

IC 22-13-2

Chapter 2. Rules; Variances; Review of State and Local Rules, Ordinances, and Orders; Approval of Cooperative Agreements

IC 22-13-2-1

State agencies and political subdivisions to exercise statutory powers

Sec. 1. Except as provided in this article, state agencies and political subdivisions may exercise their statutory powers to regulate buildings, structures, and other property.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-1.5

Removal or alteration of a sign as a condition of issuing a permit, license, or variance

Sec. 1.5. A state agency or political subdivision may not require that a lawfully erected sign be removed or altered as a condition of issuing:

- (1) a permit;
- (2) a license;
- (3) a variance; or
- (4) any other order concerning land use or development;

unless the owner of the sign is compensated in accordance with IC 32-24 or has waived the right to and receipt of damages in writing.

As added by P.L.163-2006, SEC.1.

IC 22-13-2-2

Statewide code of fire safety and building laws; adoption of national codes

Sec. 2. (a) The commission shall adopt rules under IC 4-22-2 to adopt a statewide code of fire safety laws and building laws.

(b) Before December 1, 2003, the commission shall adopt the most recent edition, including addenda, of the following national codes by rules under IC 4-22-2 and IC 22-13-2.5 (before its repeal):

- (1) ANSI A10.4 (Safety Requirements for Personnel Hoists).
- (2) ASME A17.1 (Safety Code for Elevators and Escalators, an American National Standard).
- (3) ASME A18.1 (Safety Standard for Platform Lifts and Stairway Chairlifts, American National Standard).
- (4) ASME QEI-1 (Standard for the Qualification of Elevator Inspectors, an American National Standard).
- (5) The American Society of Civil Engineers (ASCE) Automated People Mover Standard 21.
- (6) ANSI A90.1 Safety Code for Manlifts.

(c) Before July 1, 2006, the commission shall adopt the most recent edition, including addenda, of ASME A17.3 (Safety Code for Existing Elevators and Escalators, an American National Standard) by rules under IC 4-22-2 and IC 22-13-2.5 (before its repeal).

(d) The commission shall adopt the subsequent edition of each

national code, including addenda, to be adopted as provided under subsections (b) and (c) within eighteen (18) months after the effective date of the subsequent edition.

(e) The commission may amend the national codes as a condition of the adoption under subsections (b), (c), and (d).

(f) To the extent that the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, apply to tents or canopies in which cooking does not occur, the commission shall suspend enforcement of the following sections of the International Fire Code, 2000 edition, until the division of fire and building safety recommends amendments to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations:

- (1) Section 2406.1 (675 IAC 22-2.3-233).
- (2) Section 2406.2.
- (3) Section 2406.3.

(g) To the extent that section 2403.2 of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1, applies to a tent or canopy in which there is an open flame, the commission shall suspend enforcement of section 2403.2 until the division of fire and building safety recommends amendments to section 2403.2 to the commission under subsection (h) and the commission adopts rules under subsection (i) based on the recommendations and amending section 2403.2.

(h) The division of fire and building safety shall recommend amendments to the commission to the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

(i) After receiving and considering recommendations from the division of fire and building safety under subsection (h), and using the procedure set forth in IC 4-22-2-38, the commission shall amend the following sections of the International Fire Code, 2000 edition, as adopted by reference in 675 IAC 22-2.3-1:

- (1) Section 2403.2.
- (2) Section 2406.1 (675 IAC 22-2.3-233).
- (3) Section 2406.2.
- (4) Section 2406.3.

As added by P.L.245-1987, SEC.2. Amended by P.L.167-1997, SEC.3; P.L.119-2002, SEC.7; P.L.44-2005, SEC.1; P.L.1-2006, SEC.358; P.L.101-2006, SEC.34.

IC 22-13-2-3

Precedence of rules adopted by commission; reference to rules; ordinances

Sec. 3. (a) Except to the extent provided in subsection (c), the rules adopted under section 2 of this chapter take precedence over:

- (1) any rule adopted by a state agency that conflicts with the commission's fire safety rules or building rules; and
- (2) any ordinance or other regulation adopted by a political subdivision that covers the same subject matter as the commission's fire safety rules or building rules.

(b) State agencies and political subdivisions may incorporate the rules adopted by the commission by reference into a rule, ordinance, or other regulation. Notwithstanding IC 4-22-9-6, a reference to the rules adopted by the commission, by citation to the Indiana Administrative Code (IAC), shall be construed to include all amendments as of the date that the reference is written and any later amendments to that provision, unless accompanied by a reference to a specific edition or supplement to the Indiana Administrative Code.

