

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.

## SENATE ENROLLED ACT No. 392

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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 36-7-1-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2021]: **Sec. 6.5. "Excluded city" means a city or town that is located within a county having a consolidated city as described in IC 36-3-1-7.**

SECTION 2. IC 36-7-4-201, AS AMENDED BY P.L.145-2015, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 201. (a) For purposes of IC 36-1-3-6, a unit wanting to exercise planning and zoning powers in Indiana, including the issuance of permits under IC 8-1-32.3 (except as otherwise provided in IC 8-1-32.3), must do so in the manner provided by this chapter.

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

- (1) that highway systems be carefully planned;
- (2) that new communities grow only with adequate public way, utility, health, educational, and recreational facilities;
- (3) that the needs of agriculture, forestry, industry, and business be recognized in future growth;
- (4) that residential areas provide healthful surroundings for family life; and

SEA 392 — Concur



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

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

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

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

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

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

SECTION 3. IC 36-7-4-604, AS AMENDED BY P.L.253-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: 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 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 zone** 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 zone** 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 **(as described in IC 36-3-1-7)**. Notwithstanding the other provisions of this section, the legislative body ~~may decide that the legislative body rather than the plan commission should of the excluded city, rather than the plan commission, shall~~ 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;~~ **Not later than thirty (30) days after**



**receiving the proposal**, 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.~~ **the final determination as to the proposal.**

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

- (1) If the proposal is to adopt an initial zoning ordinance (or to adopt a replacement zoning ordinance after repealing the entire zoning ordinance, including amendments and zone maps) under section 606 of this chapter, it may be certified only if it receives a favorable recommendation from the commission.
- (2) If the proposal is to amend or partially repeal the text (not zone maps) of the ordinance under section 607 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.
- (3) If the proposal is to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter, it may be certified with a favorable recommendation, an unfavorable recommendation, or no recommendation from the



commission.

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

(c) METRO. A proposal to change the zone maps incorporated by reference into the ordinance under section 608 of this chapter shall be certified to the legislative body **of the county or if the proposal concerns real property located within the boundaries of an excluded city (as described in IC 36-3-1-7), the legislative body of the excluded city**, by the metropolitan development commission regardless of whether the proposal receives a favorable recommendation, an unfavorable recommendation, or no recommendation from the commission.

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

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

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

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

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

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

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

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

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

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

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



- (i) after the date of the certification under section 605 of this chapter; and
- (ii) that is specified in the ordinance adopting the alternate procedure.

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

(c) If:

- (1) any aggrieved person files with the plan commission a written request to have the final determination on the proposal made by the appropriate legislative body; or
- (2) the legislative body files a notice with the plan commission that the legislative body shall make the final determination on the proposal;

the legislative body shall make the final determination on the proposal to change the zone map as set forth in section 608 of this chapter. The plan commission shall notify the legislative body in writing of a request under subdivision (1) not later than the next business day after receiving the request.

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

- (1) twenty-nine (29) days after the date the favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission is certified under section 605 of this chapter; or
- (2) on a date that is less than twenty-nine (29) days:
  - (A) after the date the favorable recommendation, the unfavorable recommendation, or no recommendation of the plan commission is certified under section 605 of this chapter; and
  - (B) that is specified in the ordinance adopting the alternate procedure.

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

- (1) Three (3) citizen members appointed by the executive of the municipality or county, of whom one (1) must be a member of the plan commission and two (2) must not be members of the plan commission.
- (2) One (1) citizen member appointed by the fiscal body of the municipality or county, who must not be a member of the plan

**SEA 392 — Concur**



commission.

(3) One (1) member appointed by the plan commission from the plan commission's membership, who must be a county agricultural agent or a citizen member of the plan commission other than the member appointed under subdivision (1).

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

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

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

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

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

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

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

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

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

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

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

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





commission from its membership.

(2) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the largest municipality in the county participating in the commission.

(3) Two (2) citizen members, of whom one (1) must be a member of the area plan commission and one (1) must not be a member of any plan commission, appointed by the county legislative body.

(4) One (1) citizen member, who may not be a member of any plan commission, appointed by the executive of the second largest municipality in the county participating in the commission. However, if there is only one (1) municipality in the county participating in the commission, then the county legislative body shall make this appointment.

(e) METRO. Each division of the metropolitan board of zoning appeals consists of five (5) members as follows:

(1) Two (2) citizen members appointed by the executive of the consolidated city.

(2) Two (2) citizen members appointed by the legislative body of the consolidated city.

(3) One (1) citizen member, who may also be a member of the metropolitan development commission, appointed by the commission.

**Not more than two (2) members appointed to each division of the board of zoning appeals may be residents of the same township. All townships must be represented across all the divisions of the board of zoning appeals. The appointing authority shall consult with the township executive before appointing a member to represent that township on the board.**

(f) METRO. The municipal board of zoning appeals for an excluded city consists of five (5) members as follows:

**(1) The following members for an excluded city that has a mayor:**

~~(1)~~ **(A)** Three (3) citizen members appointed by the legislative body of the excluded city.

