

Land Use Hot Topics

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BRIANNA J. SCHROEDER

SCHROEDER@AGLAW.US



Hot Topics in Ag Land Use

Solar

Carbon

Home Rule

Solar Energy Ready

I.C. § 8-1-42

Setbacks, height, buffers	Ground cover	Fencing	Cables & Structure	Glare	Signal	Sound	Drainage	Misc.
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County Discussions

Private property rights



Preserving farmland



Economic effect



Environmental impact

Solar Approaches

Permitted Use

Special Exception

Variance

Special District

Rezoning



Ordinance considerations

Site Plan

Setbacks

Visibility/Setbacks

Ground Cover

Decommissioning Plan

Removal Bond

Indemnification

Infrastructure

Insurance

Erosion Control

Management Plan

Drainage Plan

Economic Agreement

Road Use Agreement

Tax Increment Financing

Tax Abatement

Solar



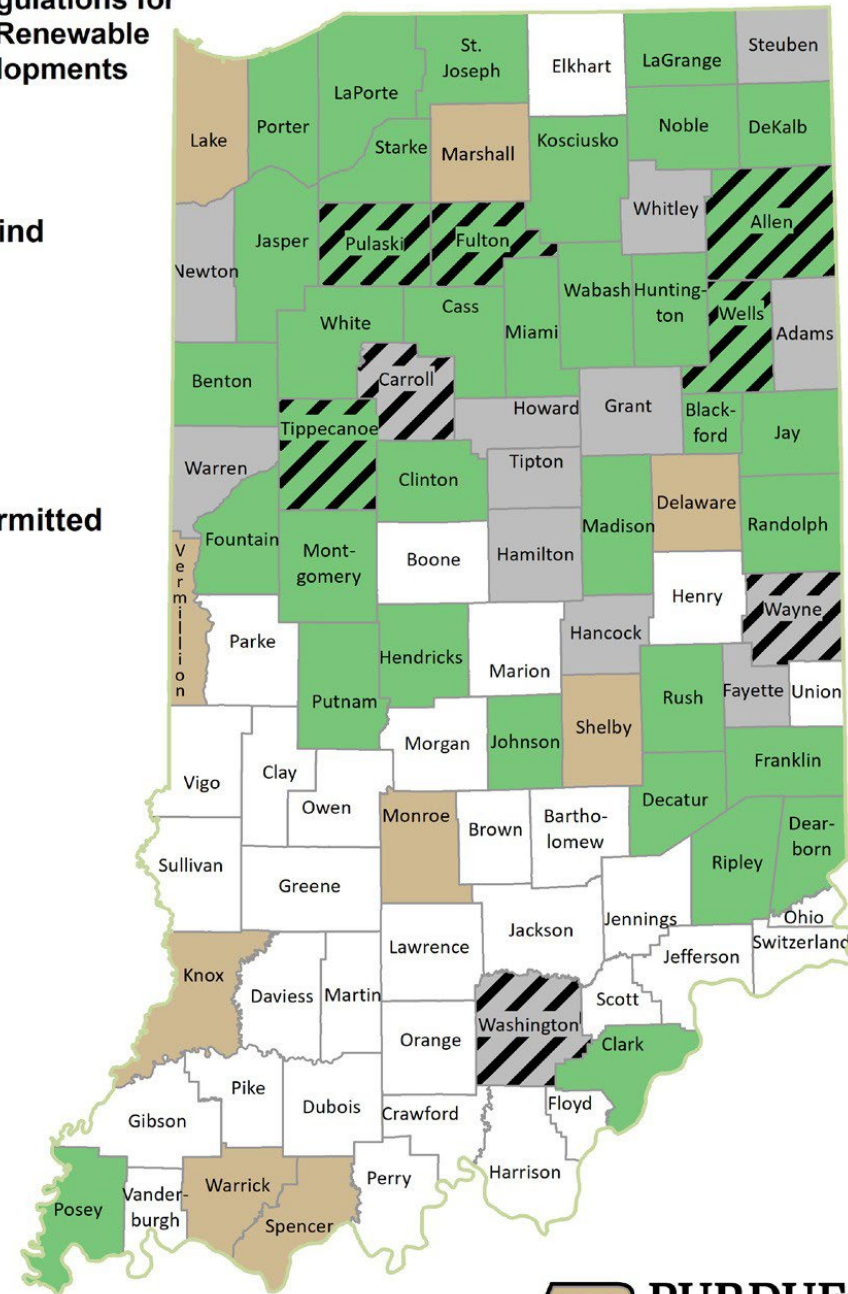
Development Standards

- Height
- Setbacks
- Landscaping
- Ingress/Egress
- Signage
- Fences
- Color or Glare
- Electrical
- Other Equipment
- Noise

Purdue Extension: Indiana Renewable Energy Community Planning Study & Ordinance Inventory Summary (2022)

Land Use Regulations for
Commercial Renewable
Energy Developments
in Indiana

- Solar and Wind**
Solar
Wind
Wind not permitted



Agrivoltaics

Pollinators

Vegetables

Livestock

Modified Row Crops



Agrivoltaics

A photograph of an agrivoltaic system. In the foreground, three brown sheep are grazing in a field of green grass and small white flowers. Above them, a series of solar panels are mounted on a metal frame. The panels are tilted and supported by a network of metal beams and cables. A small white box labeled 'PowerTracker' is visible on one of the panels. The sky is clear and blue.

