

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.

SENATE ENROLLED ACT No. 139

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 16-41-27-32, AS AMENDED BY P.L.168-2020, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. **(a) As used in this section, "regulation" refers to any:**

- (1) ordinance, including any:**
 - (A) zoning or land use ordinance; or**
 - (B) general or specific planning ordinance;**
- (2) regulation, including any:**
 - (A) zoning or land use regulation; or**
 - (B) general or specific planning regulation;**
- (3) requirement; or**
- (4) restriction;**

that is adopted or imposed by a unit (as defined in IC 36-1-2-23).

~~(a)~~ **(b)** A governmental body other than the state department of health may not license or regulate mobile home communities, except for the following:

- (1) Local boards may enforce the standards of health and sanitation prescribed for mobile homes, manufactured homes, industrialized residential structures, and mobile home communities by the state department.
- (2) Subject to IC 36-7-2-12 **and subsections (d) and (f)**, county and municipal authorities within their respective jurisdictions have jurisdiction regarding zoning and building codes and

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ordinances pertaining to mobile home communities.

(3) Local boards may regulate the construction and operation of groups of a combined total of not more than four (4) mobile homes, manufactured homes, and industrialized residential structures in accordance with standards that are compatible with standards set by the state department for mobile home communities.

~~(b)~~ (c) A governmental body other than the state department of health may not regulate mobile homes, manufactured homes, or industrialized residential structures regarding habitability or minimum housing conditions unless the regulation is applicable in the same manner to other forms of residential housing in the jurisdiction.

~~(e)~~ (d) **Unless required under IC 36-7-2-9**, a governmental body may not regulate or restrict, **by regulation or otherwise**, the **installation**, use, occupancy, movement, ~~or relocation~~, **or replacement** of a mobile home, manufactured home, or industrialized residential structure **within a mobile home community** based upon the age **or size** of the mobile home, manufactured home, or industrialized residential structure, **regardless of whether:**

(1) **the mobile home, manufactured home, or industrialized residential structure within a mobile home community;**

(2) **the lot or site, or any part of the lot or site, within a mobile home community, on which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed; or**

(3) **the mobile home community, or any part of the mobile home community, in which the mobile home, manufactured home, or industrialized residential structure is located or installed, or will be located or installed;**

constitutes a conforming structure or use, or a legal, nonconforming structure or use.

~~(d)~~ (e) A government body may not regulate or restrict the ability of a:

(1) mobile home community:

(A) owner; or

(B) manager; or

(2) manufactured home community:

(A) owner; or

(B) manager;

to obtain a dealer's license or to sell a mobile home, manufactured home, or industrialized residential structure located within the owner's or manager's mobile home community or manufactured housing community.

(f) **Unless required under IC 36-7-2-9, after March 14, 2022:**

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(1) a unit may not:

(A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (d);

(B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (d), regardless of when the regulation was originally adopted or imposed; or

(C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (d), regardless of when the regulation or provision was originally adopted or imposed; and

(2) any provision that:

(A) is included in a regulation adopted or imposed by a unit; and

(B) violates subsection (d);

is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed.

SECTION 2. IC 16-41-27-35, AS ADDED BY P.L.168-2020, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 35. (a) A mobile home community operator shall provide each owner of a mobile home, manufactured home, or industrialized residential structure located in the mobile home community written notice of the operator's intent to close the mobile home community not later than one hundred eighty (180) days before the date of the intended closure.

(b) A mobile home community operator who violates this section commits a deceptive act that is actionable by the attorney general or a consumer under IC 24-5-0.5-4 and is subject to the remedies and penalties under IC 24-5-0.5.

(c) A mobile home community operator who attempts to exclude an owner, by contract or otherwise, with the intent to evade the requirements of this section commits a deceptive act that is actionable by the attorney general or a consumer under IC 24-5-0.5-4 and is subject to the remedies and penalties under IC 24-5-0.5.

(d) This section does not prohibit a mobile home community operator from:

(1) evicting the owner of a mobile home, manufactured home, or industrialized residential structure located in the mobile home community for reason of nonpayment of rent or for any other violation of the tenancy; or

(2) enforcing any lien held by the mobile home community operator with respect to a mobile home, manufactured home, or industrialized residential structure located in the mobile home community;



during the one hundred eighty (180) day period described in subsection (a). An action described in this subsection does not constitute a deceptive act for purposes of IC 24-5-0.5.

