



February 11, 2021

HOUSE BILL No. 1337

DIGEST OF HB 1337 (Updated February 10, 2021 1:35 pm - DI 137)

Citations Affected: IC 36-7; noncode.

Synopsis: Area planning special exceptions and uses. Makes all counties that have area plan commissions subject to a statute that gives final approval or disapproval of petitions for special exceptions or special uses (petitions) to the legislative body instead of the area board of zoning appeals. (Under current law the statute applies only to the St. Joseph County area plan commission and a municipal advisory plan commission in Lake County.) Provides that the transfer of authority to the legislative body in counties with area plan commissions does not affect a petition filed before July 1, 2021. Requires the legislative services agency to prepare legislation for introduction in the 2022 regular session of the general assembly to organize and correct statutes relating to the transfer of responsibilities. Provides that the advisory planning law does not authorize an ordinance or action of the advisory plan commission to prevent complete alienation of forests or agricultural uses outside the corporate boundaries of a municipality.

Effective: July 1, 2021.

Hostettler

January 14, 2021, read first time and referred to Committee on Local Government.
February 11, 2021, amended, reported — Do Pass.

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February 11, 2021

First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1337

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-7-4-0.1, AS ADDED BY P.L.220-2011,
2 SECTION 658, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2021]: Sec. 0.1. The following amendments to
4 this chapter apply as follows:

5 (1) The amendments made to sections 501, 502, 503, 504, 505,
6 506, 507, 508, 509, 510, 511, 512, 601, 602, 603, 604, 605, 606,
7 607, 608, 609, 610, 611, 612, and 701 of this chapter by
8 P.L.335-1985 do not affect a proposal initiated before September
9 1, 1986, to amend, repeal, or otherwise change a comprehensive
10 plan or zoning ordinance under IC 36-7-4. Such a proposal may
11 be considered, adopted, and approved under the statutes in effect
12 before September 1, 1986, as if P.L.335-1985 had not been
13 enacted.

14 (2) The addition of sections 613 and 614 of this chapter by
15 P.L.335-1985 does not affect a proposal initiated before
16 September 1, 1986, to amend, repeal, or otherwise change a
17 comprehensive plan or zoning ordinance under IC 36-7-4. Such

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1 a proposal may be considered, adopted, and approved under the
 2 statutes in effect before September 1, 1986, as if P.L.335-1985
 3 had not been enacted.

4 (3) The amendments made to sections 214, 503, 504, 506, 509,
 5 510, 511, 601, 602, 603, 604, 605, 606, 610, 612, 711, 712, 801,
 6 802, 1014, and 1020 of this chapter by P.L.220-1986 do not affect
 7 a proposal initiated before September 1, 1986, to amend, repeal,
 8 or otherwise change a comprehensive plan or zoning ordinance
 9 under IC 36-7-4. Such a proposal may be considered, adopted,
 10 and approved under the statutes in effect before September 1,
 11 1986, as if P.L.220-1986 had not been enacted.

12 **(4) The amendment made to section 918.6 of this chapter by**
 13 **this act does not affect a petition for special exception, special**
 14 **use, or use variance filed before July 1, 2021. Such a petition**
 15 **may be considered, approved, or denied under the statutes in**
 16 **effect before July 1, 2021, as if this act had not been enacted.**

17 SECTION 2. IC 36-7-4-918.6, AS AMENDED BY P.L.10-2015,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2021]: Sec. 918.6. (a) This section applies to the following:

20 (1) A municipality in a county having a population of more than
 21 four hundred thousand (400,000) but less than seven hundred
 22 thousand (700,000).

23 (2) A county ~~having a population of more than two hundred fifty~~
 24 ~~thousand (250,000) but less than two hundred seventy thousand~~
 25 ~~(270,000):~~ **that has an area plan commission.**

26 (b) ADVISORY—AREA. Notwithstanding sections 918.2, 918.4,
 27 and 918.5 of this chapter, a zoning or subdivision control ordinance
 28 shall require that the board of zoning appeals submit any of the
 29 following petitions to the legislative body for approval or disapproval:

30 (1) Special exceptions.

31 (2) Special uses.

32 (3) Use variances.

33 (c) ADVISORY—AREA. The board of zoning appeals shall file a
 34 petition under this section with the clerk of the legislative body with:

35 (1) a favorable recommendation;

36 (2) an unfavorable recommendation; or

37 (3) no recommendation.

38 (d) ADVISORY—AREA. The legislative body shall give notice
 39 under IC 5-14-1.5-5 of its intention to consider the petition at its first
 40 regular meeting after the board of zoning appeals files its
 41 recommendation.