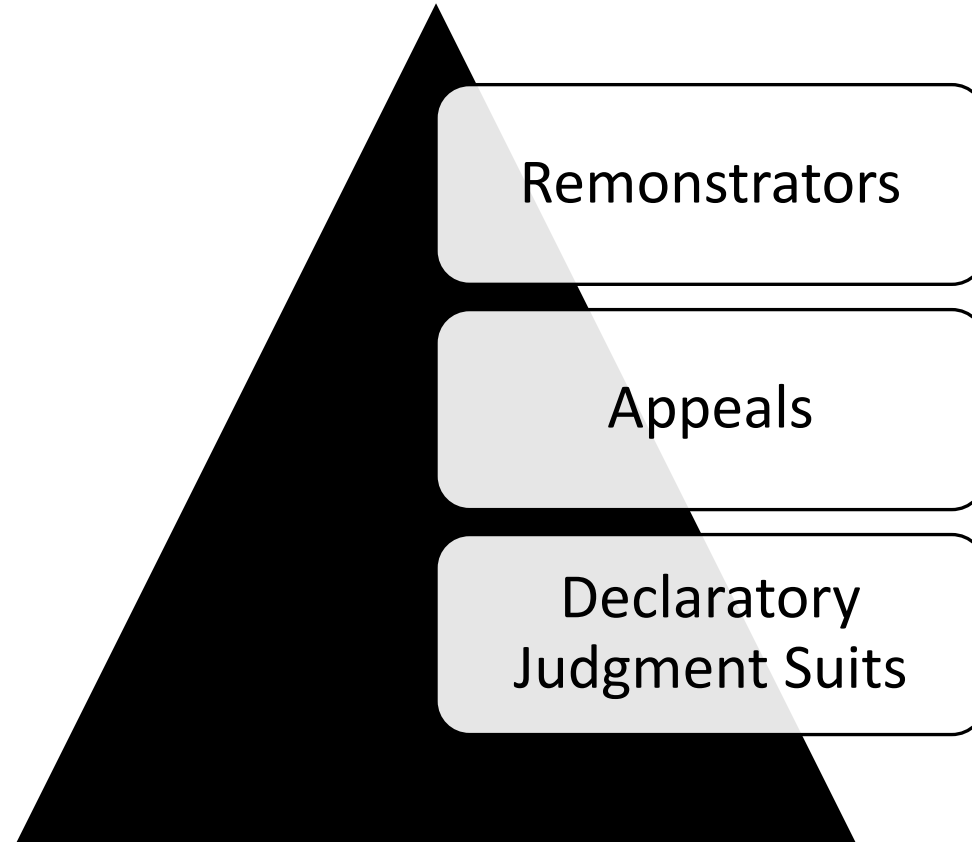
Pollinators

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Opposition



Solar

*Burton v. Board of
Zoning Appeals of
Madison County*
(Ind. Ct. App. 2021)

*Mammoth Solar v.
Ehrlich*, 196 N.E.3d
221 (Ind. Ct. App.
2022)

Solar

“We note that the unique character of Indiana's rural landscape has been celebrated in literature and song, and its subtle beauty is affirmed by our everyday experience.”