(c) A city, town, or county may adopt an ordinance that includes more stringent or detailed requirements that do not conflict with the commission's rules, but the ordinance is subject to approval under section 5 of this chapter.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-4

Duplication, conflict, or overlapping of responsibility between rules

Sec. 4. If the commission finds duplication, conflict, or overlapping of responsibility between:

- (1) this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule; and
- (2) the rules adopted by another state agency;

the commission shall notify the state agency, and the state agency shall revise its rules to eliminate the duplication, conflict, or overlap.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-5

Ordinances or regulations of political subdivisions; review; approval of commission required

Sec. 5. (a) The commission shall carry out a program to review the fire safety laws and the building laws adopted in the ordinances and other regulations of political subdivisions.

(b) An ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law is not effective until it is approved by the commission. However, an ordinance that:

- (1) is adopted by a city, town, or county; and
- (2) governs the installations, repair, and maintenance of smoke detectors in residential structures that are not required to have smoke detectors under the rules of the commission;

is effective without approval by the commission.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-6

Ordinances or regulations of political subdivisions; application to industrialized building system or mobile structure

Sec. 6. An ordinance or other regulation adopted by a political subdivision that governs the construction of a building or other structure does not apply to an industrialized building system or mobile structure that is certified under IC 22-15-4.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-7

Review of variances and orders of state agencies or political subdivisions

Sec. 7. (a) The commission may review and modify or reverse any variance or other order that:

- (1) is issued by a state agency or political subdivision; and
- (2) covers a subject governed by this article, IC 22-12, IC 22-14, IC 22-15, a fire safety rule, or a building rule.

(b) The commission shall review variances granted by a political subdivision to the fire safety laws and building laws adopted in its ordinances. The variance is not effective until it is approved by the commission.

(c) The commission shall review orders under this section that:

- (1) are issued by a political subdivision; and
- (2) concern a Class 2 structure;

if a person aggrieved by the order petitions for review under IC 4-21.5-3-7 within thirty (30) days after the political subdivision has issued the order.

(d) A copy of the petition under subsection (c) shall be delivered to the political subdivision issuing the order.

(e) Review of an order under this section does not suspend the running of the time period under any statute in which a person must petition a court for judicial review of the order.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-8

Equipment laws

Sec. 8. (a) The commission shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated lifting devices.

(b) Except as provided in subsection (c), subject to the approval of the commission, the rules board shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated boilers and pressure vessels.

(c) Subject to the approval of the commission, the rules board may adopt emergency rules under IC 4-22-2-37.1 only to adopt by reference all or part of the following national boiler and pressure vessel codes:

- (1) The American Society of Mechanical Engineers Boiler and Pressure Vessel Code.
- (2) The National Board of Boiler and Pressure Vessel Inspectors Inspection Code.
- (3) The American Petroleum Institute 510 Pressure Vessel Inspection Code.
- (4) Any subsequent editions of the codes listed in subdivisions

(1) through (3).

(d) An emergency rule adopted under subsection (c) expires on the earlier of the following dates:

(1) Not more than two (2) years after the emergency rule is accepted for filing with the publisher of the Indiana Register.

(2) The date a permanent rule is adopted under IC 4-22-2.

(e) Subject to the approval of the commission, the regulated amusement device safety board established under IC 22-12-4.5 shall adopt rules under IC 4-22-2 to create equipment laws applicable to regulated amusement devices.

As added by P.L.245-1987, SEC.2. Amended by P.L.166-1997, SEC.4; P.L.141-2003, SEC.9; P.L.123-2006, SEC.35.

IC 22-13-2-8.5

Rules; outdoor event equipment

Sec. 8.5. (a) The commission shall adopt rules under IC 4-22-2 for outdoor event equipment at outdoor performances to protect the safety of persons at the outdoor performances. The commission may:

(1) exempt small assemblies of outdoor event equipment, as defined by the commission, from some or all fees or other requirements that otherwise would apply to outdoor event equipment under a rule adopted under this section or another building law; or

(2) establish alternative procedures, fees, or other requirements, or any combination, for small assemblies of outdoor event equipment, as defined by the commission.

(b) The commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out subsection (a), including temporary rules concerning a schedule of fees for design releases or inspections, or both. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date specified in the temporary rule.

(2) The date another temporary rule adopted under this subsection or a rule adopted under IC 4-22-2 supersedes or repeals the previously adopted temporary rule.

(3) January 1, 2016.

(c) Subject to this section, a city, town, or county that regulated outdoor event equipment before March 15, 2012, under an ordinance adopted before March 15, 2012, may, if the ordinance is in effect on March 15, 2012, continue to regulate outdoor event equipment under the ordinance after March 14, 2012, in the same manner that the city, town, or county applied the ordinance before March 15, 2012. However, a statewide code of fire safety laws or building laws governing outdoor event equipment that is adopted by the commission under this section after March 14, 2012, takes precedence over any part of a city, town, or county ordinance that is in conflict with the commission's adopted code. The ordinances to which this section applies include Chapter 536 of the Revised Code of the Consolidated City and County Indianapolis/Marion, Indiana

Codified through Ordinance No. 36, 2011, passed August 15, 2011. (Supp. No. 27). A city, town, or county to which this subsection applies need not be certified or approved under IC 22-15-3-1 or another law to continue to regulate outdoor event equipment after March 14, 2012.

