

January 28, 1998

SENATE BILL No. 176

DIGEST OF SB 176 (Updated January 26, 1998 2:10 pm - DI 78)

Citations Affected: IC 36-7.

Synopsis: Requires the county executive of all counties that do not already have a storm water drainage ordinance for the management of storm water runoff in effect to adopt such an ordinance. Applies the standards in the ordinance to all municipalities within the county unless the municipality has standards that are at least as stringent as the requirements of the county ordinance. Requires the county and all jurisdictions in the county that are subject to local planning and zoning laws to implement the ordinance by: (1) amending the comprehensive plan; (2) amending the zoning ordinance; (3) amending the subdivision control ordinance; and (4) requiring improvement location permits to state how they will comply with the standards.

Effective: July 1, 1998.

Wheeler, Lewis

January 6, 1998, read first time and referred to Committee on Natural Resources.
January 27, 1998, amended, reported favorably — Do Pass.

SB 176—LS 6861/DI 78



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January 28, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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SENATE BILL No. 176



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 36-7-4-502 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 502. A comprehensive
3 plan must contain at least the following elements:
4 (1) A statement of objectives for the future development of the
5 jurisdiction.
6 (2) A statement of policy for the land use development of the
7 jurisdiction.
8 (3) A statement of policy for the development of public ways,
9 public places, public lands, public structures, and public utilities.
10 (4) **A statement of standards for the management of storm**
11 **water runoff that complies with or exceeds the requirements**
12 **of the storm water drainage ordinance adopted under**
13 **IC 36-7-32.**
14 SECTION 2. IC 36-7-4-601, AS AMENDED BY P.L.320-1995,
15 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 1998]: Sec. 601. (a) The legislative body having jurisdiction
17 over the geographic area described in the zoning ordinance has

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1 exclusive authority to adopt a zoning ordinance under the 600 series.
 2 However, no zoning ordinance may be adopted until a comprehensive
 3 plan has been approved for the jurisdiction under the 500 series of this
 4 chapter.

5 (b) When it adopts a zoning ordinance, the legislative body shall:

6 (1) designate the geographic area over which the plan commission
 7 shall exercise jurisdiction; and

8 (2) incorporate by reference into the ordinance zone maps, as
 9 prepared by the plan commission under subsection (e).

10 (c) When it adopts a zoning ordinance, the legislative body shall act
 11 for the purposes of:

12 (1) securing adequate light, air, convenience of access, and safety
 13 from fire, flood, and other danger;

14 (2) lessening or avoiding congestion in public ways;

15 (3) promoting the public health, safety, comfort, morals,
 16 convenience, and general welfare; and

17 **(4) implementing standards for managing storm water runoff**
 18 **in a manner that is consistent with or exceeds the**
 19 **requirements of a storm water drainage ordinance adopted**
 20 **under IC 36-7-32; and**

21 ~~(4)~~ (5) otherwise accomplishing the purposes of this chapter.

22 (d) For the purposes described in subsection (c), the legislative body
 23 may do the following in the zoning ordinance:

24 (1) Establish one (1) or more districts, which may be for
 25 agricultural, commercial, industrial, residential, special, or
 26 unrestricted uses and any subdivision or combination of these
 27 uses. A district may include geographic areas that are not
 28 contiguous. A geographic area may be subject to more than one
 29 (1) district.

30 (2) In each district, regulate how real property is developed,
 31 maintained, and used. This regulation may include:

32 (A) requirements for the area of front, rear, and side yards,
 33 courts, other open spaces, and total lot area;

34 (B) requirements for site conditions, signs, and nonstructural
 35 improvements, such as parking lots, ponds, fills, landscaping,
 36 and utilities;

37 (C) provisions for the treatment of uses, structures, or
 38 conditions that are in existence when the
 39 zoning ordinance takes effect;

40 (D) restrictions on development in areas prone to flooding;

41 (E) requirements to protect the historic and architectural
 42 heritage of the community;



