
 20 county. To accomplish this unification, a single planning and zoning
 21 authority is established for the county. **However, in an excluded city**
 22 **(as described in IC 36-3-1-7):**

23 (1) **the legislative body of the excluded city; and**

24 (2) **the board of zoning appeals of the excluded city, if the**
 25 **excluded city has a board of zoning appeals;**

26 **have exclusive territorial jurisdiction within the boundaries of the**
 27 **excluded city. Unless expressly provided otherwise, any reference**
 28 **in this chapter to the legislative body with regard to an excluded**
 29 **city is a reference to the legislative body of the excluded city, and**
 30 **any reference in this chapter to the board of zoning appeals with**
 31 **regard to an excluded city is a reference to the board of zoning**
 32 **appeals of the excluded city, if the excluded city has a board of**
 33 **zoning appeals.**

34 SECTION 3. IC 36-7-4-604, AS AMENDED BY P.L.253-2017,
 35 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2021]: Sec. 604. (a) Before the plan commission certifies a
 37 proposal to the legislative body under section 605 of this chapter, the
 38 plan commission must hold a public hearing under this section.

1 (b) The plan commission shall give notice of the hearing by
2 publication under IC 5-3-1. The notice must state:

3 (1) the time and place of the hearing;

4 (2) either:

5 (A) in the case of a proposal under section 606 or 607 of this
6 chapter, the geographic areas (or zoning districts in a specified
7 geographic area) to which the proposal applies; or

8 (B) in the case of a proposal under section 608 of this chapter,
9 the geographic area that is the subject of the zone map change;

10 (This subdivision does not require the identification of any real
11 property by metes and bounds.)

12 (3) either:

13 (A) in the case of a proposal under section 606 of this chapter,
14 a summary (which the plan commission shall have prepared)
15 of the subject matter contained in the proposal (not the entire
16 text of the ordinance);

17 (B) in the case of a proposal under section 607 of this chapter,
18 a summary (which the plan commission shall have prepared)
19 of the subject matter contained in the proposal (not the entire
20 text) that describes any new or changed provisions; or

21 (C) in the case of a proposal under section 608 of this chapter,
22 a description of the proposed change in the zone maps;

23 (4) if the proposal contains or would add or amend any penalty or
24 forfeiture provisions, the entire text of those penalty or forfeiture
25 provisions;

26 (5) the place where a copy of the proposal is on file for
27 examination before the hearing;

28 (6) that written objections to the proposal that are filed with the
29 secretary of the commission before the hearing will be
30 considered;

31 (7) that oral comments concerning the proposal will be heard; and

32 (8) that the hearing may be continued from time to time as may be
33 found necessary.

34 (c) The plan commission shall also provide for due notice to
35 interested parties at least ten (10) days before the date set for the
36 hearing. The commission shall by rule determine who are interested
37 parties, how notice is to be given to interested parties, and who is
38 required to give that notice. However, if the subject matter of the

- 1 proposal:
- 2 (1) references a specific parcel of real estate;
- 3 (2) is unrelated to:
- 4 (A) a zone map change to a county ordinance under section
- 5 608 of this chapter;
- 6 (B) the adoption of an initial county zoning ordinance (or
- 7 adoption of a replacement county zoning ordinance after
- 8 repealing the entire county zoning ordinance, including
- 9 amendments and zone maps) under section 606 of this chapter;
- 10 or
- 11 (C) an amendment or partial repeal of the text (not zone maps)
- 12 of a county zoning ordinance under section 607 of this chapter;
- 13 and
- 14 (3) abuts or includes a county line (or a county line street or road
- 15 or county line body of water);
- 16 then all owners of real property to a depth of two (2) ownerships or
- 17 one-eighth (1/8) of a mile into the adjacent county, whichever is less,
- 18 are interested parties who must receive notice under this subsection.
- 19 (d) The hearing must be held by the plan commission at the place
- 20 stated in the notice. The commission may also give notice and hold
- 21 hearings at other places within the county where the distribution of
- 22 population or diversity of interests of the people indicate that the
- 23 hearings would be desirable. The commission shall adopt rules
- 24 governing the conduct of hearings under this section.
- 25 (e) A zoning ordinance may not be held invalid on the ground that
- 26 the plan commission failed to comply with the requirements of this
- 27 section, if the notice and hearing substantially complied with this
- 28 section.
- 29 (f) The files of the plan commission concerning proposals are public
- 30 records and shall be kept available at the commission's office for
- 31 inspection by any interested person.
- 32 (g) METRO. In the case of a proposal to amend a ~~zoning zone~~ map
- 33 under section 608 of this chapter or in the case of a proposed approval
- 34 of a development plan required by a zoning ordinance as a condition of
- 35 development, a person may not communicate before the hearing with
- 36 any hearing officer, member of the historic preservation commission,
- 37 or member of the plan commission with intent to influence the officer's
- 38 or member's action on the proposal. Before the hearing, the staff may

