

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1421

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 36-7-2-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2017]: **Sec. 9.5. This section applies to any inspection of a building, structure, improvement, or other project that is required as part of the issuance of a building permit or improvement location permit. If a building code official or inspector finds that a building, structure, improvement, or other project violates an applicable law, order, or interpretation under section 9 of this chapter, the official or inspector shall:**

(1) identify the specific:

(A) feature of the building, structure, improvement, or project that is noncompliant; and

(B) law, order, or interpretation upon which the finding of noncompliance is based, specifying the edition, chapter, and section of any applicable building or fire code; and

(2) provide the information to the permit applicant.

SECTION 2. IC 36-7-4-604, AS AMENDED BY P.L.192-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 604. (a) Before the plan commission certifies a proposal to the legislative body under section 605 of this chapter, the plan commission must hold a public hearing under this section.

(b) The plan commission shall give notice of the hearing by

HEA 1421 — Concur



publication under IC 5-3-1. The notice must state:

- (1) the time and place of the hearing;
- (2) either:
 - (A) in the case of a proposal under section 606 or 607 of this chapter, the geographic areas (or zoning districts in a specified geographic area) to which the proposal applies; or
 - (B) in the case of a proposal under section 608 of this chapter, the geographic area that is the subject of the zone map change; (This subdivision does not require the identification of any real property by metes and bounds.)
- (3) either:
 - (A) in the case of a proposal under section 606 of this chapter, a summary (which the plan commission shall have prepared) of the subject matter contained in the proposal (not the entire text of the ordinance);
 - (B) in the case of a proposal under section 607 of this chapter, a summary (which the plan commission shall have prepared) of the subject matter contained in the proposal (not the entire text) that describes any new or changed provisions; or
 - (C) in the case of a proposal under section 608 of this chapter, a description of the proposed change in the zone maps;
- (4) if the proposal contains or would add or amend any penalty or forfeiture provisions, the entire text of those penalty or forfeiture provisions;
- (5) the place where a copy of the proposal is on file for examination before the hearing;
- (6) that written objections to the proposal that are filed with the secretary of the commission before the hearing will be considered;
- (7) that oral comments concerning the proposal will be heard; and
- (8) that the hearing may be continued from time to time as may be found necessary.

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

- (1) references a specific parcel of real estate;**
- (2) is unrelated to:**
 - (A) a zone map change to a county ordinance under section 608 of this chapter;**



(B) the adoption of an initial county zoning ordinance (or adoption of a replacement county zoning ordinance after repealing the entire county zoning ordinance, including amendments and zone maps) under section 606 of this chapter; or

(C) an amendment or partial repeal of the text (not zone maps) of a county zoning ordinance under section 607 of this chapter; and

(3) abuts or includes a county line (or a county line street or road or county line body of water);

then all owners of real property to a depth of two (2) ownerships or one-eighth (1/8) of a mile into the adjacent county, whichever is less, are interested parties who must receive notice under this subsection.

(d) The hearing must be held by the plan commission at the place stated in the notice. The commission may also give notice and hold hearings at other places within the county where the distribution of population or diversity of interests of the people indicate that the hearings would be desirable. The commission shall adopt rules governing the conduct of hearings under this section.

(e) A zoning ordinance may not be held invalid on the ground that the plan commission failed to comply with the requirements of this section, if the notice and hearing substantially complied with this section.

(f) The files of the plan commission concerning proposals are public records and shall be kept available at the commission's office for inspection by any interested person.

(g) METRO. In the case of a proposal to amend a zoning map under section 608 of this chapter or in the case of a proposed approval of a development plan required by a zoning ordinance as a condition of development, a person may not communicate before the hearing with any hearing officer, member of the historic preservation commission, or member of the plan commission with intent to influence the officer's or member's action on the proposal. Before the hearing, the staff may submit a statement of fact concerning the physical characteristics of the area involved in the proposal, along with a recital of surrounding land use and public facilities available to serve the area. The staff may include with the statement an opinion of the proposal. The statement must be made a part of the file concerning the proposal not less than six (6) days before the proposal is scheduled to be heard. The staff shall furnish copies of the statement to persons in accordance with rules adopted by the commission.

