

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1320

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AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 16-41-27-32, AS AMENDED BY P.L.137-2023, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 32. (a) As used in this section, "regulation" refers to any:

- (1) ordinance, including any:
  - (A) zoning or land use ordinance; or
  - (B) general or specific planning ordinance;
- (2) regulation, including any:
  - (A) zoning or land use regulation; or
  - (B) general or specific planning regulation;
- (3) requirement; or
- (4) restriction;

that is adopted or imposed by a unit (as defined in IC 36-1-2-23).

(b) A governmental body other than the state department may not license or regulate mobile home communities, except for the following:

- (1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, industrialized residential structures, and mobile home communities by the state department.
- (2) Subject to IC 36-7-2-12, IC 36-7-4-1019, IC 36-7-4-1106, and subsections (d) and (f), county and municipal authorities within their respective jurisdictions have jurisdiction regarding zoning

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and building codes and ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes, manufactured homes, and industrialized residential structures in accordance with standards that are compatible with standards set by the state department for mobile home communities.

(c) A governmental body other than the state department may not regulate mobile homes, manufactured homes, or industrialized residential structures regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing in the jurisdiction.

(d) Except as provided in IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and unless required under IC 36-7-2-9, a governmental body may not regulate or restrict, by regulation or otherwise, the installation, **continued residential** use, occupancy, movement, renovation, relocation, or replacement of a mobile home, a manufactured home, or an industrialized residential structure within a mobile home community based upon the age or size of the mobile home, manufactured home, or industrialized residential structure or other private property based upon the age of the mobile home, manufactured home, or industrialized residential structure regardless of whether:

- (1) the mobile home, manufactured home, or industrialized residential structure;
- (2) the lot or site, or any part of the lot or site, on which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed; or
- (3) the mobile home community or other private property, in whole or in part, in which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed;

constitutes a conforming structure or use, or a legal, nonconforming structure or use. **Any mobile home, manufactured home, or industrialized residential structure on private property, which constitutes a legal, nonconforming use, may not be replaced with a mobile home, manufactured home, or industrialized residential structure that is older or smaller than the legal, nonconforming structure being replaced.**

- (e) A governmental body may not regulate or restrict the ability of a:
- (1) mobile home community:



- (A) owner; or
- (B) manager; or
- (2) manufactured home community:
  - (A) owner; or
  - (B) manager;

to obtain a dealer's license or to sell a mobile home, manufactured home, or industrialized residential structure located within the owner's or manager's mobile home community or manufactured housing community.

(f) Except as provided under IC 36-7-4-1106(d), IC 36-7-4-1106(e), and IC 36-7-4-1106(f) and unless required under IC 36-7-2-9, after March 14, 2022:

- (1) a unit may not:
  - (A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (d);
  - (B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (d), regardless of when the regulation was originally adopted or imposed; or
  - (C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (d), regardless of when the regulation or provision was originally adopted or imposed; and
- (2) any provision that:
  - (A) is included in a regulation adopted or imposed by a unit; and
  - (B) violates subsection (d);
 is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed.

SECTION 2. IC 36-7-4-1106, AS AMENDED BY P.L.137-2023, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1106. (a) This section does not affect a requirement applicable to property that is subject to the jurisdiction of a preservation commission organized under any of the following:

- (1) IC 36-7-11.
- (2) IC 36-7-11.1.
- (3) IC 36-7-11.2.
- (4) IC 36-7-11.3.

(b) As used in this section:

- (1) "Manufactured home" means a dwelling unit, designed and built in a factory, which bears a seal certifying that it was built in compliance with the federal Manufactured Housing Construction



and Safety Standards Law of 1974 (42 U.S.C. 5401 et seq.).

(2) "Underfloor space" means that space between the bottom of the floor joists and the earth.

(3) "Occupied space" means the total area of earth horizontally covered by the structure, excluding accessory structures such as, but not limited to, garages, patios and porches.

(4) "Permanent foundation system" includes a pier footing foundation system that is specified as suitable in the manufacturer's installation specifications for a manufactured home.

(c) Comprehensive plans and ordinances adopted under the provisions of this chapter may subject dwelling units and lots to identical standards and requirements, whether or not the dwelling unit to be placed on a lot is a manufactured home or some other type of dwelling unit. These standards and requirements may include but are not limited to the following:

- (1) Setback distance.
- (2) Side and rear yard area.
- (3) Vehicle parking space **and parking enclosures.**
- (4) Minimum square footage of the dwelling unit.
- (5) Underfloor space enclosure requirements.
- (6) Aesthetics. However, aesthetic standards and requirements pertaining to the home structure itself which are adopted under this section may only pertain to the following:

(A) Roofing materials and siding. ~~materials.~~

**(B) Roof pitch.**

~~(B)~~ **(C)** Permanent foundation systems of manufactured homes that are located outside of a mobile home community licensed under IC 16-41-27. A unit may require compatibility of a permanent foundation system with surrounding residential structures. However, the unit may not require:

- (i) a permanent foundation system that is incompatible with the structural design of the manufactured home; or
- (ii) more than one (1) permanent foundation system for a manufactured home.

(d) METRO. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not preclude all manufactured homes that **meet the requirements described in subsection (c) and** exceed:

- (1) twenty-three (23) feet in width; and
- (2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any



other type of dwelling unit may be placed.