1 submit a statement of fact concerning the physical characteristics of the
 2 area involved in the proposal, along with a recital of surrounding land
 3 use and public facilities available to serve the area. The staff may
 4 include with the statement an opinion of the proposal. The statement
 5 must be made a part of the file concerning the proposal not less than six
 6 (6) days before the proposal is scheduled to be heard. The staff shall
 7 furnish copies of the statement to persons in accordance with rules
 8 adopted by the commission.

9 (h) METRO. In the case of a proposal to amend a **zoning zone** map
 10 under section 608 or 608.7 of this chapter, this subsection applies if the
 11 proposal affects only real property within the corporate boundaries of
 12 an excluded city **(as described in IC 36-3-1-7)**. Notwithstanding the
 13 other provisions of this section, the legislative body ~~may decide that the~~
 14 ~~legislative body rather than the plan commission should of the~~
 15 **excluded city, rather than the plan commission, shall** hold the public
 16 hearing prescribed by this section. Whenever the plan commission
 17 receives a proposal subject to this section, the plan commission shall
 18 refer the proposal to the legislative body of the excluded city. ~~At the~~
 19 ~~legislative body's first regular meeting after receiving a referred~~
 20 ~~proposal; the legislative body shall decide whether the legislative body~~
 21 ~~will hold the public hearing. Within thirty (30) days after making the~~
 22 ~~decision to hold the hearing; Not later than thirty (30) days after~~
 23 **receiving the proposal,** the legislative body shall hold the hearing,
 24 acting for purposes of this section as if the legislative body is the plan
 25 commission. The legislative body shall then make a ~~recommendation~~
 26 ~~on the proposal to the plan commission. After receiving the excluded~~
 27 ~~city legislative body's recommendation (or at the end of the thirty (30)~~
 28 ~~day period for the public hearing if the proposal receives no~~
 29 ~~recommendation); the plan commission shall meet and decide whether~~
 30 ~~to make a favorable recommendation on the proposal. The favorable~~
 31 ~~recommendation; the unfavorable recommendation; or no~~
 32 ~~recommendation of the plan commission on the proposal shall be~~
 33 ~~certified to the county legislative body as provided in section 605 of~~
 34 **this chapter. the final determination as to the proposal.**

35 (i) Before a proposal involving a structure regulated under
 36 IC 8-21-10 may become effective, the plan commission must have
 37 received:

38 (1) a copy of:

- 1 (A) the permit for the structure issued by the Indiana
 2 department of transportation; or
 3 (B) the Determination of No Hazard to Air Navigation issued
 4 by the Federal Aviation Administration; and
 5 (2) evidence that notice was delivered to a public use airport as
 6 required in IC 8-21-10-3 not less than sixty (60) days before the
 7 proposal is considered.

8 SECTION 4. IC 36-7-4-605, AS AMENDED BY P.L.88-2014,
 9 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2021]: Sec. 605. (a) ADVISORY–AREA. A proposed zoning
 11 ordinance shall be certified to each participating legislative body by the
 12 plan commission as follows:

13 (1) If the proposal is to adopt an initial zoning ordinance (or to
 14 adopt a replacement zoning ordinance after repealing the entire
 15 zoning ordinance, including amendments and zone maps) under
 16 section 606 of this chapter, it may be certified only if it receives
 17 a favorable recommendation from the commission.

18 (2) If the proposal is to amend or partially repeal the text (not
 19 zone maps) of the ordinance under section 607 of this chapter, it
 20 may be certified with a favorable recommendation, an
 21 unfavorable recommendation, or no recommendation from the
 22 commission.

