

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 332

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 32-21-5-7, AS AMENDED BY P.L.111-2018, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 7. **(a)** The Indiana real estate commission established by IC 25-34.1-2-1 shall adopt a specific disclosure form that contains the following:

- (1) Disclosure by the owner of the known condition of the following:
 - (A) The foundation.
 - (B) The mechanical systems.
 - (C) The roof.
 - (D) The structure.
 - (E) The water and sewer systems.
 - (F) Additions that may require improvements to the sewage disposal system.
 - (G) Other areas that the Indiana real estate commission determines are appropriate.
- (2) Disclosure by the owner of known:
 - (A) contamination caused by the manufacture of a controlled substance (as defined by IC 35-48-1-9) on the property that has not been certified as decontaminated by a qualified inspector who is certified under IC 16-19-3.1; or
 - (B) manufacture of methamphetamine or dumping of waste

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from the manufacture of methamphetamine in a residential structure on the property.

(3) A notice to the prospective buyer that contains substantially the following language:

"The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property.".

(4) A notice to the prospective buyer that contains substantially the following language:

"The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and owner.".

(5) A disclosure by the owner that an airport is located within a geographical distance from the property as determined by the Indiana real estate commission. The commission may consider the differences between an airport serving commercial airlines and an airport that does not serve commercial airlines in determining the distance to be disclosed.

(6) A disclosure by the owner that:

(A) the property is located near a military installation, within a state area of interest (as defined in IC 36-7-30.2-6), and may be impacted to some degree by the effects of the installation's military operations; and

(B) local laws may restrict use and development of the property to promote compatibility with military installation operations.

(b) Responsibility for the disclosure required under subsection (a)(6) rests solely with the owner of the property and no liability for the owner's failure to make the required disclosure shall accrue to any third party. Failure of the owner to make the required disclosure under subsection (a)(6) shall not:

(1) invalidate the transfer of the property; or

(2) create any encumbrance or lien upon any legal or equitable title to the property.

SECTION 2. IC 32-31-1-21.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 21.1. (a) This section applies only to a lease entered into or renewed after June 30, 2023, for real property that is:



(1) assessed as residential or commercial land under the real property assessment rules and guidelines of the department of local government finance; or

(2) used for educational, literary, scientific, religious, or charitable purposes by a nonprofit corporation, organization, or association exempt from federal income taxation under Section 501 of the Internal Revenue Code.

(b) The lessor shall disclose in the lease that:

(1) the property is located near a military installation, within a state area of interest (as defined in IC 36-7-30.2-6), and may be impacted to some degree by the effects of the installation's military operations; and

(2) local laws may restrict use and development of the property to promote compatibility with military installation operations.

SECTION 3. IC 36-7-30.1 IS REPEALED [EFFECTIVE JULY 1, 2023]. (Planning and Zoning Affecting Military Bases).

SECTION 4. IC 36-7-30.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 30.2. State Area of Interest; Military Installations

Sec. 1. This chapter applies only to a unit that exercises planning or zoning jurisdiction over land within a state area of interest.

Sec. 2. As used in this chapter, "commander" means the commander of an installation or the commander's designee.

Sec. 3. As used in this chapter, "district" means a military impact zoning district established under IC 36-7-30.3.

Sec. 4. As used in this chapter, "installation" means the following military installations:

(1) Naval Support Activity Crane.

(2) Lake Glendora Test Facility.

(3) Grissom Air Reserve Base.

Sec. 5. As used in this chapter, "land use activity" means any of the following:

(1) Land development or redevelopment, including requests for tax abatement.

(2) Changes in land use, including zone map amendments, special exceptions and uses, and variances.

(3) Division and subdivision of land.

(4) Amendment of comprehensive plans, zoning ordinances, and regulations.

(5) Issuance of building and improvement location permits.



- (6) Construction or repair of tall structures.
- (7) Expansion of public facilities.
- (8) Any other land use activity identified by a commander as having the potential for adversely impacting an installation's military operations.

Sec. 6. As used in this chapter, "state area of interest" means an area comprised of land located:

- (1) not more than three (3) miles from an installation;
- (2) within a district established under IC 36-7-30.3; or
- (3) within territory described in both subdivisions (1) and (2).

Sec. 7. As used in this chapter, "unit" means a county, city, or town.

Sec. 8. A unit may not approve or fund a land use activity within a state area of interest without complying with this chapter.

