

## **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 and safety building laws; national code adoption; school sanitation temporary rules**

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) The commission may adopt temporary rules in a manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to administer regulation of sanitary conditions and sanitary facilities of Class I structures under IC 22-12-1-3(4). A temporary rule adopted under this subsection expires on the earliest of the following dates:

- (1) The date specified in the temporary rule.
- (2) The date another temporary rule adopted under this subsection or rule adopted under IC 4-22-2 supersedes or repeals the previously adopted temporary rule.
- (3) January 1, 2017.

(c) 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.

(d) 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).

(e) The commission shall adopt the subsequent edition of each national code, including addenda, to be adopted as provided under subsections (c) and (d) within eighteen (18) months after the effective date of the subsequent edition.

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

*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; P.L.113-2014, SEC.117; P.L.29-2014, SEC.28; P.L.86-2015, SEC.5.*

### **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**

##### **Commission review of ordinances or regulations; approval**

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) Except as provided in subsection (c), an ordinance or other regulation adopted by a political subdivision that qualifies as a fire safety law or a building law:

(1) must be submitted to the commission for review within thirty (30) days after adoption by the political subdivision; and

(2) is not effective until:

(A) it is approved by an order issued by the commission; or

(B) it is approved as the result of the commission not having issued an order approving or denying the ordinance or other regulation within the period set forth in section 5.5(2) of this chapter.

(c) 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.

(d) A:

(1) state agency; or

(2) political subdivision;

may not require a person or entity to obtain or maintain, or both, a license in order to install or maintain a low voltage thermostat of fifty (50) volts or less.

*As added by P.L.245-1987, SEC.2. Amended by P.L.101-2015, SEC.1.*

#### **IC 22-13-2-5.5**

##### **Procedure for review of ordinances or regulations**

Sec. 5.5. The commission's program for review of adopted ordinances and other regulations of political subdivisions submitted for approval by the commission under section 5 of this chapter shall be conducted by the commission staff as follows:

(1) A request may be made to the commission for preliminary staff review at any time. The results of the staff review must be furnished to the requester within a reasonable time.

(2) A submission by a political subdivision for approval of an ordinance or other regulation by the commission shall be made in hard copy or electronic form acceptable to the commission.

The staff shall place the submission on the agenda for the first commission meeting scheduled later than five (5) working days after the receipt of the submission. An opportunity for public testimony may be afforded at the meeting of the commission. If the commission does not issue an order approving or denying the ordinance or other regulation at the first commission meeting, or at any of the next three (3) commission meetings, the ordinance or other regulation is automatically approved and effective without an order of the commission.

(3) A member of the commission may submit an adopted ordinance or other regulation to the commission for review under subdivisions (1) and (2) if the political subdivision did not submit the adopted ordinance or other regulation within thirty (30) days of adoption by the political subdivision as required by section 5(b) of this chapter.

(4) The commission's order regarding the ordinance or other regulation shall be issued following the requirements set forth under IC 4-21.5-3-5. If a petition for review is subsequently granted under IC 4-21.5-3-7, the commission's order shall be deemed merely to have been a preliminary determination.

(5) One (1) copy of each approved ordinance or other regulation, endorsed by the chair of the commission, shall be returned to the political subdivision or, if the submission was made by a member of the commission, to the member, with the order approving the ordinance or other regulation.

(6) If the commission denies an ordinance or other regulation, the commission's denial must specify the defects in the ordinance or other regulation that are the basis for the denial.

*As added by P.L.101-2015, 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 the state building commissioner. 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; P.L.218-2014, SEC.7.*

### **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 22-13-2-11.5**

##### **Incorporation of NFPA 72 into the Indiana Administrative Code**

Sec. 11.5. (a) As used in this section, "NFPA 72" refers to NFPA 72, National Fire Alarm and Signaling Code, 2010 Edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471.

(b) It is the intent of the general assembly that NFPA 72, as may be amended by the commission under subsection (c), be incorporated into the Indiana Administrative Code. Not later than July 1, 2014, the commission shall adopt rules under IC 4-22-2 to amend 675 IAC 28-1-28 to incorporate NFPA 72 into the Indiana Administrative Code, subject to subsection (c)(1) and (c)(2). The commission may adopt emergency rules in the manner provided under IC 4-22-2-37.1 to comply with this subsection. An emergency rule adopted by the commission under IC 4-22-2-37.1 to comply with this subsection expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

(c) In adopting rules to incorporate NFPA 72 into the Indiana Administrative Code, as required by subsection (b), the commission may amend NFPA 72 as the commission considers appropriate. However, the rules finally adopted by the commission to comply with this section must do the following:

(1) Incorporate the definition of, and associated requirements for:

(A) a managed facilities-based voice network (MFVN); and

(B) a public switched telephone network (PSTN);

as set forth in NFPA 72.

(2) Allow digital alarm communicator systems that make use of a managed facilities-based voice network (MFVN) to transmit signals from a fire alarm system to an offsite monitoring facility, subject to the requirements for those systems set forth in NFPA 72.

(d) If the commission does not comply with subsection (b), the following apply on July 1, 2014:

(1) The definition of, and associated requirements for:

(A) a managed facilities-based voice network (MFVN); and

(B) a public switched telephone network (PSTN);

as set forth in NFPA 72, are considered incorporated into the Indiana Administrative Code. Any provisions of 675 IAC 28-1-28 (or any rules adopted by a state agency, or any ordinances or other regulations adopted by a political subdivision) that conflict with the definitions and requirements described in this subdivision are superseded by the definitions and requirements described in this subdivision. This subdivision continues to apply until the commission adopts rules that amend 675 IAC 28-1-28 to incorporate NFPA 72 into the Indiana Administrative Code and that comply with subsection (c)(1) and (c)(2).

(2) A person that after June 30, 2014, installs or uses a digital alarm communicator system that:

(A) makes use of a managed facilities-based voice network (MFVN) to transmit signals from a fire alarm system to an offsite monitoring facility; and

(B) meets the requirements for such a system set forth in NFPA 72;

is not required to obtain a variance from the commission under section 11 of this chapter for the installation or use.

*As added by P.L.107-2014, SEC.5.*

## **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.*