

HOUSE BILL No. 1110

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-4-3.

Synopsis: Annexation of residential development. Allows a third class city to annex a noncontiguous residential development that: (1) has a homeowners association (HOA) governed by a board of directors; (2) is located not more than three miles outside the city's boundaries; (3) has at least 100 single family residential homes; (4) has commercial buildings; and (5) receives the third class city's sewer or water service. Provides that for an annexation to proceed: (1) the board of directors of the HOA must petition the city legislative body for annexation; and (2) the city legislative body must adopt a resolution approving initiation of the annexation process. Changes population parameters to reflect the population count determined under the 2020 decennial census.

Effective: July 1, 2022.

Soliday

January 4, 2022, read first time and referred to Committee on Local Government.



Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1110

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 36-4-3-1.7, AS AMENDED BY P.L.206-2016,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 1.7. (a) This section applies only to an annexation
4 ordinance adopted after June 30, 2015. This section does not apply to
5 an annexation under section 5.1 of this chapter.

6 (b) Not earlier than six (6) months before a municipality introduces
7 an annexation ordinance, the municipality shall conduct an outreach
8 program to inform citizens regarding the proposed annexation. For an
9 annexation under section 3 or 4 of this chapter, the outreach program
10 must conduct at least six (6) public information meetings regarding the
11 proposed annexation. For an annexation under section 5 **or 5.2** of this
12 chapter, the outreach program must conduct at least three (3) public
13 information meetings regarding the proposed annexation. The public
14 information meetings must provide citizens with the following
15 information:

- 16 (1) Maps showing the proposed boundaries of the annexation
17 territory.



1 (2) Proposed plans for extension of capital and noncapital
 2 services in the annexation territory, including proposed dates of
 3 extension. **In the case of an annexation under section 5.2 of**
 4 **this chapter, a copy of the preliminary written fiscal plan.**

5 (3) Expected fiscal impact on taxpayers in the annexation
 6 territory, including any increase in taxes and fees.

7 (c) The municipality shall provide notice of the dates, times, and
 8 locations of the outreach program meetings. The municipality shall
 9 publish the notice of the meetings under IC 5-3-1, including the date,
 10 time, and location of the meetings, except that notice must be published
 11 not later than thirty (30) days before the date of each meeting. The
 12 municipality shall also send notice to each owner of land within the
 13 annexation territory not later than thirty (30) days before the date of the
 14 first meeting of the outreach program. The notice to landowners shall
 15 be sent by first class mail, certified mail with return receipt requested,
 16 or any other means of delivery that includes a return receipt and must
 17 include the following information:

18 (1) The notice must inform the landowner that the municipality is
 19 proposing to annex territory that includes the landowner's
 20 property.

21 (2) The municipality is conducting an outreach program for the
 22 purpose of providing information to landowners and the public
 23 regarding the proposed annexation.

24 (3) The date, time, and location of the meetings to be conducted
 25 under the outreach program.

26 (d) The notice shall be sent to the address of the landowner as listed
 27 on the tax duplicate. If the municipality provides evidence that the
 28 notice was sent:

29 (1) by certified mail, with return receipt requested or any other
 30 means of delivery that includes a return receipt; and

31 (2) in accordance with this section;

32 it is not necessary that the landowner accept receipt of the notice. If a
 33 remonstrance is filed under section 11 of this chapter, the municipality
 34 shall file with the court proof that notices were sent to landowners
 35 under this section and proof of publication.

36 (e) The notice required under this section is in addition to any notice
 37 required under sections 2.1 and 2.2 of this chapter.

38 SECTION 2. IC 36-4-3-2.1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.1. (a) This section
 40 does not apply to an annexation under section 5.1 **or 5.2** of this chapter.

41 (b) A municipality may adopt an ordinance under this chapter only
 42 after the legislative body has held a public hearing concerning the



1 proposed annexation. The municipality shall hold the public hearing
 2 not earlier than sixty (60) days after the date the ordinance is
 3 introduced. All interested parties must have the opportunity to testify
 4 as to the proposed annexation. Except as provided in subsection (d),
 5 notice of the hearing shall be:

- 6 (1) published in accordance with IC 5-3-1 except that the notice
 7 shall be published at least sixty (60) days before the hearing; and
 8 (2) mailed as set forth in section 2.2 of this chapter, if section 2.2
 9 of this chapter applies to the annexation.