SECTION 3. IC 36-7-2-12, AS ADDED BY P.L.168-2020, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a) The definitions in IC 16-41-27 apply throughout this section.**

~~(a)~~ **(b) Unless required under IC 36-7-2-9 and notwithstanding IC 36-7-4-1106, a unit may not adopt, impose, or enforce an ordinance, a regulation requirement, or restriction that mandates size requirements for, or that is based on the age of, a mobile home, a manufactured home (as defined in IC 36-7-4-1106), or an industrialized residential structure that will be placed installed in a mobile home community licensed under IC 16-41-27, regardless of whether the mobile home community, or any part of the mobile home community, constitutes:**

- (1) a conforming structure or use; or**
- (2) a legal, nonconforming structure or use.**

~~(b)~~ **(c) Nothing in this section shall be construed to prohibit a unit from adopting or enforcing a requirement of an ordinance a regulation related to:**

- (1) transportation;
- (2) water and sewer service; or
- (3) another requirement concerning the use or development of land.

(d) Unless required under IC 36-7-2-9, after March 14, 2022:

(1) a unit may not:

- (A) adopt or impose a regulation that violates, or that includes a provision that violates, subsection (b);**
- (B) amend a regulation so that the regulation, after its amendment, includes a provision that violates subsection (b), regardless of when the regulation was originally adopted or imposed; or**
- (C) enforce a provision in a regulation adopted or imposed by the unit if the provision violates subsection (b), regardless of when the regulation or provision was originally adopted or imposed; and**

(2) any provision that:

- (A) is included in a regulation adopted or imposed by a unit; and**
- (B) violates subsection (b);**

is void and unenforceable regardless of when the regulation or provision was originally adopted or imposed.

SECTION 4. IC 36-7-4-1019, AS AMENDED BY P.L.134-2020,



SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1019. **(a) The definitions in IC 16-41-27 apply throughout this section.**

(b) For purposes of this section:

(1) a legal, nonconforming structure includes:

(A) a mobile home;

(B) a manufactured home; or

(C) an industrialized residential structure;

that is considered a legal, nonconforming structure by a unit; and

(2) a legal, nonconforming use includes the use of a parcel of real property, or any part of a parcel of real property, for residential purposes by one (1) or more:

(A) mobile homes;

(B) manufactured homes; or

(C) industrialized residential structures;

if the use is considered a legal, nonconforming use by a unit.

~~(a)~~ **(c)** In an enforcement action brought under this chapter, the party alleging the existence of a legal, nonconforming use or variance granted by a board of zoning appeals has the burden of proof on that issue. The nonexistence of a nonconforming use or variance need not be proved.

~~(b)~~ **(d)** Except as provided in subsection ~~(c)~~; ~~this subsection applies~~ **(e) and subject to subsection (f)**, whenever a legal, nonconforming structure on a parcel of real property used for residential purposes **within a mobile home community** is damaged, ~~or~~ destroyed, **or removed**, the owner of the parcel shall be permitted to reconstruct, repair, ~~or~~ renovate, **or replace** the ~~nonconforming~~ structure **without losing the status of the structure or parcel, or any part of the parcel, as a legal, nonconforming structure or use** if the reconstruction, repair, ~~or~~ renovation, **or replacement** meets the following requirements:

(1) The structure will continue to be used for residential purposes.

(2) **Subject to IC 25-23.7-8**, the new foundation of the reconstructed, repaired, ~~or~~ renovated, **or replaced** structure may not exceed the square footage of the foundation of the damaged, ~~or~~ destroyed, **or removed** structure.

~~(c)~~ **(e)** The provisions of subsection ~~(b)~~ **(d)** concerning the reconstruction, repair, ~~or~~ renovation, **or replacement** of a damaged, ~~or~~ destroyed, **or removed** nonconforming structure do not authorize the reconstruction, repair, or renovation of a damaged or destroyed nonconforming structure that is:

(1) subject to the jurisdiction of a preservation commission organized under:



- (A) IC 36-7-11;
- (B) IC 36-7-11.1;
- (C) IC 36-7-11.2; or
- (D) IC 36-7-11.3; or

(2) located within a flood plain (as defined in IC 14-8-2-99).

(f) The provisions of subsection (d) concerning the continuing status of a structure or parcel, or any part of the parcel, as a legal, nonconforming structure or use apply regardless of whether:

- (1) the structure or parcel, or any part of the parcel, is conferred status as a legal, nonconforming structure or use within a mobile home community; or**
- (2) the legal nonconforming structure is:**

(A) damaged, destroyed, or removed; or

(B) reconstructed, renovated, repaired, or replaced;

before, on, or after March 15, 2022.

SECTION 5. An emergency is declared for this act.



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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