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- 1 (F) requirements for structures, such as location, height, area,
 2 bulk, and floor space;
 3 (G) restrictions on the kind and intensity of uses;
 4 (H) performance standards for the emission of noises, gases,
 5 heat, vibration, or particulate matter into the air or ground or
 6 across lot lines;
 7 (I) standards for population density and traffic circulation; and
 8 (J) any other provisions that are necessary to implement the
 9 purposes of the zoning ordinance.
- 10 (3) Designate zoning districts in areas having special
 11 development problems or needs for compatibility in which a plan
 12 commission shall:
- 13 (A) approve or disapprove development plans under the 1400
 14 series of this chapter; and
 15 (B) ensure that a development plan approved under this
 16 subdivision is consistent with the comprehensive plan and the
 17 development requirements specified in the zoning ordinance.
- 18 (4) Provide for planned unit development through adoption and
 19 amendment of zoning ordinances, including PUD district
 20 ordinances (as defined in section 1503 of this chapter).
- 21 (5) Establish in which districts the subdivision of land may occur.
- 22 (e) When it prepares a proposal to initially adopt a zoning ordinance
 23 for a jurisdiction, the plan commission shall also prepare zone maps.
 24 The purpose of the zone maps is to indicate the districts into which the
 25 incorporated areas and unincorporated areas, if any, are divided.
- 26 SECTION 3. IC 36-7-4-702 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 702. (a) In determining
 28 whether to grant primary approval of a plat, the plan commission shall
 29 determine if the plat or subdivision qualifies for primary approval
 30 under the standards prescribed by the subdivision control ordinance.
- 31 (b) The subdivision control ordinance must specify the standards by
 32 which the commission determines whether a plat qualifies for primary
 33 approval. The ordinance must include standards for:
- 34 (1) minimum width, depth, and area of lots in the subdivision;
 35 (2) public way widths, grades, curves, and the coordination of
 36 subdivision public ways with current and planned public ways;
 37 **and**
 38 (3) the extension of water, sewer, and other municipal services;
 39 **and**
 40 (4) **drainage that complies with or exceeds the requirements**
 41 **of the storm water drainage ordinance adopted under**
 42 **IC 36-7-32.**

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1 The ordinance may also include standards for the allocation of areas to
 2 be used as public ways, parks, schools, public and semipublic
 3 buildings, homes, businesses, and utilities, **and** any other standards
 4 related to the purposes of this chapter.

5 (c) The standards fixed in the subdivision control ordinance under
 6 subsection (b) may not be lower than the minimum standards
 7 prescribed in the zoning ordinance for a similar use.

8 (d) As a condition of primary approval of a plat, the commission
 9 may specify:

- 10 (1) the manner in which public ways shall be laid out, graded, and
- 11 improved;
- 12 (2) a provision for water, sewage, and other utility services;
- 13 (3) a provision for lot size, number, and location;
- 14 (4) a provision for drainage design; and
- 15 (5) a provision for other services as specified in the subdivision
- 16 control ordinance.

17 (e) The subdivision control ordinance may not regulate
 18 condominiums regulated by IC 32-1-6.

19 SECTION 4. IC 36-7-4-801 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 801. (a) ADVISORY.
 21 A structure may not be located and an improvement location permit for
 22 a structure on platted or unplatted land may not be issued unless the
 23 structure and its location conform to the municipal zoning ordinance.
 24 However, if the land is unincorporated land that lies within a county
 25 that has adopted a zoning ordinance, then the municipal zoning
 26 ordinance does not apply and the structure must conform to the county
 27 zoning ordinance. A municipality, having adopted a zoning ordinance,
 28 may issue and control improvement location permits on unincorporated
 29 lands within the jurisdiction of its municipal plan commission if the
 30 lands lie within a county that has not adopted a zoning ordinance.

31 (b) AREA) METRO. A zoning ordinance, a subdivision ordinance,
 32 or a separate ordinance may require the procurement of:

- 33 (1) an improvement location permit for the erection, alteration, or
- 34 repair of any structure on platted or unplatted land; and
- 35 (2) an occupancy permit for the use of any structure or land
- 36 regulated by a zoning ordinance, subdivision ordinance,
- 37 thoroughfare ordinance, or other ordinance relating to land use.

38 If such a provision is adopted, a structure may not be located and a
 39 permit may not be issued unless the use, character, and location of the
 40 structure is in conformity with the applicable ordinance.

41 (c) AREA. The ordinance under subsection (b) must contain a
 42 schedule of fees and must provide that the unit that issues the permit

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1 shall receive the fee and pay it into its general fund.