10 (c) A municipality may adopt an ordinance under this chapter not
 11 earlier than thirty (30) days or not later than sixty (60) days after the
 12 legislative body has held the public hearing under subsection (b).

13 (d) This subsection applies to an annexation under section 3 or 4 of
 14 this chapter in which all property owners within the area to be annexed
 15 provide written consent to the annexation. Notice of the hearing shall
 16 be:

- 17 (1) published one (1) time at least twenty (20) days before the
 18 hearing in accordance with IC 5-3-1; and
 19 (2) mailed as set forth in section 2.2 of this chapter.

20 SECTION 3. IC 36-4-3-2.2, AS AMENDED BY P.L.228-2015,
 21 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2022]: Sec. 2.2. (a) This section does not apply to an
 23 annexation under section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter
 24 or an annexation described in section 5.1 of this chapter.

25 (b) Before a municipality may annex territory, the municipality shall
 26 provide written notice of the hearing required under section 2.1 of this
 27 chapter. Except as provided in ~~subsection~~ **subsections (f) and (g)**, the
 28 notice must be sent by:

- 29 (1) certified mail, return receipt requested; or
 30 (2) any other means of delivery that includes a return receipt;

31 at least sixty (60) days before the date of the hearing to each owner of
 32 real property, as shown on the county auditor's current tax list, whose
 33 real property is located within the territory proposed to be annexed.

34 (c) For purposes of an annexation of territory described in section
 35 2.5 of this chapter, if the hearing required under section 2.1 of this
 36 chapter is conducted after June 30, 2010, the notice required by this
 37 section must also be sent to each owner of real property, as shown on
 38 the county auditor's current tax list, whose real property is adjacent to
 39 contiguous areas of rights-of-way of the public highway that are only
 40 included in the annexation of territory by operation of ~~IC 36-4-3-2.5~~
 41 **section 2.5 of this chapter** on the side of the public highway that is not
 42 part of the annexed territory.



- 1 (d) The notice required by this section must include the following:
 2 (1) A legal description of the real property proposed to be
 3 annexed.
 4 (2) The date, time, location, and subject of the hearing.
 5 (3) A map showing the current municipal boundaries and the
 6 proposed municipal boundaries.
 7 (4) Current zoning classifications for the area proposed to be
 8 annexed and any proposed zoning changes for the area proposed
 9 to be annexed.
 10 (5) A detailed summary of the fiscal plan, described in section 13
 11 of this chapter, if applicable.
 12 (6) The location where the public may inspect and copy the fiscal
 13 plan, if applicable.
 14 (7) A statement that the municipality will provide a copy of the
 15 fiscal plan, if applicable, after the fiscal plan is adopted
 16 immediately to any landowner in the annexed territory who
 17 requests a copy.
 18 (8) The name and telephone number of a representative of the
 19 municipality who may be contacted for further information.
 20 (e) If the municipality complies with this section, the notice is not
 21 invalidated if the owner does not receive the notice.
 22 (f) This subsection applies to an annexation under section 3 or 4 of
 23 this chapter in which all property owners within the area to be annexed
 24 provide written consent to the annexation. The written notice described
 25 in this section must be sent by:
 26 (1) certified mail, return receipt requested; or
 27 (2) any other means of delivery that includes a return receipt;
 28 not later than twenty (20) days before the date of the hearing to each
 29 owner of real property, as shown on the county auditor's current tax list,
 30 whose real property is located within the territory proposed to be
 31 annexed.
 32 **(g) This subsection applies to an annexation under section 5.2 of**
 33 **this chapter. The written notice described in this section must be**
 34 **sent by:**
 35 **(1) certified mail, return receipt requested; or**
 36 **(2) any other means of delivery that includes a return receipt;**
 37 **not later than thirty (30) days before the date of the hearing to**
 38 **each owner of real property, as shown on the county auditor's**
 39 **current tax list, whose real property is located within the territory**
 40 **proposed to be annexed.**
 41 SECTION 4. IC 36-4-3-3.1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.1. (a) This section



1 does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b),
2 4(h), or 4.1 of this chapter.

3 (b) A municipality shall develop and adopt a written fiscal plan and
4 establish a definite policy by resolution of the legislative body that
5 meets the requirements set forth in section 13 of this chapter.

6 (c) Except as provided in subsection (d) **and section 5.2 of this**
7 **chapter**, the municipality shall establish and adopt the written fiscal
8 plan before mailing the notification to landowners in the territory
9 proposed to be annexed under section 2.2 of this chapter.