23 (3) If the proposal is to change the zone maps incorporated by
 24 reference into the ordinance under section 608 of this chapter, it
 25 may be certified with a favorable recommendation, an
 26 unfavorable recommendation, or no recommendation from the
 27 commission.

28 (b) METRO. Except as provided in subsection (c), a proposal shall
 29 be certified to the legislative body by the metropolitan development
 30 commission only if it receives a favorable recommendation from the
 31 commission.

32 (c) METRO. A proposal to change the zone maps incorporated by
 33 reference into the ordinance under section 608 of this chapter shall be
 34 certified to the legislative body **of the county or if the proposal**
 35 **concerns real property located within the boundaries of an**
 36 **excluded city (as described in IC 36-3-1-7), the legislative body of**
 37 **the excluded city**, by the metropolitan development commission
 38 regardless of whether the proposal receives a favorable

1 recommendation, an unfavorable recommendation, or no
2 recommendation from the commission.

3 (d) The legislative body shall consider the recommendation (if any)
4 of the commission before acting on the proposal under section 606,
5 607, or 608 of this chapter.

6 SECTION 5. IC 36-7-4-608.7, AS ADDED BY P.L.192-2016,
7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 608.7. (a) A unit, **including an excluded city**,
9 may adopt the alternate procedure set forth in this section to apply to
10 a proposal, as described in section 602(c) of this chapter, to change the
11 zone maps incorporated by reference into the zoning ordinance.

12 (b) The plan commission shall comply with section 608(b) of this
13 chapter and certify a favorable recommendation, unfavorable
14 recommendation, or no recommendation to the legislative body under
15 section 605 of this chapter. Except as provided in subsection (c), if the
16 plan commission makes:

17 (1) a favorable recommendation on the proposal, the proposal (as
18 certified) takes effect as other ordinances:

19 (A) thirty (30) days after the date of the certification under
20 section 605 of this chapter; or

21 (B) on a date less than thirty (30) days:

22 (i) after the date of the certification under section 605 of this
23 chapter; and

24 (ii) that is specified in the ordinance adopting the alternate
25 procedure; or

26 (2) an unfavorable recommendation or no recommendation on the
27 proposal, the proposal is defeated:

28 (A) thirty (30) days after the date of the certification under
29 section 605 of this chapter; or

30 (B) on a date less than thirty (30) days:

31 (i) after the date of the certification under section 605 of this
32 chapter; and

33 (ii) that is specified in the ordinance adopting the alternate
34 procedure.

35 The plan commission shall notify the legislative body not later than the
36 next business day after a proposal takes effect under subdivision (1) or
37 is defeated under subdivision (2).

38 (c) If:

1 (1) any aggrieved person files with the plan commission a written
 2 request to have the final determination on the proposal made by
 3 the appropriate legislative body; or
 4 (2) the legislative body files a notice with the plan commission
 5 that the legislative body shall make the final determination on the
 6 proposal;
 7 the legislative body shall make the final determination on the proposal
 8 to change the zone map as set forth in section 608 of this chapter. The
 9 plan commission shall notify the legislative body in writing of a request
 10 under subdivision (1) not later than the next business day after
 11 receiving the request.

12 (d) A request or notice under subsection (c)(1) or (c)(2) must be
 13 filed not later than:

14 (1) twenty-nine (29) days after the date the favorable
 15 recommendation, the unfavorable recommendation, or no
 16 recommendation of the plan commission is certified under section
 17 605 of this chapter; or

18 (2) on a date that is less than twenty-nine (29) days:
 19 (A) after the date the favorable recommendation, the
 20 unfavorable recommendation, or no recommendation of the
 21 plan commission is certified under section 605 of this chapter;
 22 and

23 (B) that is specified in the ordinance adopting the alternate
 24 procedure.

25 SECTION 6. IC 36-7-4-902 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 902. (a) ADVISORY.
 27 Each division of the advisory board of zoning appeals consists of five
 28 (5) members as follows:

29 (1) Three (3) citizen members appointed by the executive of the
 30 municipality or county, of whom one (1) must be a member of the
 31 plan commission and two (2) must not be members of the plan
 32 commission.

33 (2) One (1) citizen member appointed by the fiscal body of the
 34 municipality or county, who must not be a member of the plan
 35 commission.