2 (d) **ADVISORY-AREA.** An improvement location permit shall
3 not be issued unless the permit indicates how the permit holder will
4 comply with an ordinance adopted under IC 36-7-32.

5 SECTION 5. IC 36-7-32 IS ADDED TO THE INDIANA CODE AS
6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 1998]:

8 **Chapter 32. Management of Storm Water Runoff**

9 **Sec. 1. (a)** This section applies to a county that does not have a
10 storm water drainage ordinance for the management of storm
11 water runoff in effect prior to July 1, 1998.

12 (b) Before July 1, 1999, the county executive shall adopt a storm
13 water drainage ordinance for the management of storm water run
14 off. The ordinance adopted under this subsection may take effect
15 any time after the adoption of the ordinance; however, the
16 ordinance must be in effect after December 31, 1999.

17 (c) In a county that has a county plan commission, the county
18 plan commission shall advise the county executive on the standards
19 to include in the ordinance adopted under subsection (b).

20 (d) The county ordinance adopted under subsection (b) applies
21 to municipalities within the county unless the municipality adopts
22 or has adopted an ordinance that has standards that are at least as
23 stringent as the requirements of the county ordinance.

24 **Sec. 2. (a)** This section applies to a county that has a storm
25 water drainage ordinance for the management of storm water
26 runoff in effect before July 1, 1998.

27 (b) An ordinance adopted under subsection (a) is presumed
28 valid under this chapter and applies to municipalities within the
29 county unless the municipality adopts or has adopted an ordinance
30 that has standards that are at least as stringent as the requirements
31 of the county ordinance.

32 **Sec. 3. (a)** This section applies to a county that is required to
33 adopt an ordinance under section 1 of this chapter.

34 (b) The county, if it is subject to local planning and zoning laws
35 under IC 36-7-4, and any jurisdiction within the county that is
36 subject to local planning and zoning laws under IC 36-7-4 shall do
37 the following:

38 (1) The governmental body that has the authority to adopt or
39 amend the comprehensive plan under IC 36-7-4 shall adopt or
40 amend the comprehensive plan to reflect the standards of the
41 storm water drainage ordinance as required in IC 36-7-4-502.

42 (2) The governmental body that has the authority to adopt or

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amend the zoning ordinance under IC 36-7-4 shall adopt or amend the zoning ordinance to reflect the standards of the storm water drainage ordinance as required in IC 36-7-4-601.

(3) The governmental body that has the authority to adopt or amend the subdivision control ordinance under IC 36-7-4 shall adopt or amend the subdivision control ordinance to reflect the standards of the storm water drainage ordinance as required in IC 36-7-4-702.

(4) The governmental body that issues improvement location permits shall require compliance with IC 36-7-4-801(d).

(c) The actions required under subsection (b) must be taken not later than:

(1) six (6) months after the date the storm water ordinance takes effect; or

(2) January 1, 2000;

whichever is earlier.

Sec. 4. (a) This section applies to a county described in section 2(a) of this chapter.

(b) The county, if it is subject to local planning and zoning laws under IC 36-7-4, and any jurisdiction within the county that is subject to local planning and zoning laws under IC 36-7-4 shall do the following:

(1) The governmental body that has the authority to adopt or amend the comprehensive plan under IC 36-7-4 shall adopt or amend the comprehensive plan to reflect the standards of the storm water drainage ordinance as required in IC 36-7-4-502.

(2) The governmental body that has the authority to adopt or amend the zoning ordinance under IC 36-7-4 shall adopt or amend the zoning ordinance to reflect the standards of the storm water drainage ordinance as required in IC 36-7-4-601.

(3) The governmental body that has the authority to adopt or amend the subdivision control ordinance under IC 36-7-4 shall adopt or amend the subdivision control ordinance to reflect the standards of the storm water drainage ordinance as required in IC 36-7-4-702.

(4) The governmental body that issues improvement location permits shall require compliance with IC 36-7-4-801(d).

(c) The actions required under subsection (b) must be taken not later than January 1, 1999.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as coauthor of
Senate Bill 176.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Natural Resources, to which was referred Senate Bill 176, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to Senate Bill 176 as introduced.)

SERVER, Chairperson

Committee Vote: Yeas 7, Nays 0.

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