10 (d) In an annexation under section 5 or 5.1 of this chapter, the
11 municipality shall establish and adopt the written fiscal plan before
12 adopting the annexation ordinance.

13 SECTION 5. IC 36-4-3-4, AS AMENDED BY P.L.38-2021,
14 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2022]: Sec. 4. (a) The legislative body of a municipality may,
16 by ordinance, annex any of the following:

17 (1) Territory that is contiguous to the municipality.

18 (2) Territory that is not contiguous to the municipality and is
19 occupied by a municipally owned or operated as either of the
20 following:

21 (A) An airport or landing field.

22 (B) A wastewater treatment facility or water treatment facility.

23 After a municipality annexes territory under this clause, the
24 municipality may annex additional territory to enlarge the
25 territory for the use of the wastewater treatment facility or
26 water treatment facility only if the county legislative body
27 approves that use of the additional territory by ordinance.

28 (3) Territory that is not contiguous to the municipality but is
29 found by the legislative body to be occupied by:

30 (A) a municipally owned or regulated sanitary landfill, golf
31 course, or hospital;

32 (B) a police station of the municipality; or

33 (C) a solar electric generating facility that is or will be
34 interconnected to an electric utility owned by the municipality.

35 However, if territory annexed under subdivision (2) or (3) ceases to be
36 used for the purpose for which the territory was annexed for at least
37 one (1) year, the territory reverts to the jurisdiction of the unit having
38 jurisdiction before the annexation if the unit that had jurisdiction over
39 the territory still exists. If the unit no longer exists, the territory reverts
40 to the jurisdiction of the unit that would currently have jurisdiction over
41 the territory if the annexation had not occurred. The clerk of the
42 municipality shall notify the offices required to receive notice of a



1 disannexation under section 19 of this chapter when the territory
 2 reverts to the jurisdiction of the unit having jurisdiction before the
 3 annexation. Territory that is annexed under subdivision (2) (including
 4 territory that is enlarged under subdivision (2)(B) for the use of the
 5 wastewater treatment facility or water treatment facility) or subdivision
 6 (3) may not be considered a part of the municipality for purposes of
 7 annexing additional territory.

8 (b) This subsection applies to municipalities in a county having any
 9 of the following populations: counties:

10 (1) A county having a population of more than seventy thousand
 11 fifty (70,050) but less than seventy-one thousand (71,000):
 12 **sixty-six thousand six hundred (66,600) and less than seventy**
 13 **thousand (70,000).**

14 (2) A county having a population of more than seventy-five
 15 thousand (75,000) but less than seventy-seven thousand (77,000):
 16 **eighty-two thousand (82,000) and less than eighty-three**
 17 **thousand (83,000).**

18 (3) A county having a population of more than seventy-one
 19 thousand (71,000) but less than seventy-five thousand (75,000):
 20 **eighty thousand four hundred (80,400) and less than**
 21 **eighty-two thousand (82,000).**

22 (4) A county having a population of more than forty-seven
 23 thousand (47,000) but less than forty-seven thousand five hundred
 24 (47,500): **forty-six thousand (46,000) and less than forty-six**
 25 **thousand four hundred (46,400).**

26 (5) A county having a population of more than thirty-eight
 27 thousand five hundred (38,500) but less than thirty-nine thousand
 28 (39,000): **thirty-seven thousand (37,000) and less than**
 29 **thirty-seven thousand nine hundred (37,900).**

30 (6) A county having a population of more than thirty-seven
 31 thousand (37,000) but less than thirty-seven thousand one
 32 hundred twenty-five (37,125): **thirty-six thousand five hundred**
 33 **(36,500) and less than thirty-six thousand seven hundred**
 34 **(36,700).**

35 (7) A county having a population of more than thirty-three
 36 thousand three hundred (33,300) but less than thirty-three
 37 thousand five hundred (33,500): **thirty-two thousand (32,000)**
 38 **and less than thirty-three thousand (33,000).**

39 (8) A county having a population of more than twenty-three
 40 thousand three hundred (23,300) but less than twenty-four
 41 thousand (24,000): **twenty-three thousand (23,000) and less**
 42 **than twenty-three thousand three hundred seventy-five**