36 (3) One (1) member appointed by the plan commission from the
 37 plan commission's membership, who must be a county
 38 agricultural agent or a citizen member of the plan commission

1 other than the member appointed under subdivision (1).

2 (b) ADVISORY. In each county having a metropolitan plan
3 commission, subsection (a) does not apply. In such a county, each
4 division of the advisory board of zoning appeals consists of five (5)
5 members as follows:

6 (1) Two (2) members, of whom no more than one (1) may be of
7 the same political party, appointed by the county legislative body.

8 (2) Three (3) members, of whom no more than two (2) may be of
9 the same political party, appointed by the second class city
10 executive. One (1) only of these members must be a member of
11 the plan commission.

12 (c) AREA. When the area board of zoning appeals was established
13 before January 1, 1984, as a seven (7) member board, the board
14 consists of seven (7) members as follows:

15 (1) Two (2) citizen members appointed by the area plan
16 commission from its membership, one (1) of whom must be a
17 municipal representative and the other must be a county
18 representative.

19 (2) Three (3) citizen members, who may not be members of any
20 plan commission, appointed by the executive of the largest
21 municipality in the county. However, if there are two (2) or more
22 municipalities having a population of at least twenty thousand
23 (20,000) in the county, the executive of the largest municipality
24 shall appoint two (2) citizen members and the executive of the
25 second largest municipality shall appoint one (1) citizen member.
26 Furthermore, if there are no cities in the county participating in
27 the commission, then the three (3) members appointed under this
28 subdivision shall be appointed as follows:

29 (A) One (1) member appointed by the county executive.

30 (B) One (1) member appointed by the county fiscal body.

31 (C) One (1) member appointed by the legislative bodies of
32 those towns participating in the commission.

33 (3) Two (2) citizen members, who may not be members of any
34 plan commission, appointed by the county legislative body.

35 (d) AREA. Except as provided in subsection (c), each division of
36 the area board of zoning appeals consists of five (5) members as
37 follows:

38 (1) One (1) citizen member appointed by the area plan

- 1 commission from its membership.
- 2 (2) One (1) citizen member, who may not be a member of any
- 3 plan commission, appointed by the executive of the largest
- 4 municipality in the county participating in the commission.
- 5 (3) Two (2) citizen members, of whom one (1) must be a member
- 6 of the area plan commission and one (1) must not be a member of
- 7 any plan commission, appointed by the county legislative body.
- 8 (4) One (1) citizen member, who may not be a member of any
- 9 plan commission, appointed by the executive of the second largest
- 10 municipality in the county participating in the commission.
- 11 However, if there is only one (1) municipality in the county
- 12 participating in the commission, then the county legislative body
- 13 shall make this appointment.
- 14 (e) METRO. Each division of the metropolitan board of zoning
- 15 appeals consists of five (5) members as follows:
- 16 (1) Two (2) citizen members appointed by the executive of the
- 17 consolidated city.
- 18 (2) Two (2) citizen members appointed by the legislative body of
- 19 the consolidated city.
- 20 (3) One (1) citizen member, who may also be a member of the
- 21 metropolitan development commission, appointed by the
- 22 commission.
- 23 (f) METRO. The municipal board of zoning appeals for an excluded
- 24 city consists of five (5) members as follows:
- 25 **(1) The following members for an excluded city that has a**
- 26 **mayor:**
- 27 (1) (A) Three (3) citizen members appointed by the legislative
- 28 body of the excluded city.
- 29 (2) (B) Two (2) citizen members ~~who may also be members of~~
- 30 ~~the metropolitan development commission,~~ appointed by the
- 31 ~~commission.~~ **mayor of the excluded city.**
- 32 **(2) This subdivision applies to an excluded city that does not**
- 33 **have a mayor. Five (5) citizen members appointed by the**
- 34 **legislative body of the excluded city.**
- 35 (g) Whenever the zoning ordinance provides for a certain division
- 36 of the board of zoning appeals to have limited territorial jurisdiction,
- 37 it must also provide for that division to consist of members who are all
- 38 residents of that limited territory. Those members shall be appointed in

1 the same manner that is prescribed by subsection (a) for divisions of an
2 advisory board of zoning appeals, but if the plan commission is unable
3 to make its appointment in that manner, the appointment shall be made
4 instead by the legislative body.