(h) METRO. In the case of a proposal to amend a zoning map under



section 608 or 608.7 of this chapter, this subsection applies if the proposal affects only real property within the corporate boundaries of an excluded city. Notwithstanding the other provisions of this section, the legislative body of the excluded city may decide that the legislative body rather than the plan commission should hold the public hearing prescribed by this section. Whenever the plan commission receives a proposal subject to this section, the plan commission shall refer the proposal to the legislative body of the excluded city. At the legislative body's first regular meeting after receiving a referred proposal, the legislative body shall decide whether the legislative body will hold the public hearing. Within thirty (30) days after making the decision to hold the hearing, the legislative body shall hold the hearing, acting for purposes of this section as if the legislative body is the plan commission. The legislative body shall then make a recommendation on the proposal to the plan commission. After receiving the excluded city legislative body's recommendation (or at the end of the thirty (30) day period for the public hearing if the proposal receives no recommendation), the plan commission shall meet and decide whether to make a favorable recommendation on the proposal. The favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission on the proposal shall be certified to the county legislative body as provided in section 605 of this chapter.

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

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

SECTION 3. IC 36-7-4-1109, AS AMENDED BY P.L.126-2011, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1109. (a) As used in this section, "local governmental agency" includes any agency, officer, board, or commission of a local unit of government that may issue:

- (1) a permit; or
- (2) an approval of a land use or an approval for the construction of a development, a building, or another structure.

HEA 1421 — Concur



(b) As used in this section, "permit" means any of the following:

- (1) An improvement location permit.
- (2) A building permit.
- (3) A certificate of occupancy.
- (4) Approval of a site-specific development plan.
- (5) Approval of a primary or secondary plat.
- (6) Approval of a contingent use, conditional use, special exception or special use.
- (7) Approval of a planned unit development.

(c) ~~Subject to section 1110 of this chapter,~~ If a person files a complete application as required by the effective ordinances or rules of a **local unit of government or a local governmental agency** for a permit with the appropriate local governmental agency, the granting of the permit, and the granting of any secondary, additional, or related permits or approvals required from the same local governmental agency with respect to the general subject matter of the application for the first permit, are governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, and regulations in effect and applicable to the property when the application is filed, even if before the issuance of the permit or while the permit approval process is pending, or before the issuance of any secondary, additional, or related permits or approvals or while the secondary, additional, or related permit or approval process is pending, the statutes, ordinances, rules, development standards, or regulations governing the granting of the permit or approval are changed by the general assembly or the applicable local legislative body or regulatory body, **regardless of whether such changes in the statutes, ordinances, rules, development standards, or regulations are part of a zoning ordinance, a subdivision control ordinance, or a statute, ordinance, or regulation that is based on the general police powers of the local unit of government.** However, this subsection does not apply if the development or other activity to which the permit relates is not completed within ten (10) years after the development or activity is commenced.

(d) Subsection (e) applies if:

- (1) either:
 - (A) a local governmental agency issues to a person a permit or grants a person approval for the construction of a development, a building, or another structure; or
 - (B) a permit or approval is not required from the local governmental agency for the construction of the development, building, or structure;



(2) before beginning the construction of the development, building, or structure, the person must obtain a permit or approval for the construction of the development, building, or structure from a state governmental agency; and

(3) the person has applied for the permit or requested the approval for the construction of the development, building, or structure from the state governmental agency within ninety (90) days of issuance of the permit by the local governmental agency.

(e) Subject to subsection (f), ~~and section 1110 of this chapter~~, if the conditions of subsection (d) are satisfied:

(1) a permit or approval issued or granted to a person by the local governmental agency for the construction of the development, building, or structure; or

(2) the person's right to construct the development, building, or structure without a permit or approval from the local governmental agency;

is governed for at least three (3) years after the person applies for the permit by the statutes, ordinances, rules, development standards, regulations, and approvals in effect and applicable to the property when the person applies for the permit or requests approval from the state governmental agency for the construction of the development, building, or structure, even if before the commencement of the construction or while the permit application or approval request is pending with the state governmental agency the statutes governing the granting of the permit or approval from the local governmental agency are changed by the general assembly or the ordinances, rules, development standards, or regulations of the **local unit of government or the local governmental agency are changed by the applicable local legislative body or regulatory body, regardless of whether such changes in the statutes, ordinances, rules, development standards, or regulations are part of a zoning ordinance, a subdivision control ordinance, or a statute, ordinance or regulation that is based on the general police powers of the local unit of government.** However, this subsection does not apply if the development or other activity to which the permit or approval request relates is not completed within ten (10) years after the development or activity is commenced.

(f) Subsection (d) does not apply to property when it is demonstrated by the local or state governmental agency that the construction of the development, building, or structure would cause imminent peril to life or property.

(g) This section does not apply to building codes under IC 22-13.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1421 — Concur