- 1 **(23,375).**
 2 (9) **A county having a population of more than one hundred**
 3 **eighty-five thousand (185,000) but less than two hundred fifty**
 4 **thousand (250,000): two hundred thousand (200,000) and less**
 5 **than two hundred fifty thousand (250,000).**
 6 (10) **A county having a population of more than two hundred**
 7 **fifty thousand (250,000) but less than two hundred seventy**
 8 **thousand (270,000): two hundred fifty thousand (250,000) and**
 9 **less than three hundred thousand (300,000).**
 10 (11) **A county having a population of more than thirty-two**
 11 **thousand five hundred (32,500) but less than thirty-three thousand**
 12 **(33,000): thirty thousand nine hundred (30,900) and less than**
 13 **thirty-two thousand (32,000).**
 14 (12) **A county having a population of more than seventy-seven**
 15 **thousand (77,000) but less than eighty thousand (80,000): eighty**
 16 **thousand (80,000) and less than eighty thousand four hundred**
 17 **(80,400).**

18 Except as provided in subsection (c), the legislative body of a
 19 municipality to which this subsection applies may, by ordinance, annex
 20 territory that is not contiguous to the municipality, has its entire area
 21 not more than two (2) miles from the municipality's boundary, is to be
 22 used for an industrial park containing one (1) or more businesses, and
 23 is either owned by the municipality or by a property owner who
 24 consents to the annexation. However, if territory annexed under this
 25 subsection is not used as an industrial park within five (5) years after
 26 the date of passage of the annexation ordinance, or if the territory
 27 ceases to be used as an industrial park for at least one (1) year, the
 28 territory reverts to the jurisdiction of the unit having jurisdiction before
 29 the annexation if the unit that had jurisdiction over the territory still
 30 exists. If the unit no longer exists, the territory reverts to the
 31 jurisdiction of the unit that would currently have jurisdiction over the
 32 territory if the annexation had not occurred. The clerk of the
 33 municipality shall notify the offices entitled to receive notice of a
 34 disannexation under section 19 of this chapter when the territory
 35 reverts to the jurisdiction of the unit having jurisdiction before the
 36 annexation.

37 (c) A city in a county with a population of more than **two hundred**
 38 **fifty thousand (250,000) but less than two hundred seventy thousand**
 39 **(270,000) two hundred fifty thousand (250,000) and less than three**
 40 **hundred thousand (300,000)** may not annex territory as prescribed in
 41 subsection (b) until the territory is zoned by the county for industrial
 42 purposes.



1 (d) Notwithstanding any other law, territory that is annexed under
 2 subsection (b) or (h) is not considered a part of the municipality for the
 3 purposes of:

4 (1) annexing additional territory:

5 (A) in a county that is not described by clause (B); or

6 (B) in a county having a population of more than ~~two hundred~~
 7 ~~fifty thousand (250,000) but less than two hundred seventy~~
 8 ~~thousand (270,000); **two hundred fifty thousand (250,000)**~~
 9 ~~and less than three hundred thousand (300,000)~~, unless the

10 boundaries of the noncontiguous territory become contiguous
 11 to the city, as allowed by Indiana law;

12 (2) expanding the municipality's extraterritorial jurisdictional
 13 area; or

14 (3) changing an assigned service area under IC 8-1-2.3-6(1).

15 (e) As used in this section, "airport" and "landing field" have the
 16 meanings prescribed by IC 8-22-1.

17 (f) As used in this section, "hospital" has the meaning prescribed by
 18 IC 16-18-2-179(b).

19 (g) An ordinance adopted under this section must assign the
 20 territory annexed by the ordinance to at least one (1) municipal
 21 legislative body district.

22 (h) This subsection applies to a city having a population of more
 23 than ~~twenty-nine thousand nine hundred (29,900) but less than~~
 24 ~~thirty-one thousand (31,000); **twenty-eight thousand (28,000) and**~~
 25 ~~less than twenty-nine thousand (29,000)~~. The city legislative body
 26 may, by ordinance, annex territory that:

27 (1) is not contiguous to the city;

28 (2) has its entire area not more than eight (8) miles from the city's
 29 boundary;

30 (3) does not extend more than:

31 (A) one and one-half (1 1/2) miles to the west;

32 (B) three-fourths (3/4) mile to the east;

33 (C) one-half (1/2) mile to the north; or

34 (D) one-half (1/2) mile to the south;

35 of an interchange of an interstate highway (as designated by the
 36 federal highway authorities) and a state highway (as designated
 37 by the state highway authorities); and

38 (4) is owned by the city or by a property owner that consents to
 39 the annexation.