CARBON





Carbon Issues

Class VI
permit

Pore
space
ownership

Land use
questions

Local
finances

Land Use Carbon Questions



Source: Getty Images

Surface
Injection Wells

Subsurface
Pore Space

Pipelines

Pooling

Road Use
Agreements

Tax
Abatements

Iowa Example

Shelby County

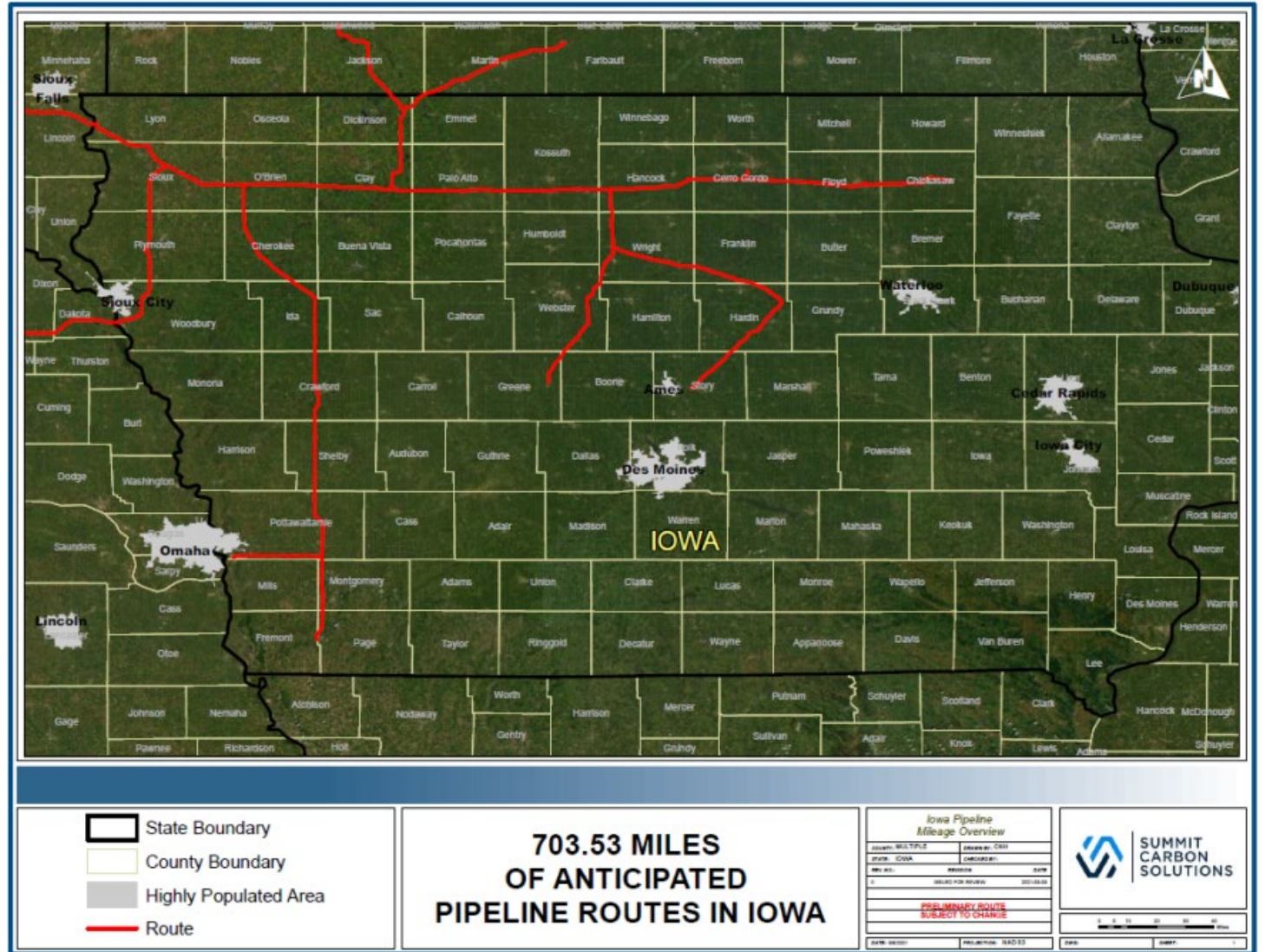
New pipeline ordinance

Imposes setbacks

Requires conditional permits

Inconsistent with state code?

Federal trial set for January 2024



Source: Iowa Public Radio



Home Rule

Indiana Home Rule

State grants local governments all the powers they need for the effective operation of government as to local affairs. I.C. § 36-1-3-2

Local governments have broad powers and any doubt as to the existence of a power of a local government unit shall be resolved in favor of its existence. I.C. § 36-1-3-3-3



Indiana Home Rule Exception

Local government does not have the “power to regulate conduct that is regulated by a state agency, except as expressly granted by statute.”

I.C. § 36-1-3-8(7)

1970 – Indianapolis

1954 Permissive Zoning Ordinance

Alcoholic Beverage Act of 1935

Held: not an alcohol regulation, simply a land use ordinance

1991 – Fountain County

Commissioners' Meeting

Landfill

Moratorium

New Ordinance

- 2nd permit application procedure
- Siting restrictions

Supplemental or Conflicting?

Preempted



2002 – Tipton County

State law regulated sewage disposal

Local boards of health enforce rules

License provision not approved by State

County licensing provision fails



2003 – LaPorte County

New ordinance required approval from Local Solid Waste District Board regarding need

Commissioners have authority to regulate land use

District Board assessing needs of its district does not conflict with IDEM

Ordinance authorized by zoning laws and the establishment of District Boards

Home Rule Preemption



Fact-specific



Local control



Consistency
statewide



Carbon next?

Brianna J. Schroeder

Janzen Schroeder Agricultural Law LLC

Schroeder@aglaw.us

[@SchroederIndy](#)

www.aglaw.us