Sec. 9. A state area of interest is an area:

- (1) of importance to national security and the state's economy;
- (2) in which some land uses and development may:
 - (A) adversely impact an installation's ability to conduct military operations; and
 - (B) be more sensitive to and adversely impacted by the effects of military operations; and
- (3) in which coordination and communication between the unit and the installation are needed to achieve compatible land use and development within the area that is mutually supportive of the interests of the community and the installation.

Sec. 10. (a) Before approving or funding a land use activity within a state area of interest, the unit must provide the commander with notice and an opportunity to review the proposed land use activity to determine if the proposal adversely impacts the installation's military operations.

(b) The commander may inform the unit of those land use activities that the commander considers to be of concern for the installation's military operations. The unit and commander may further define the land use activities that the commander wants:

- (1) the unit to provide the commander notice of; and
 - (2) an opportunity to review.
- (c) The unit shall notify the commander in writing:
- (1) of the proposed land use activity in reasonably sufficient detail for the commander to prepare a response; and
 - (2) that the unit may:



(A) presume that the proposed land use activity will not adversely impact the installation's military operations; and
 (B) proceed with approval and funding of the land use activity, unless the unit receives the commander's written determination:

- (i) that the land use activity adversely impacts the installation's military operations as provided in section 12 of this chapter; and
- (ii) not later than fifteen (15) days after the commander receives the notice.

Sec. 11. The notice under section 10 of this chapter shall be delivered to the commander by:

- (1) certified mail that includes return receipt; or
- (2) any other means of delivery, including delivery in an electronic format that provides for verification or acknowledgment of receipt.

Sec. 12. (a) The commander's determination that a land use activity adversely impacts the installation's military operations must be based upon the following findings:

- (1) The land use activity is likely to interfere with current or planned military operations. The commander must provide in the commander's response any supporting facts concerning the land use activity's adverse impact on current or planned military operations.
- (2) The adverse impacts to the current or planned military operations:
 - (A) cannot be mitigated; or
 - (B) may be mitigated, but the unit's proposal for the land use activity does not provide sufficient mitigation.

(b) The commander may, as part of the determination, include any recommended alternatives for mitigation of the adverse impacts.

Sec. 13. The unit may approve or fund a land use activity after a determination under section 12 of this chapter that the activity adversely affects the installation's military operations if the unit:

- (1) mitigates the adverse impact of the land use activity in the manner agreed upon by the unit and the commander; or
- (2) agrees to complete the mitigation agreed upon by the unit and the commander before commencing construction, issuing improvement location permits, entering into contracts, or commencing any other substantial step toward initiation of the land use activity.



Sec. 14. A unit shall provide written notice to the commander of any public hearing conducted by the unit relating to a land use activity not less than twenty (20) days before the date of the hearing.

Sec. 15. A lessor of real property must disclose in a lease that the property is located within a state area of interest as provided in IC 32-31-1-21.1.

Sec. 16. An owner of real property must disclose in a real estate disclosure form that the property is located within a state area of interest as provided in IC 32-21-5-7.

Sec. 17. The unit may use mediation or other conflict resolution processes to resolve an adverse impact determination with the commander.

Sec. 18. (a) The unit shall notify a commander that the commander may recommend a civilian or military representative of the installation in mission sustainment activities to serve as a nonvoting adviser to the plan commission.

(b) The notice must inform the commander that a nonvoting adviser:

- (1)** is not a member of the plan commission, but is entitled to attend and participate in all plan commission meetings;
- (2)** is not entitled to a salary, per diem, or reimbursement of expenses; and
- (3)** serves at the pleasure of the legislative body of the unit.

(c) The unit shall appoint an individual to the position of nonvoting adviser upon the request of the commander at any time. An individual may only be appointed as a nonvoting adviser upon recommendation of the commander.

(d) This subsection applies to a unit that has a plan commission on June 30, 2023. The legislative body of the unit shall send the notice not later than January 1, 2024. This subsection expires July 1, 2025.

(e) This subsection applies to a unit that establishes a plan commission after June 30, 2023. The legislative body of the unit shall send the notice not later than one hundred eighty (180) days after the date that the plan commission is established.

Sec. 19. (a) The legislative body of the unit must adopt a resolution that:

- (1)** acknowledges the requirements of this chapter; and
- (2)** designates an employee of the unit to serve as staff liaison between the unit and the installation for purposes of coordinating the unit's land use activities within the state area



of interest.

(b) The unit shall contact the commander to:

- (1) discuss coordination between the unit and the installation in compliance with this chapter; and**
- (2) notify the commander of the staff liaison designated in the resolution.**

(c) This subsection applies to a unit that has a plan commission on June 30, 2023. The legislative body of the unit shall comply with subsections (a) and (b) not later than January 1, 2024. This subsection expires July 1, 2025.