40 (i) This subsection applies to a city having a population of more
 41 than ~~thirty-one thousand seven hundred twenty-five (31,725) but less~~
 42 ~~than thirty-five thousand (35,000) in a county having a population of~~



1 at least one hundred fifty thousand (150,000) but less than one hundred
 2 seventy thousand (170,000): **thirty-four thousand (34,000) and less**
 3 **than thirty-four thousand five hundred (34,500)**. The city legislative
 4 body may, by ordinance, annex territory under section 5.1 of this
 5 chapter:

- 6 (1) that is not contiguous to the city;
 7 (2) that is south of the southernmost boundary of the city;
 8 (3) the entire area of which is not more than four (4) miles from
 9 the city's boundary; and
 10 (4) that does not extend more than one (1) mile to the east of a
 11 state highway (as designated by the state highway authorities).

12 Territory annexed under this subsection is not considered a part of the
 13 city for purposes of annexation of additional territory. A city may not
 14 require connection to a sewer installed to provide service to territory
 15 annexed under this subsection.

16 **(j) A third class city may annex a residential development under**
 17 **section 5.2 of this chapter that is not contiguous to the city.**

18 SECTION 6. IC 36-4-3-5.2 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2022]: **Sec. 5.2. (a) As used in this section, "homeowners**
 21 **association" means a corporation that satisfies all of the following:**

- 22 **(1) The corporation is exempt from federal income taxation**
 23 **under 26 U.S.C. 528.**
 24 **(2) The control and management of the corporation is vested**
 25 **in a board of directors.**
 26 **(3) The corporation is organized and operated exclusively for**
 27 **the benefit of two (2) or more persons who each own:**
 28 **(A) a dwelling in fee simple; or**
 29 **(B) a commercial building in fee simple;**
 30 **within the residential development.**
 31 **(4) The purpose of the corporation is to:**
 32 **(A) own, maintain, and operate common areas and**
 33 **facilities;**
 34 **(B) administer and enforce covenants and restrictions on**
 35 **property; and**
 36 **(C) collect and distribute assessments on property;**
 37 **located within the residential development.**
 38 **(5) The corporation acts in accordance with the articles,**
 39 **bylaws, or other documents governing the corporation to:**
 40 **(A) adopt and enforce rules and regulations necessary for**
 41 **the enjoyment of common areas, recreation facilities, and**
 42 **other amenities located within the residential development;**



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and

(B) exercise the corporation's power to:

- (i) levy assessments on property within the residential development; and**
- (ii) collect assessments on property located within the residential development by enforcing the corporation's lien and foreclosure rights.**

(b) As used in this section, "residential development" means a parcel of land that is subdivided into:

- (1) lots, parcels, tracts, units, or interests that include:**
 - (A) an existing Class 2 structure (as defined in IC 22-12-1-5); or**
 - (B) is designated for the construction of a Class 2 structure;**
- each of which is encumbered by substantively identical restrictive covenants concerning one (1) or more servient estates located within the boundaries of the original undivided parcel, or other governing document of record;**
- (2) lots, parcels, tracts, units, or interests that include:**
 - (A) an existing Class 1 structure (as defined in IC 22-12-1-4); or**
 - (B) are designated for the construction of a Class 1 structure; and**
- (3) a common area.**

(c) A third class city may annex a residential development that is not contiguous to the city and which satisfies all of the following:

- (1) The residential development is governed by a homeowners association.**
- (2) The residential development has at least one hundred (100) single family dwellings.**
- (3) The residential development is located in its entirety not more than three (3) miles outside the third class city's corporate boundaries.**
- (4) The residential development dwellings are connected to the third class city's sewer or water service.**
- (5) The residential development includes a commercial area containing buildings intended to be used and operated for commercial purposes.**

(d) Unless the articles, bylaws, or other governing documents of the homeowners association expressly provide otherwise, the board of directors of the homeowners association may file a petition with the legislative body of the third class city requesting the city to



1 annex all property within the residential development. The
2 annexation may proceed only if the third class city adopts a
3 resolution approving the initiation of the annexation process not
4 more than sixty (60) days after the petition is filed. If the third class
5 city does not adopt a resolution within the sixty (60) day period, the
6 petition is void.

