

HOUSE BILL No. 1155

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-7-4-604; IC 36-7-4-1511.

Synopsis: Notice of proposed changes to zoning maps. Defines an interested party for the purpose of providing notice of zoning proposals. Requires a plan commission to provide notice of a public hearing to amend a zoning ordinance or zoning map to interested parties by certified mail. (Current law provides that the plan commission may by rule determine by what method interested parties are provided notice.)

Effective: July 1, 1999.

Smith M

January 6, 1999, read first time and referred to Committee on Local Government.

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First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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HOUSE BILL No. 1155



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 36-7-4-604 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 604. (a) **As used in this**
- 3 **section, "interested party" means any of the following:**
- 4 (1) **An owner of real property located in the geographic area**
- 5 **to which a proposal under sections 606, 607, or 608 of this**
- 6 **chapter applies.**
- 7 (2) **An owner of real property abutting the geographic area to**
- 8 **which a proposal under sections 606, 607, or 608 of this**
- 9 **chapter applies.**
- 10 (3) **If the subject matter of the proposal abuts or includes a**
- 11 **county line (or a county line street or road or county line body**
- 12 **of water), all owners of real property to a depth of two (2)**
- 13 **ownerships or one-eighth (1/8) of a mile into the adjacent**
- 14 **county, whichever is less.**
- 15 (4) **Any other person or entity determined to be an interested**
- 16 **party by the plan commission.**
- 17 (a) (b) **Before the plan commission certifies a proposal to the**



1 legislative body under section 605 of this chapter, the plan commission
2 must hold a public hearing under this section.

3 ~~(b)~~ (c) The plan commission shall give notice of the hearing by
4 publication under IC 5-3-1. The notice must state:

5 (1) the time and place of the hearing;

6 (2) either:

7 (A) in the case of a proposal under section 606 or 607 of this
8 chapter, the geographic areas (or zoning districts in a specified
9 geographic area) to which the proposal applies; or

10 (B) in the case of a proposal under section 608 of this chapter,
11 the geographic area that is the subject of the zone map change;
12 (Subdivision (2) does not require the identification of any real
13 property by metes and bounds.)

14 (3) either:

15 (A) in the case of a proposal under section 606 of this chapter,
16 a summary (which the plan commission shall have prepared)
17 of the subject matter contained in the proposal (not the entire
18 text of the ordinance);

19 (B) in the case of a proposal under section 607 of this chapter,
20 a summary (which the plan commission shall have prepared)
21 of the subject matter contained in the proposal (not the entire
22 text) that describes any new or changed provisions; or

23 (C) in the case of a proposal under section 608 of this chapter,
24 a description of the proposed change in the zone maps;

25 (4) if the proposal contains or would add or amend any penalty or
26 forfeiture provisions, the entire text of those penalty or forfeiture
27 provisions;

28 (5) the place where a copy of the proposal is on file for
29 examination before the hearing;

30 (6) that written objections to the proposal that are filed with the
31 secretary of the commission before the hearing will be
32 considered;

33 (7) that oral comments concerning the proposal will be heard; and

34 (8) that the hearing may be continued from time to time as may be
35 found necessary.

36 ~~(e)~~ (d) The plan commission shall also provide for due notice to
37 interested parties at least ten (10) days before the date set for the
38 hearing. The commission shall by rule determine who are interested
39 parties; how notice is to be given to interested parties; and who is
40 required to give that notice. However, if the subject matter of the
41 proposal abuts or includes a county line (or a county line street or road
42 or county line body of water); then all owners of real property to a

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1 depth of two (2) ownerships or one-eighth (1/8) of a mile into the
 2 adjacent county; whichever is less; are interested parties who must
 3 receive notice under this subsection. **provide a copy of the notice**
 4 **described in subsection (c) to each interested party by certified**
 5 **mail. The commission shall by rule determine who are interested**
 6 **parties that are not described in subsection (a)(1), (a)(2), or (a)(3).**