(d) This subsection applies to a unit that establishes a plan commission after June 30, 2023. The legislative body of the unit shall comply with subsections (a) and (b) not later than one hundred eighty (180) days after the date that the plan commission is established.

Sec. 20. (a) Except as provided in section 21 of this chapter, a unit shall adopt or amend the unit's comprehensive plan, zoning and subdivision ordinances, procedures, and regulations as needed to implement this chapter and IC 36-7-30.3.

(b) Except as provided in section 21 of this chapter, this subsection applies to a unit that has a plan commission on June 30, 2023. The unit shall amend or repeal and adopt the comprehensive plan, zoning and subdivision ordinances, procedures, and regulations as needed as provided in subsection (a) not later than January 1, 2025. This subsection expires July 1, 2025.

(c) This subsection applies to a unit that establishes a plan commission after June 30, 2023. The unit shall adopt a comprehensive plan, zoning and subdivision ordinances, procedures, and regulations as provided in subsection (a) not later than eighteen (18) months after the plan commission is established.

Sec. 21. (a) This chapter and IC 36-7-30.3:

- (1) do not affect a municipality's zoning overlay for a military installation that was adopted in coordination with the military installation's commander before January 1, 2023; and**
- (2) except as provided in subsection (c), do not require the municipality to adopt or amend the municipality's zoning overlay described in subdivision (1) to comply with IC 36-7-30.3.**

(b) Except as provided in subsection (c), any amendment to the municipality's zoning overlay for the military installation must be adopted in coordination with the military installation's commander in accordance with the municipality's ordinances, procedures, and



regulations.

(c) If the municipality revokes or repeals the zoning overlay, the municipality shall adopt or amend the municipality's comprehensive plan, zoning and subdivision ordinances, procedures, and regulations as needed to implement:

- (1) this chapter; and
- (2) IC 36-7-30.3;

not later than ninety (90) days after the revocation or repeal.

SECTION 5. IC 36-7-30.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]:

Chapter 30.3. Military Impact Zoning District

Sec. 1. This chapter applies only to a unit that exercises planning and zoning jurisdiction over land within a proposed military impact zoning district.

Sec. 2. As used in this chapter, "commander" means the commander of an installation or the commander's designee.

Sec. 3. As used in this chapter, "district" means a military impact zoning district established under this chapter.

Sec. 4. As used in this chapter, "installation" means the following military installations:

- (1) Naval Support Activity Crane.
- (2) Lake Glendora Test Facility.
- (3) Grissom Air Reserve Base.

Sec. 5. A unit may establish a district for an area that is adversely impacted by at least one (1) effect of military operations, including:

- (1) noise;
- (2) dust;
- (3) accident potential;
- (4) demolition and vibration;
- (5) protected airspace;
- (6) frequency interference;
- (7) light and glare; or
- (8) security risk areas.

Sec. 6. The purpose of a district is to:

- (1) facilitate land use planning within the district to foster development that is:
 - (A) compatible with an installation's military operations; and
 - (B) less sensitive to the particular effect of military operations that negatively impacts the district; and



(2) control development that impedes an installation's ability to conduct military operations.

Sec. 7. The plan commission shall cooperate with the commander in the preparation of:

(1) maps of the proposed district's boundaries, levels and types of adverse impacts, and any other relevant information; and

(2) any documented evidence of the existence and degree of negative effects from military operations within the proposed district.

Sec. 8. The map of the proposed district, if approved by the commander as accurate, may be submitted to the legislative body of the unit for adoption in the ordinance establishing the district.

Sec. 9. The unit shall adopt or amend the unit's comprehensive plan, zoning and subdivision ordinances, procedures, and regulations as needed to establish a district in accordance with IC 36-7-30.2-20.

Sec. 10. A unit's legislative body may amend or supplement the ordinance establishing the district. However, the boundaries of the district may not be changed unless the change is based upon data and maps supplied or approved by the commander.

Sec. 11. Property located within a district and another zoning district is subject to the regulations for both districts. If there is a conflict between the requirements of the districts, the more restrictive requirements apply.

Sec. 12. A map of the proposed district approved by the commander and adopted by the legislative body of the unit pursuant to section 8 of this chapter shall be recorded in the office of the recorder of the county where the proposed district is located. The map shall comply with IC 36-2-7-10 and IC 36-2-11-16.5.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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