7 (e) If the legislative body of the third class city adopts a
8 resolution approving initiation of the annexation, the city shall
9 prepare a written preliminary fiscal plan that must be made
10 available to the public at each of the outreach program meetings
11 under section 1.7 of this chapter.

12 (f) Upon completion of the outreach program meetings and
13 before mailing the notification to landowners under section 2.2 of
14 this chapter, the legislative body of the third class city shall adopt
15 a written fiscal plan by resolution that incorporates any revisions
16 to the preliminary fiscal plan.

17 (g) The third class city shall hold a public hearing not earlier
18 than thirty (30) days after the date the annexation ordinance is
19 introduced. All interested parties must have the opportunity to
20 testify as to the proposed annexation. Notice of the hearing shall
21 be:

22 (1) published in accordance with IC 5-3-1 except that the
23 notice shall be published at least thirty (30) days before the
24 hearing; and

25 (2) mailed as set forth in section 2.2 of this chapter.

26 A third class city may adopt an ordinance not earlier than thirty
27 (30) days or not later than sixty (60) days after the legislative body
28 of the third class city has held the public hearing under this
29 subsection.

30 (h) A landowner may file a remonstrance against the annexation
31 as provided in section 11 of this chapter.

32 (i) Territory annexed under this section may not be considered
33 a part of the third class city for purposes of annexing additional
34 territory under section 3 or 4 of this chapter. However, territory
35 annexed under this chapter shall be considered a part of the third
36 class city for purposes of annexing additional territory under
37 section 5 or 5.1 of this chapter.

38 SECTION 7. IC 36-4-3-7, AS AMENDED BY P.L.236-2019,
39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2022]: Sec. 7. (a) After an ordinance is adopted under section
41 3, 4, 5, or 5.1, or 5.2 of this chapter, it must be published in the manner
42 prescribed by IC 5-3-1. Except as provided in subsection (b), (c), (d),



1 or (f), in the absence of remonstrance and appeal under section 11 or
 2 15.5 of this chapter, the ordinance takes effect at least ninety (90) days
 3 after its publication and upon the filing required by section 22(a) of this
 4 chapter.

5 (b) An ordinance described in subsection (d) or adopted under
 6 section 3, 4, 5, ~~or 5.1~~, **or 5.2** of this chapter may not take effect during
 7 the year preceding a year in which a federal decennial census is
 8 conducted. An ordinance that would otherwise take effect during the
 9 year preceding a year in which a federal decennial census is conducted
 10 takes effect January 1 of the year in which a federal decennial census
 11 is conducted.

12 (c) Subsections (d) and (e) apply to fire protection districts that are
 13 established after July 1, 1987, and to which subsection (g) does not
 14 apply. For the purposes of this section, territory that has been:

15 (1) added to an existing fire protection district under
 16 IC 36-8-11-11; or

17 (2) approved by ordinance of the county legislative body to be
 18 added to an existing fire protection district under IC 36-8-11-11,
 19 notwithstanding that the territory's addition to the fire protection
 20 district has not yet taken effect;

21 shall be considered a part of the fire protection district as of the date
 22 that the fire protection district was originally established.

23 (d) Except as provided in subsection (b), whenever a municipality
 24 annexes territory, all or part of which lies within a fire protection
 25 district (IC 36-8-11), the annexation ordinance (in the absence of
 26 remonstrance and appeal under section 11 or 15.5 of this chapter) takes
 27 effect the second January 1 that follows the date the ordinance is
 28 adopted and upon the filing required by section 22(a) of this chapter.
 29 Except in the case of an annexation to which subsection (g) applies, the
 30 municipality shall:

31 (1) provide fire protection to that territory beginning the date the
 32 ordinance is effective; and

33 (2) send written notice to the fire protection district of the date the
 34 municipality will begin to provide fire protection to the annexed
 35 territory within ten (10) days of the date the ordinance is adopted.

36 (e) If the fire protection district from which a municipality annexes
 37 territory under subsection (d) is indebted or has outstanding unpaid
 38 bonds or other obligations at the time the annexation is effective, the
 39 municipality is liable for and shall pay that indebtedness in the same
 40 ratio as the assessed valuation of the property in the annexed territory
 41 (that is part of the fire protection district) bears to the assessed
 42 valuation of all property in the fire protection district, as shown by the



1 most recent assessment for taxation before the annexation, unless the
 2 assessed property within the municipality is already liable for the
 3 indebtedness. The annexing municipality shall pay its indebtedness
 4 under this section to the board of fire trustees. If the indebtedness
 5 consists of outstanding unpaid bonds or notes of the fire protection
 6 district, the payments to the board of fire trustees shall be made as the
 7 principal or interest on the bonds or notes becomes due.