5 SECTION 7. IC 36-7-4-918.8 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 918.8. **(a) This section
7 does not apply to a proposed ordinance for the amendment of a
8 zoning ordinance that only affects real property located within the
9 corporate boundaries of an excluded city.**

10 ~~(a)~~ **(b)** METRO. In connection with its consideration of a proposed
11 ordinance for the amendment of the zoning ordinance proposed under
12 section 607(c)(2) of this chapter, the metropolitan development
13 commission may exercise the powers of the metropolitan board of
14 zoning appeals for the purpose of approving or denying:

- 15 (1) a variance from the development standards of the zoning
16 ordinance; or
- 17 (2) a special exception, special use, contingent use, or conditional
18 use from the terms of the zoning ordinance.

19 ~~(b)~~ **(c)** METRO. The commission may, by rule, establish procedures
20 so that the power of the commission to recommend amendment of
21 zoning ordinances and the power of the commission to approve and
22 deny these variances, exceptions, and uses may be exercised
23 concurrently. These rules may be inconsistent with the 900 series to the
24 extent reasonably necessary to allow the commission to exercise the
25 power to approve or deny these variance, exception, and use petitions.

26 ~~(c)~~ **(d)** METRO. When acting under this section, the commission
27 may:

- 28 (1) vote on the amendment to the zoning ordinance and the
29 variance, exception, or use petition at the same time; and
- 30 (2) condition the approval of variance, exception, or use in such
31 a manner that it takes effect when the recommended ordinance
32 amendment is approved by the legislative body.

33 ~~(d)~~ **(e)** METRO. Section 922 of this chapter does not apply to
34 variances, exceptions, and uses approved under this section.

35 SECTION 8. IC 36-7-4-922, AS AMENDED BY P.L.88-2014,
36 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2021]: Sec. 922. **(a) Subsections (b), (c), (d), and (e) do not
38 apply to a board of zoning appeals of an excluded city.**

1 ~~(a)~~ **(b)** METRO. Either of the following may appeal to the
2 metropolitan development commission the following decisions of a
3 board of zoning appeals:

4 (1) An official designated by the metropolitan development
5 commission. An official may appeal any decision regarding:

6 (A) an administrative appeal; or

7 (B) approving:

8 (i) a special exception;

9 (ii) a special or conditional use; or

10 (iii) a variance from the terms of the zoning ordinance.

11 (2) A member of the legislative body of the city and county in
12 whose district the parcel of real property under consideration is
13 located. A legislative body member in whose district the parcel of
14 real property under consideration is located may appeal any
15 decision approving, denying, or otherwise concerning a variance
16 of use from the terms of the zoning ordinance that affects only
17 real property located outside the corporate boundaries of an
18 excluded city.

19 The official or the legislative body member must file in the office of the
20 department of metropolitan development a notice of appeal within five
21 (5) days after the board files a copy of the decision in the office of the
22 board. However, if a representative of the department of metropolitan
23 development or the legislative body member appears at the hearing at
24 which the administrative appeal is decided or the special exception,
25 special or conditional use, or variance is approved or denied, then the
26 official or legislative body member must file the notice of appeal within
27 five (5) days after the board has rendered its decision. The notice must
28 certify that the decision raises a substantial question of zoning policy
29 appropriate for consideration by the commission. The commission shall
30 hear the appeal at its next regular meeting held not less than five (5)
31 days after the notice of appeal is filed.

32 ~~(b)~~ **(c)** METRO. In hearing appeals under this section, the
33 metropolitan development commission sits as a board of zoning
34 appeals and shall be treated as if it is a board for purposes of this
35 section. The commission may accept into evidence the written record,
36 if any, of the hearing before the board of zoning appeals, along with
37 other evidence introduced by the staff or interested parties. The
38 commission shall consider the matter de novo, but the decision of the

1 board is considered affirmed unless two-thirds (2/3) of the commission
 2 members voting vote to deny the administrative appeal, exception, use,
 3 or variance.

