

# COMMITTEE REPORT

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## MR. PRESIDENT:

The Senate Committee on Natural Resources, to which was referred Senate Bill No. 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:

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

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

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

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

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

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

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

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

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

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

22 ~~(4)~~ **(5)** otherwise accomplishing the purposes of this chapter.

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

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

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

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

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

38 (C) provisions for the treatment of uses, structures, or

- 1 conditions that are in existence when the
- 2 zoning ordinance takes effect;
- 3 (D) restrictions on development in areas prone to flooding;
- 4 (E) requirements to protect the historic and architectural
- 5 heritage of the community;
- 6 (F) requirements for structures, such as location, height,
- 7 area, bulk, and floor space;
- 8 (G) restrictions on the kind and intensity of uses;
- 9 (H) performance standards for the emission of noises, gases,
- 10 heat, vibration, or particulate matter into the air or ground
- 11 or across lot lines;
- 12 (I) standards for population density and traffic circulation;
- 13 and
- 14 (J) any other provisions that are necessary to implement the
- 15 purposes of the zoning ordinance.
- 16 (3) Designate zoning districts in areas having special
- 17 development problems or needs for compatibility in which a plan
- 18 commission shall:
  - 19 (A) approve or disapprove development plans under the
  - 20 1400 series of this chapter; and
  - 21 (B) ensure that a development plan approved under this
  - 22 subdivision is consistent with the comprehensive plan and
  - 23 the development requirements specified in the zoning
  - 24 ordinance.
- 25 (4) Provide for planned unit development through adoption and
- 26 amendment of zoning ordinances, including PUD district
- 27 ordinances (as defined in section 1503 of this chapter).
- 28 (5) Establish in which districts the subdivision of land may
- 29 occur.
- 30 (e) When it prepares a proposal to initially adopt a zoning
- 31 ordinance for a jurisdiction, the plan commission shall also prepare
- 32 zone maps. The purpose of the zone maps is to indicate the districts
- 33 into which the incorporated areas and unincorporated areas, if any, are
- 34 divided.

35 SECTION 3. IC 36-7-4-702 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 702. (a) In determining  
 37 whether to grant primary approval of a plat, the plan commission shall  
 38 determine if the plat or subdivision qualifies for primary approval

- 1 under the standards prescribed by the subdivision control ordinance.
- 2 (b) The subdivision control ordinance must specify the standards
- 3 by which the commission determines whether a plat qualifies for
- 4 primary approval. The ordinance must include standards for:
- 5 (1) minimum width, depth, and area of lots in the subdivision;
- 6 (2) public way widths, grades, curves, and the coordination of
- 7 subdivision public ways with current and planned public ways;
- 8 **and**
- 9 (3) the extension of water, sewer, and other municipal services;
- 10 **and**
- 11 **(4) drainage that complies with or exceeds the requirements**
- 12 **of the storm water drainage ordinance adopted under**
- 13 **IC 36-7-32.**

14 The ordinance may also include standards for the allocation of areas to

15 be used as public ways, parks, schools, public and semipublic

16 buildings, homes, businesses, and utilities, **and** any other standards

17 related to the purposes of this chapter.

18 (c) The standards fixed in the subdivision control ordinance under

19 subsection (b) may not be lower than the minimum standards

20 prescribed in the zoning ordinance for a similar use.

21 (d) As a condition of primary approval of a plat, the commission

22 may specify:

- 23 (1) the manner in which public ways shall be laid out, graded,
- 24 and improved;
- 25 (2) a provision for water, sewage, and other utility services;
- 26 (3) a provision for lot size, number, and location;
- 27 (4) a provision for drainage design; and
- 28 (5) a provision for other services as specified in the subdivision
- 29 control ordinance.

30 (e) The subdivision control ordinance may not regulate

31 condominiums regulated by IC 32-1-6.

32 SECTION 4. IC 36-7-4-801 IS AMENDED TO READ AS

33 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 801. (a) ADVISORY.

34 A structure may not be located and an improvement location permit for

35 a structure on platted or unplatted land may not be issued unless the

36 structure and its location conform to the municipal zoning ordinance.

37 However, if the land is unincorporated land that lies within a county

38 that has adopted a zoning ordinance, then the municipal zoning

1 ordinance does not apply and the structure must conform to the county  
 2 zoning ordinance. A municipality, having adopted a zoning ordinance,  
 3 may issue and control improvement location permits on unincorporated  
 4 lands within the jurisdiction of its municipal plan commission if the  
 5 lands lie within a county that has not adopted a zoning ordinance.

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

8 (1) an improvement location permit for the erection, alteration,  
 9 or repair of any structure on platted or unplatted land; and

10 (2) an occupancy permit for the use of any structure or land  
 11 regulated by a zoning ordinance, subdivision ordinance,  
 12 thoroughfare ordinance, or other ordinance relating to land use.

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

16 (c) AREA. The ordinance under subsection (b) must contain a  
 17 schedule of fees and must provide that the unit that issues the permit  
 18 shall receive the fee and pay it into its general fund.

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

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

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

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

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

34 **(c) In a county that has a county plan commission, the county**  
 35 **plan commission shall advise the county executive on the standards**  
 36 **to include in the ordinance adopted under subsection (b).**

37 **(d) The county ordinance adopted under subsection (b) applies**  
 38 **to municipalities within the county unless the municipality adopts**

1 or has adopted an ordinance that has standards that are at least as  
2 stringent as the requirements of the county ordinance.

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

6 (b) An ordinance adopted under subsection (a) is presumed  
7 valid under this chapter and applies to municipalities within the  
8 county unless the municipality adopts or has adopted an ordinance  
9 that has standards that are at least as stringent as the requirements  
10 of the county ordinance.

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

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

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

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

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

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

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

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

38 (2) January 1, 2000;

1       **whichever is earlier.**

2               **Sec. 4. (a) This section applies to a county described in section**  
 3 **2(a) of this chapter.**

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

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

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

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

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

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

(Reference is to SB 176 as introduced.)

**and when so amended that said Bill do pass.**

Committee Vote: Yeas 7, Nays 0.

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**Senator Server, Chairperson**