(e) **ADVISORY–AREA.** This subsection applies only to lots and dwelling units that are within a city or town's planning and zoning jurisdiction. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not preclude manufactured homes that **meet the requirements described in subsection (c) and** exceed nine hundred fifty (950) square feet of occupied space from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

(f) **ADVISORY–AREA.** This subsection applies only to lots and dwelling units that are within a county's planning and zoning jurisdiction. Standards and requirements, specified in comprehensive plans and ordinances, adopted under this section for lots and dwelling units may not preclude manufactured homes that **meet the requirements described in subsection (c) and** exceed:

- (1) twenty-three (23) feet in width; and
- (2) nine hundred fifty (950) square feet of occupied space;

from being installed as permanent residences on any lot on which any other type of dwelling unit may be placed.

SECTION 3. IC 36-7-9-2, AS AMENDED BY P.L.66-2014, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. As used in this chapter:

**"Building or structure" means anything constructed or erected:**

- (1) with a roof supported by columns or walls;**
- (2) to serve as a shelter or enclosure; or**
- (3) the use of which requires location on or attachment to the ground.**

**The term includes a manufactured home (as defined in IC 22-12-1-16) and a mobile home (as defined in IC 16-41-27-4).**

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

- (1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;
- (2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;
- (3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;
- (4) has been incorporated for at least two (2) years; and



(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Continuous enforcement order" means an order that:

(1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:

(A) compliance and abatement authority; or

(B) orders for the same or similar violations;

(2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;

(3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and

(4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's order.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of code enforcement subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a ~~contract~~ **contract purchaser of a contract or a known certificate of title that is** held by a person whose identity and address may be determined from:

(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify



information that is reasonably ascertainable; **or**

**(4) a request for certified records from the bureau of motor vehicles.**

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future interest, a mortgage interest, a lien as evidenced by a certificate of sale issued under IC 6-1.1-24, or an equitable interest of a contract purchaser, that:

(1) may be affected in a substantial way by actions authorized by this chapter; and

(2) is held by a person whose identity and address may be determined from:

(A) an instrument recorded in:

(i) the recorder's office of the county where the unsafe premises is located; or

(ii) the office of the county auditor of the county where the unsafe premises are located in the case of a lien evidenced by a certificate of sale issued under IC 6-1.1-24;

(B) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); **or**

(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable; **or**

**(D) a request for certified records from the bureau of motor vehicles.**

"Substantial property interest" means any right in **personal property or** real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

SECTION 4. IC 36-7-9-11, AS AMENDED BY P.L.169-2006, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. (a) The work required by an order of the enforcement authority may be performed in the following manner:

(1) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the cost of this work is estimated to be less than ~~ten thousand dollars (\$10,000)~~, **twenty-five thousand dollars (\$25,000)**, the department, acting through the unit's enforcement authority or other agent, may perform the work by means of the unit's own workers and equipment owned or leased by the unit. Notice that



this work is to be performed must be given to all persons with a known or recorded substantial property interest, in the manner prescribed in subsection (c), at least ten (10) days before the date of performance of the work by the enforcement authority. This notice must include a statement that an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter and performing the work may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises.

(2) If the work is being performed under an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, and if the estimated cost of this work is ~~ten thousand dollars (\$10,000)~~ **twenty-five thousand dollars (\$25,000)** or more, this work must be let at public bid to a contractor licensed and qualified under law. The obligation to pay costs imposed by section 12 of this chapter is based on the condition of the unsafe premises at the time the public bid was accepted. Changes occurring in the condition of the unsafe premises after the public bid was accepted do not eliminate or diminish this obligation.

(3) If the work is being performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter, the work may be performed by a contractor who has been awarded a base bid contract to perform the work for the enforcement authority, or by the department, acting through the unit's enforcement authority or other governmental agency and using the unit's own workers and equipment owned or leased by the unit. Work performed under an order issued under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter may be performed without further notice to the persons holding a fee interest, life estate interest, or equitable interest of a contract purchaser, and these persons are liable for the costs incurred by the enforcement authority in processing the matter and performing the work, as provided by section 12 of this chapter.

(b) Bids may be solicited and accepted for work on more than one (1) property if the bid reflects an allocation of the bid amount among the various unsafe premises in proportion to the work to be accomplished. The part of the bid amount attributable to each of the unsafe premises constitutes the basis for calculating the part of the costs described by section 12(a)(1) of this chapter.

(c) All persons who have a known or recorded substantial property interest in the unsafe premises and are subject to an order other than an





order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter must be notified about the public bid in the manner prescribed by section 25 of this chapter, by means of a written statement including:

- (1) the name of the person to whom the order was issued;
- (2) a legal description or address of the unsafe premises that are the subject of the order;
- (3) a statement that a contract is to be let at public bid to a licensed contractor to accomplish work to comply with the order;
- (4) a description of work to be accomplished;
- (5) a statement that both the bid price of the licensed contractor who accomplishes the work and an amount representing a reasonable estimate of the cost incurred by the enforcement authority in processing the matter of the unsafe premises may, if not paid, be recorded after a hearing as a lien against all persons having a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises;
- (6) the time of the bid opening;
- (7) the place of the bid opening; and
- (8) the name, address, and telephone number of the enforcement authority.

(d) If the notice of the statement that public bids are to be let is served by publication, the publication must include the information required by subsection (c), except that it need only include a general description of the work to be accomplished. The publication must also state that a copy of the statement of public bid may be obtained from the enforcement authority.

(e) Notice of the statement that public bids are to be let must be given, at least ten (10) days before the date of the public bid, to all persons who have a known or recorded substantial property interest in the property and are subject to an order other than an order under section 5(a)(2), 5(a)(3), or 5(a)(4) of this chapter.

(f) If action is being taken under this section on the basis of an order that was served by publication, it is sufficient to serve the statement that public bids are to be let by publication, unless the enforcement authority has received information in writing that enables the unit to make service under section 25 of this chapter by a method other than publication.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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