

SECTION 1. IC 14-8-2-289, AS AMENDED BY P.L.52-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 289. "Unit of local government" **has the following meaning:**

- (1) For purposes of IC 14-12-1, ~~has~~ the meaning set forth in IC 14-12-1-3. ~~and~~
- (2) For purposes of **IC 14-21-1** and IC 14-22-10, ~~means~~ a:
 - (A) county;
 - (B) city;
 - (C) town; or
 - (D) township;located in Indiana.

SECTION 2. IC 14-21-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 2. As used in this chapter, "artifact" means an object made or shaped by human workmanship ~~before December 11, 1816.~~ **that is at least one hundred (100) years old.**

SECTION 3. IC 14-21-1-8, AS AMENDED BY P.L.46-2000, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 8. (a) As used in this chapter, "plan" refers to:

- (1) an archeological plan, as described in subsection (b); or
 - (2) a development plan, as described in subsection (c).
- (b) As used in this chapter, "archeological plan" means a plan for the systematic recovery, analysis, and disposition by scientific methods of material evidence and information about the life and culture in past ages.
- (c) As used in this chapter, "development plan" means a plan for ~~the erection, alteration,~~ **an activity that will disturb the land surface or subsurface and that will:**
- (1) ~~erect, alter, or repair of any a~~ **erect, alter, or repair of any a** structure;
 - (2) **construct or modify a utility line or transmission facility;**
 - (3) **drill or change drilling operations for an oil well or a gas well; or**
 - (4) **remove sand and gravel.**

SECTION 4. IC 14-21-1-26.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 26.4. (a) This section does not apply to the following:**

- (1) A surface coal mining and reclamation operation permitted under IC 14-34.
 - (2) The repair of a structure.
- (b) If a person intends to engage in an activity that will disturb the land surface or subsurface to:
- (1) erect or alter a structure;
 - (2) construct or modify a utility line or transmission facility;
 - (3) drill or change drilling operations for an oil well or a gas well; or
 - (4) remove sand and gravel;

the person, before beginning the activity, must contact the department to determine whether the ground that will be disturbed is within one hundred (100) feet of a recorded burial ground or cemetery.

(c) The department shall respond in writing to a request made under subsection (b) within thirty (30) days.

(d) A person shall attach a copy of the department's written response issued under subsection (c) regarding the proposed activity with any application for a permit that is submitted to the state or a unit of local government.

SECTION 5. IC 14-21-1-26.5, AS AMENDED BY P.L.177-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 26.5. (a) **This section applies to a person who intends to disturb the land surface or subsurface to:**

- (1) erect or alter a structure;**
- (2) construct or modify a utility line or transmission facility;**
- (3) drill or change drilling operations for an oil well or a gas well; or**
- (4) remove sand and gravel.**

Notwithstanding IC 23-14-44-1, this section does not apply to ~~the following:~~

- ~~(1) A public utility (as defined in IC 8-1-2-1(a)).~~
- ~~(2) A corporation organized under IC 8-1-13.~~
- ~~(3) A municipally owned utility (as defined in IC 8-1-2-1(h)).~~
- ~~(4) a surface coal mining and reclamation operation permitted under IC 14-34.~~

(b) Except as provided in this subsection, subsection ~~(b)~~, (c) and subsection ~~(c)~~, (d), a person may not disturb the ground within one hundred (100) feet of a burial ground or cemetery for the purpose of erecting, altering, or repairing any structure

- (1) without having a development plan approved by the department under section 25 of this chapter; or**
- (2) in violation of a development plan approved by the department under section 25 of this chapter.**

The department must review the development plan not later than sixty (60) days after the development plan is submitted.

~~(b)~~ **(c) A development plan:**

- (1) must be approved if a person intends to ~~construct a new structure or alter or repair an existing structure to disturb the land surface or subsurface in a~~ manner that would significantly impact the burial ground or cemetery; and**
- (2) is not required if a person intends to erect, alter, or repair an existing ~~land or building~~ structure for an incidental or existing use that would not impact the burial ground or cemetery.**

~~(c)~~ **(d) A development plan for a governmental entity to disturb ground within one hundred (100) feet of a burial ground or cemetery must be approved as follows:**

- (1) A development plan of a municipality requires approval of the executive of the municipality and does not require the approval of the department. However, if the burial ground or cemetery is located outside the municipality, approval is also required by the executive of the county where the burial ground or cemetery is located. A county cemetery commission established under IC 23-14-67-2 may advise the executive of the municipality on whether to approve a development plan.**
- (2) A development plan of a governmental entity other than:**
 - (A) a municipality; or**
 - (B) the state;**

requires the approval of the executive of the county where the governmental entity is located and does not require the approval of the department. However, if the

governmental entity is located in more than one (1) county, only the approval of the executive of the county where the burial ground or cemetery is located is required. A county cemetery commission established under IC 23-14-67-2 may advise the county executive on whether to approve a development plan.

(3) A development plan of the state requires the approval of the department.

~~(d)~~ (e) A person who recklessly, knowingly, or intentionally violates this section commits a Class A misdemeanor. However, the offense is a Class D felony if the person disturbs buried human remains or grave markers while committing the offense.