~~(2)~~ **(B)** Two (2) citizen members ~~who may also be members of the metropolitan development commission,~~ appointed by the ~~commission.~~ **mayor of the excluded city.**

**(2) This subdivision applies to an excluded city that does not have a mayor. Five (5) citizen members appointed by the legislative body of the excluded city.**

(g) Whenever the zoning ordinance provides for a certain division of the board of zoning appeals to have limited territorial jurisdiction,



it must also provide for that division to consist of members who are all residents of that limited territory. Those members shall be appointed in the same manner that is prescribed by subsection (a) for divisions of an advisory board of zoning appeals, but if the plan commission is unable to make its appointment in that manner, the appointment shall be made instead by the legislative body.

SECTION 7. IC 36-7-4-907, AS AMENDED BY P.L.126-2011, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 907. (a) If a vacancy occurs among the members of the board of zoning appeals, the appointing authority shall appoint a member for the unexpired term of the vacating member. In addition, the appointing authority may appoint an alternate member to participate with the board in any hearing or decision if the regular member it has appointed has a disqualification under section 909 of this chapter, or is otherwise unavailable to participate in the hearing or decision. An alternate member shall have all of the powers and duties of a regular member while participating in the hearing or decision.

(b) A member of the board of zoning appeals who misses three (3) consecutive regular meetings of the board may be treated as if the member had resigned, at the discretion of the appointing authority.

(c) Members serving in any division of the board of zoning appeals may also serve as alternate members for the other divisions of the board of zoning appeals. Whenever regular and alternate members serving in a particular division are unavailable, the chairperson or vice chairperson of the affected division may select members from other divisions in order to assemble up to five (5) members to participate in any hearing or decision.

**(d) METRO. If there is an absence, the board of zoning appeals must satisfy to the extent possible the township standard specified by law.**

SECTION 8. IC 36-7-4-916 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 916. (a) The board of zoning appeals shall adopt rules, which may not conflict with the zoning ordinance, concerning:

- (1) the filing of appeals;
- (2) the application for variances, special exceptions, special uses, contingent uses, and conditional uses;
- (3) the giving of notice;
- (4) the conduct of hearings; and
- (5) the determination of whether a variance application is for a variance of use or for a variance from the development standards (such as height, bulk, or area).



(b) The board of zoning appeals may also adopt rules providing for:

- (1) **subject to section 916.5 of this chapter (in the case of a metropolitan board of zoning appeals)**, the allocation of cases filed among the divisions of the board of zoning appeals; and
- (2) the fixing of dates for hearings by the divisions.

(c) Rules adopted by the board of zoning appeals shall be printed and be made available to all applicants and other interested persons.

SECTION 9. IC 36-7-4-916.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 916.5. METRO. The board of zoning appeals shall allocate:**

- (1) **appeals; and**
- (2) **applications for variances, special exceptions, special uses, contingent uses, and conditional uses;**

**to a division of the board of zoning appeals that has at least one (1) member of the board who is a resident of a township in which the property that is the subject of the appeal or application is located.**

SECTION 10. IC 36-7-4-918.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 918.8. (a) This section does not apply to a proposed ordinance for the amendment of a zoning ordinance that only affects real property located within the corporate boundaries of an excluded city.**

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

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

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

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

- (1) vote on the amendment to the zoning ordinance and the variance, exception, or use petition at the same time; and

**SEA 392 — Concur**



(2) condition the approval of variance, exception, or use in such a manner that it takes effect when the recommended ordinance amendment is approved by the legislative body.

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

SECTION 11. IC 36-7-4-922, AS AMENDED BY P.L.88-2014, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 922. **(a) Subsections (b), (c), (d), and (e) do not apply to a board of zoning appeals of an excluded city.**

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

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

(A) an administrative appeal; or

(B) approving:

(i) a special exception;

(ii) a special or conditional use; or

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

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

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

~~(b)~~ (c) METRO. In hearing appeals under this section, the metropolitan development commission sits as a board of zoning



appeals and shall be treated as if it is a board for purposes of this section. The commission may accept into evidence the written record, if any, of the hearing before the board of zoning appeals, along with other evidence introduced by the staff or interested parties. The commission shall consider the matter de novo, but the decision of the board is considered affirmed unless two-thirds (2/3) of the commission members voting vote to deny the administrative appeal, exception, use, or variance.

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

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

**(f) METRO. This subsection applies only to decisions of a board of zoning appeals of an excluded city. A member of the legislative body of the excluded city in whose district the parcel of real property under consideration is located may appeal decisions of a board of zoning appeals. The legislative body member must file in the office of the excluded city legislative body a notice of appeal not later than five (5) days after the board files a copy of the decision in the office of the board. However, if the legislative body member appears at the hearing at which the administrative appeal is decided, or the special exception, special or conditional use, or variance is approved or denied, then the legislative body member must file the notice of appeal not later than five (5) days after the board has rendered its decision. The notice must certify that the decision raises a substantial question of zoning policy appropriate for consideration by the legislative body of the excluded city. The legislative body shall hear the appeal at its next regular meeting. In hearing appeals for decisions of the board of zoning appeals of an excluded city, the legislative body of the excluded city sits as the final board of appeals and shall be treated as if it is a board for**



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

SECTION 12. IC 36-7-4-1003, AS AMENDED BY P.L.88-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 1003. (a) Each decision of the legislative body under section 918.6 of this chapter is subject to judicial review in the same manner as that provided for the appeal of a final decision of the board of zoning appeals under section 1016(a) of this chapter.

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

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

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

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

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



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

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

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