8 (f) This subsection applies to an annexation initiated by property
 9 owners under section 5.1 of this chapter in which all property owners
 10 within the area to be annexed petition the municipality to be annexed.
 11 Subject to subsections (b) and (d), and in the absence of an appeal
 12 under section 15.5 of this chapter, an annexation ordinance takes effect
 13 at least thirty (30) days after its publication and upon the filing required
 14 by section 22(a) of this chapter.

15 (g) Whenever a municipality annexes territory that lies within a fire
 16 protection district that has a total net assessed value (as determined by
 17 the county auditor) of more than one billion dollars (\$1,000,000,000)
 18 on the date the annexation ordinance is adopted:

19 (1) the annexed area shall remain a part of the fire protection
 20 district after the annexation takes effect; and

21 (2) the fire protection district shall continue to provide fire
 22 protection services to the annexed area.

23 The municipality shall not tax the annexed territory for fire protection
 24 services. The annexing municipality shall establish a special fire fund
 25 for all fire protection services that are provided by the municipality
 26 within the area of the municipality that is not within the fire protection
 27 district, and which shall not be assessed to the annexed special taxing
 28 district. The annexed territory that lies within the fire protection district
 29 shall continue to be part of the fire protection district special taxing
 30 district.

31 SECTION 8. IC 36-4-3-13, AS AMENDED BY P.L.206-2016,
 32 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2022]: Sec. 13. (a) Except as provided in subsection (e), at the
 34 hearing under section 12 of this chapter, the court shall order a
 35 proposed annexation to take place if the following requirements are
 36 met:

37 (1) The requirements of either subsection (b) or (c).

38 (2) The requirements of subsection (d).

39 (3) The requirements of subsection (i).

40 (b) The requirements of this subsection are met if the evidence
 41 establishes the following:

42 (1) That the territory sought to be annexed is contiguous to the



- 1 municipality.
- 2 (2) One (1) of the following:
- 3 (A) The resident population density of the territory sought to
- 4 be annexed is at least three (3) persons per acre.
- 5 (B) Sixty percent (60%) of the territory is subdivided.
- 6 (C) The territory is zoned for commercial, business, or
- 7 industrial uses.
- 8 (c) The requirements of this subsection are met if the evidence
- 9 establishes one (1) of the following:
- 10 (1) That the territory sought to be annexed is:
- 11 (A) contiguous to the municipality as required by section 1.5
- 12 of this chapter, except that at least one-fourth (1/4), instead of
- 13 one-eighth (1/8), of the aggregate external boundaries of the
- 14 territory sought to be annexed must coincide with the
- 15 boundaries of the municipality; and
- 16 (B) needed and can be used by the municipality for its
- 17 development in the reasonably near future.
- 18 (2) This subdivision applies only to an annexation for which an
- 19 annexation ordinance is adopted after December 31, 2016. That
- 20 the territory sought to be annexed involves an economic
- 21 development project and the requirements of section 11.4 of this
- 22 chapter are met.
- 23 **(3) The territory is described in section 5.2 of this chapter.**
- 24 (d) The requirements of this subsection are met if the evidence
- 25 establishes that the municipality has developed and adopted a written
- 26 fiscal plan and has established a definite policy, by resolution of the
- 27 legislative body as set forth in section 3.1 of this chapter. The fiscal
- 28 plan must show the following:
- 29 (1) The cost estimates of planned services to be furnished to the
- 30 territory to be annexed. The plan must present itemized estimated
- 31 costs for each municipal department or agency.
- 32 (2) The method or methods of financing the planned services. The
- 33 plan must explain how specific and detailed expenses will be
- 34 funded and must indicate the taxes, grants, and other funding to
- 35 be used.
- 36 (3) The plan for the organization and extension of services. The
- 37 plan must detail the specific services that will be provided and the
- 38 dates the services will begin.
- 39 (4) That planned services of a noncapital nature, including police
- 40 protection, fire protection, street and road maintenance, and other
- 41 noncapital services normally provided within the corporate
- 42 boundaries, will be provided to the annexed territory within one



1 (1) year after the effective date of annexation and that they will be
2 provided in a manner equivalent in standard and scope to those
3 noncapital services provided to areas within the corporate
4 boundaries regardless of similar topography, patterns of land use,
5 and population density.