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

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

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

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

35 ~~(h)~~ (i) METRO. In the case of a proposal to amend a zoning map
 36 under section 608 of this chapter, this subsection applies if the proposal
 37 affects only real property within the corporate boundaries of an
 38 excluded city. Notwithstanding the other provisions of this section, the
 39 legislative body of the excluded city may decide that the legislative
 40 body rather than the plan commission should hold the public hearing
 41 prescribed by this section. Whenever the plan commission receives a
 42 proposal subject to this section, the plan commission shall refer the



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1 proposal to the legislative body of the excluded city. At the legislative
 2 body's first regular meeting after receiving a referred proposal, the
 3 legislative body shall decide whether the legislative body will hold the
 4 public hearing. Within thirty (30) days after making the decision to
 5 hold the hearing, the legislative body shall hold the hearing, acting for
 6 purposes of this section as if the legislative body is the plan
 7 commission. The legislative body shall then make a recommendation
 8 on the proposal to the plan commission. After receiving the excluded
 9 city legislative body's recommendation (or at the end of the thirty (30)
 10 day period for the public hearing if the proposal receives no
 11 recommendation), the plan commission shall meet and decide whether
 12 to make a favorable recommendation on the proposal. If the proposal
 13 receives a favorable recommendation from the commission, the
 14 proposal shall be certified to the county legislative body as provided in
 15 section 605 of this chapter.

16 SECTION 2. IC 36-7-4-1511 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1511. (a) The
 18 legislative body may, in the zoning ordinance, delegate authority to
 19 conduct secondary review of a PUD district ordinance under section
 20 1509(c) of this chapter.

21 (b) The legislative body may, in the zoning ordinance, delegate
 22 authority to modify permitted uses or development requirements that
 23 are specified in a PUD district ordinance.

24 (c) The legislative body may, in the zoning ordinance, delegate the
 25 authority to conduct secondary reviews and grant approvals under
 26 subsection (a) and to make modifications under subsections (b) and (i)
 27 to any of the following:

28 (1) The plan commission.

29 (2) A hearing examiner or committee designated by the plan
 30 commission under section 402(d) of this chapter.

31 (3) At least one (1) employee designated by the plan commission.

32 (d) If authority is delegated under subsection (c)(1), the zoning
 33 ordinance may provide for an appeal to the legislative body of the
 34 decision of the plan commission.

35 (e) If authority is delegated under subsection (c)(2) or (c)(3), the
 36 zoning ordinance must provide for an appeal to the legislative body or
 37 the plan commission of the decision of the hearing examiner,
 38 committee, employee, or group of employees.

39 (f) If the zoning ordinance provides for an appeal under subsection
 40 (d) or (e), the zoning ordinance must specify the appeal procedure.

41 (g) If authority to conduct secondary reviews is delegated under
 42 subsection (a), the legislative body must establish the following in the



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1 zoning ordinance:

2 (1) The nature of the proceedings required for conducting
3 secondary review.

4 (2) The type of notice, if any, that must be given.

5 (h) Except as provided in subsection (i), if authority to make
6 modifications in permitted uses or development requirements is
7 delegated under subsection (b), a public hearing must be held before
8 a modification is made. A hearing under this subsection must be
9 conducted in the manner established by the legislative body in the
10 zoning ordinance. Notice of the hearing must be given in the same
11 manner as notice is given under section ~~604(b)~~ and 604(c) and **604(d)**
12 of this chapter.

13 (i) The legislative body may define in the zoning ordinance minor
14 modifications that may be made without a public hearing under
15 subsection (h). The legislative body must establish in the zoning
16 ordinance the nature of the proceedings and any notice required for the
17 making of a minor modification under this subsection.

18 (j) The legislative body may, in the zoning ordinance, delegate
19 authority to the plan commission to establish rules governing the nature
20 of the proceedings and any notice required to conduct secondary
21 review, grant an approval, or make a modification under this section.

22 (k) A decision of the plan commission to grant or deny an approval
23 or a modification under this section, whether made after an original
24 hearing or the hearing of an appeal, is a final decision that may be
25 reviewed under section 1016 of this chapter.

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