4 ~~(c)~~ **(d)** METRO. Although persons other than the designated official
 5 or legislative body member may not appeal a decision of a board of
 6 zoning appeals to the metropolitan development commission, they may
 7 appear as interested parties in appeals under this section. No public
 8 notice need be given of the hearing of an appeal under this section, but
 9 the official or legislative body member shall promptly mail notice of
 10 the subject of the appeal and date and place of the hearing to each
 11 adverse party. However, if the record of the board shows that more than
 12 three (3) proponents or more than three (3) remonstrators appeared,
 13 then the official or legislative body member need mail notice only to
 14 the first three (3) of each as disclosed by the record.

15 ~~(d)~~ **(e)** The metropolitan development commission shall give strong
 16 consideration to the first continuance of an appeals hearing held under
 17 this section that is filed by a member of the legislative body of the city
 18 and county.

19 **(f) METRO. This subsection applies only to decisions of a board**
 20 **of zoning appeals of an excluded city. A member of the legislative**
 21 **body of the excluded city in whose district the parcel of real**
 22 **property under consideration is located may appeal decisions of a**
 23 **board of zoning appeals. The legislative body member must file in**
 24 **the office of the excluded city legislative body a notice of appeal not**
 25 **later than five (5) days after the board files a copy of the decision**
 26 **in the office of the board. However, if the legislative body member**
 27 **appears at the hearing at which the administrative appeal is**
 28 **decided, or the special exception, special or conditional use, or**
 29 **variance is approved or denied, then the legislative body member**
 30 **must file the notice of appeal not later than five (5) days after the**
 31 **board has rendered its decision. The notice must certify that the**
 32 **decision raises a substantial question of zoning policy appropriate**
 33 **for consideration by the legislative body of the excluded city. The**
 34 **legislative body shall hear the appeal at its next regular meeting. In**
 35 **hearing appeals for decisions of the board of zoning appeals of an**
 36 **excluded city, the legislative body of the excluded city sits as the**
 37 **final board of appeals and shall be treated as if it is a board for**
 38 **purposes of this section. The legislative body may accept into**

1 **evidence the written record, if any, of the hearing before the board**
2 **of zoning appeals, along with other evidence introduced by the staff**
3 **or interested parties. The decision of the board is considered**
4 **affirmed unless two-thirds (2/3) of the legislative body voting vote**
5 **to deny the administrative appeal, exception, use, or variance.**

6 SECTION 9. IC 36-7-4-1003, AS AMENDED BY P.L.88-2014,
7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2021]: Sec. 1003. (a) Each decision of the legislative body
9 under section 918.6 of this chapter is subject to judicial review in the
10 same manner as that provided for the appeal of a final decision of the
11 board of zoning appeals under section 1016(a) of this chapter.

12 **(b) METRO. This subsection does not apply to an excluded city.**
13 A petition for judicial review must be filed with the court after the
14 expiration of the period within which an official designated by the
15 metropolitan development commission or a member of the legislative
16 body of the city and county may file an appeal under section 922 of this
17 chapter but not later than the period provided for timely filing under
18 section 1605 of this chapter. However, if the official, or the member of
19 the legislative body of the city and county files an appeal, then only the
20 decision of the metropolitan development commission sitting as a
21 board of zoning appeals is subject to judicial review. The official, the
22 department of metropolitan development, or the member of the
23 legislative body of the city and county may not seek judicial review of
24 a decision of a board of zoning appeals or the commission sitting as a
25 board of zoning appeals.

26 **(c) METRO. This subsection applies only to an excluded city. A**
27 **petition for judicial review must be filed with the court:**

28 **(1) after the expiration of the period within which a member**
29 **of the excluded city legislative body may file an appeal under**
30 **section 922 of this chapter; and**

31 **(2) not later than the period provided for timely filing under**
32 **section 1605 of this chapter.**

33 **However, if the member of the legislative body of the excluded city**
34 **files an appeal, then only the decision of the legislative body of the**
35 **excluded city sitting as a board of zoning appeals is subject to**
36 **judicial review. The member of the excluded city legislative body**
37 **or the excluded city legislative body may not seek judicial review**
38 **of a decision of the board of zoning appeals of the excluded city or**

1 **the legislative body of the excluded city sitting as a board of zoning**
2 **appeals.**

(Reference is to SB 392 as reprinted February 19, 2021.)

and when so amended that said bill do pass.

Representative Miller D