6 (5) That services of a capital improvement nature, including street
7 construction, street lighting, sewer facilities, water facilities, and
8 ~~stormwater~~ **storm water** drainage facilities, will be provided to
9 the annexed territory within three (3) years after the effective date
10 of the annexation in the same manner as those services are
11 provided to areas within the corporate boundaries, regardless of
12 similar topography, patterns of land use, and population density,
13 and in a manner consistent with federal, state, and local laws,
14 procedures, and planning criteria.

15 (6) This subdivision applies to a fiscal plan prepared after June
16 30, 2015. The estimated effect of the proposed annexation on
17 taxpayers in each of the political subdivisions to which the
18 proposed annexation applies, including the expected tax rates, tax
19 levies, expenditure levels, service levels, and annual debt service
20 payments in those political subdivisions for four (4) years after
21 the effective date of the annexation.

22 (7) This subdivision applies to a fiscal plan prepared after June
23 30, 2015. The estimated effect the proposed annexation will have
24 on municipal finances, specifically how municipal tax revenues
25 will be affected by the annexation for four (4) years after the
26 effective date of the annexation.

27 (8) This subdivision applies to a fiscal plan prepared after June
28 30, 2015. Any estimated effects on political subdivisions in the
29 county that are not part of the annexation and on taxpayers
30 located in those political subdivisions for four (4) years after the
31 effective date of the annexation.

32 (9) This subdivision applies to a fiscal plan prepared after June
33 30, 2015. A list of all parcels of property in the annexation
34 territory and the following information regarding each parcel:

35 (A) The name of the owner of the parcel.

36 (B) The parcel identification number.

37 (C) The most recent assessed value of the parcel.

38 (D) The existence of a known waiver of the right to
39 remonstrate on the parcel. This clause applies only to a fiscal
40 plan prepared after June 30, 2016.

41 (e) At the hearing under section 12 of this chapter, the court shall do
42 the following:



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(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

- (i) Police and fire protection.
- (ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

- (i) the personal finances; or
- (ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

- (i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

- (i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.
- (ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11



- 1 of this chapter.
- 2 (F) This clause applies only to an annexation for which an
- 3 annexation ordinance is adopted before July 1, 2015. This
- 4 clause applies only to an annexation in which eighty percent
- 5 (80%) of the boundary of the territory proposed to be annexed
- 6 is contiguous to the municipality and the territory consists of
- 7 not more than one hundred (100) parcels. At least seventy-five
- 8 percent (75%) of the owners of land in the territory proposed
- 9 to be annexed oppose the annexation as determined under
- 10 section 11(b) of this chapter.
- 11 (f) The municipality under subsection (e)(2)(C) bears the burden of
- 12 proving that the annexation is in the best interests of the owners of land
- 13 in the territory proposed to be annexed. In determining this issue, the
- 14 court may consider whether the municipality has extended sewer or
- 15 water services to the entire territory to be annexed:
- 16 (1) within the three (3) years preceding the date of the
- 17 introduction of the annexation ordinance; or
- 18 (2) under a contract in lieu of annexation entered into under
- 19 IC 36-4-3-21.
- 20 The court may not consider the provision of water services as a result
- 21 of an order by the Indiana utility regulatory commission to constitute
- 22 the provision of water services to the territory to be annexed.
- 23 (g) The most recent:
- 24 (1) federal decennial census;
- 25 (2) federal special census;
- 26 (3) special tabulation; or
- 27 (4) corrected population count;
- 28 shall be used as evidence of resident population density for purposes
- 29 of subsection (b)(2)(A), but this evidence may be rebutted by other
- 30 evidence of population density.
- 31 (h) A municipality that prepares a fiscal plan after June 30, 2015,
- 32 must comply with this subsection. A municipality may not amend the
- 33 fiscal plan after the date that a remonstrance is filed with the court
- 34 under section 11 of this chapter, unless amendment of the fiscal plan
- 35 is consented to by at least sixty-five percent (65%) of the persons who
- 36 signed the remonstrance petition.
- 37 (i) The municipality must submit proof that the municipality has
- 38 complied with:
- 39 ~~(A)~~ (1) the outreach program requirements and notice
- 40 requirements of section 1.7 of this chapter; and
- 41 ~~(B)~~ (2) the requirements of section 11.1 of this chapter.