(d) This subsection applies to cities, towns, and counties described in subsection (c) and any other city, town, or county that, after March 14, 2012, adopts an ordinance governing outdoor event equipment that is approved by the commission or a building law compliance officer. The city, town, or county shall require compliance with:

- (1) the rules adopted under this section;
- (2) orders issued under IC 22-13-2-11 that grant a variance to the rules adopted under this section;
- (3) orders issued under IC 22-12-7 that apply the rules adopted under this section; and
- (4) a written interpretation of the rules adopted under this section binding on the unit under IC 22-13-5-3 or IC 22-13-5-4;

on both private and public property located within the boundaries of the city, town, or county, including, in the case of a consolidated city, the state fairgrounds. This subsection does not limit the authority of a unit (as defined in IC 36-1-2-23) under IC 36-7-2-9 to enforce building laws and orders and written interpretations related to building laws.

As added by P.L.92-2012, SEC.5. Amended by P.L.142-2013, SEC.5.

IC 22-13-2-9

Power of political subdivisions to regulate; limitation

Sec. 9. Except as provided in section 10 of this chapter, political subdivisions do not have the power to regulate regulated:

- (1) amusement devices;
- (2) boilers;
- (3) lifting devices; and
- (4) pressure vessels.

As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.8.

IC 22-13-2-10

Lifting devices; regulation by county, city, or town; permits; inspections

Sec. 10. (a) A county, city, or town may regulate regulated lifting devices if the unit's regulatory program is approved by the commission.

(b) A unit must submit its ordinances and other regulations that regulate lifting devices to the commission for approval. The ordinance or other regulation is not effective until it is approved by the commission. If any of these ordinances or regulations conflict with the commission's rules, the commission's rules supersede the local ordinance or other regulation.

(c) A unit may issue permits only to applicants who qualify under

IC 22-15-5. However, the unit may specify a lesser fee than that set under IC 22-12-6-6(a)(7).

(d) A unit must inspect regulated lifting devices with inspectors who possess the qualifications necessary to be employed by the division of fire and building safety of the department of homeland security as a regulated lifting device inspector.

As added by P.L.245-1987, SEC.2. Amended by P.L.119-2002, SEC.9; P.L.22-2005, SEC.36.

IC 22-13-2-11

Variances

Sec. 11. (a) The commission, the rules board, or the regulated amusement device safety board established by IC 22-12-4.5-2 may grant a variance to a rule that it has adopted.

(b) To qualify for a variance, an applicant must pay the fee set under IC 22-12-6-6 and submit facts demonstrating that:

(1) compliance with the rule will impose an undue hardship upon the applicant or prevent the preservation of an architecturally significant or historically significant part of a building or other structure; and

(2) either:

(A) noncompliance with the rule; or

(B) compliance with an alternative requirement approved by the body adopting the rule;

will not be adverse to the public health, safety, or welfare.

(c) A variance granted under this section is conditioned upon compliance with an alternative standard approved under subsection (b)(2)(B).

(d) A variance granted under this section takes precedence over conflicting rules adopted by a state agency and conflicting ordinances and other regulations adopted by a political subdivision.

As added by P.L.245-1987, SEC.2. Amended by P.L.141-2003, SEC.10.

IC 22-13-2-12

Agreements with federal government, other states, or foreign countries; approval of attorney general

Sec. 12. (a) This section applies if the commission is authorized by statute to enter into agreements with the federal government, another state, or foreign country.

(b) An agreement under this section must be submitted to the attorney general for approval. The attorney general shall approve the agreement unless the attorney general finds that it does not comply with the statutes. If the attorney general disapproves the agreement, the attorney general shall give the commission a detailed statement indicating the basis for the disapproval. If the attorney general fails to approve or disapprove the agreement within sixty (60) days after it is submitted, it is considered approved.

As added by P.L.245-1987, SEC.2.

IC 22-13-2-13**Exercise of power to adopt rules by commission**

Sec. 13. (a) The commission may adopt rules under IC 4-22-2 to implement this article, IC 22-12, IC 22-14, and IC 22-15.

(b) Any power of the state fire marshal or the division of fire and building safety to adopt rules shall be exercised by the commission.
As added by P.L.245-1987, SEC.2. Amended by P.L.1-2006, SEC.359.

IC 22-13-2-14**Studies and consultation**

Sec. 14. The commission may engage in studies and consult with any person to implement this article, IC 22-12, IC 22-14, and IC 22-15.

As added by P.L.245-1987, SEC.2.