42 (e) ADVISORY—AREA. A petition is granted or denied when the



- 1 legislative body votes on the petition as follows:
- 2 (1) In a county described in subsection (a)(1), the legislative body
- 3 shall vote on the petition within ninety (90) days after the board
- 4 of zoning appeals makes its recommendation. If the legislative
- 5 body does not vote to deny the petition within ninety (90) days,
- 6 the petition is considered approved.
- 7 (2) In a county described in subsection (a)(2), the legislative body
- 8 shall vote on the petition within sixty (60) days after the board of
- 9 zoning appeals makes its recommendations. If the legislative body
- 10 does not vote to deny the petition within sixty (60) days, the
- 11 petition is approved.
- 12 (f) ADVISORY—AREA. If the legislative body approves a petition,
- 13 it must make the determination in writing as required under section
- 14 918.2, 918.4, or 918.5 of this chapter or as required by the zoning
- 15 ordinance.
- 16 SECTION 3. IC 36-7-4-1103, AS AMENDED BY P.L.154-2020,
- 17 SECTION 46, AND P.L.164-2020, SECTION 65, IS AMENDED TO
- 18 READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1103. (a)
- 19 ADVISORY—AREA. For purposes of this section, urban areas include
- 20 all lands and lots within the corporate boundaries of a municipality, any
- 21 other lands or lots used for residential purposes where there are at least
- 22 eight (8) residences within any quarter mile square area, and other
- 23 lands or lots that have been or are planned for residential areas
- 24 contiguous to the municipality.
- 25 (b) ADVISORY—AREA. This chapter does not authorize an
- 26 ordinance or action of a plan commission that would prevent, outside
- 27 of urban areas, the complete use and alienation of any mineral
- 28 resources or forests by the owner or alienee of them.
- 29 (c) **AREA. This chapter does not authorize an ordinance or**
- 30 **action of a plan commission that would prevent, outside of urban**
- 31 **areas, the complete use and alienation of any forests by the owner**
- 32 **or alienee of them.**
- 33 (d) **ADVISORY. This chapter does not authorize an ordinance**
- 34 **or action of a plan commission that would prevent:**
- 35 (1) **the complete use and alienation of any forests outside the**
- 36 **corporate boundaries of a municipality by the owner or**
- 37 **alienee of the forests; or**
- 38 (2) **an agricultural use on property outside the corporate**
- 39 **boundaries of a municipality.**
- 40 SECTION 4. [EFFECTIVE JULY 1, 2021] (a) **The legislative**
- 41 **services agency shall prepare legislation for introduction in the**
- 42 **2022 regular session of the general assembly to organize and**



1 correct statutes relating to the transfer of responsibilities from an
2 area board of zoning appeals to a legislative body under
3 IC 36-7-4-918.6, as amended by this act.
4 (b) This SECTION expires July 1, 2023.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1337, 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:

Page 2, line 12, delete "amendments" and insert "**amendment**".

Page 2, line 12, delete "sections 918.2, 918.3, 918.6, 923," and insert "**section 918.6**".

Page 2, line 13, delete "and 1003".

Page 2, line 13, delete "do" and insert "**does**".

Page 2, line 14, delete "special exception or special use" and insert "**special exception, special use, or use variance**".

Page 2, delete lines 18 through 42, begin a new paragraph and insert:

"SECTION 2. IC 36-7-4-918.6, AS AMENDED BY P.L.10-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 918.6. (a) This section applies to the following:

(1) A municipality in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(2) A county ~~having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000):~~ **that has an area plan commission.**

(b) ADVISORY—AREA. Notwithstanding sections 918.2, 918.4, and 918.5 of this chapter, a zoning or subdivision control ordinance shall require that the board of zoning appeals submit any of the following petitions to the legislative body for approval or disapproval:

- (1) Special exceptions.
- (2) Special uses.
- (3) Use variances.

(c) ADVISORY—AREA. The board of zoning appeals shall file a petition under this section with the clerk of the legislative body with:

- (1) a favorable recommendation;
- (2) an unfavorable recommendation; or
- (3) no recommendation.

(d) ADVISORY—AREA. The legislative body shall give notice under IC 5-14-1.5-5 of its intention to consider the petition at its first regular meeting after the board of zoning appeals files its recommendation.

(e) ADVISORY—AREA. A petition is granted or denied when the legislative body votes on the petition as follows:

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(1) In a county described in subsection (a)(1), the legislative body shall vote on the petition within ninety (90) days after the board of zoning appeals makes its recommendation. If the legislative body does not vote to deny the petition within ninety (90) days, the petition is considered approved.

(2) In a county described in subsection (a)(2), the legislative body shall vote on the petition within sixty (60) days after the board of zoning appeals makes its recommendations. If the legislative body does not vote to deny the petition within sixty (60) days, the petition is approved.

(f) **ADVISORY—AREA.** If the legislative body approves a petition, it must make the determination in writing as required under section 918.2, 918.4, or 918.5 of this chapter or as required by the zoning ordinance.

SECTION 3. IC 36-7-4-1103, AS AMENDED BY P.L.154-2020, SECTION 46, AND P.L.164-2020, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1103. (a) **ADVISORY—AREA.** For purposes of this section, urban areas include all lands and lots within the corporate boundaries of a municipality, any other lands or lots used for residential purposes where there are at least eight (8) residences within any quarter mile square area, and other lands or lots that have been or are planned for residential areas contiguous to the municipality.

(b) **ADVISORY—AREA.** This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any mineral resources ~~or forests~~ by the owner or alienee of them.

(c) AREA. This chapter does not authorize an ordinance or action of a plan commission that would prevent, outside of urban areas, the complete use and alienation of any forests by the owner or alienee of them.

(d) ADVISORY. This chapter does not authorize an ordinance or action of a plan commission that would prevent:

(1) the complete use and alienation of any forests outside the corporate boundaries of a municipality by the owner or alienee of the forests; or

(2) an agricultural use on property outside the corporate boundaries of a municipality."

Delete pages 3 through 6.

Page 7, delete lines 1 and 2, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE JULY 1, 2021] (a) The legislative services agency shall prepare legislation for introduction in the



2022 regular session of the general assembly to organize and correct statutes relating to the transfer of responsibilities from an area board of zoning appeals to a legislative body under IC 36-7-4-918.6, as amended by this act.

(b) This SECTION expires July 1, 2023."

and when so amended that said bill do pass.

(Reference is to HB 1337 as introduced.)

ZENT

Committee Vote: yeas 10, nays 2.

