

# *Key Ideas*

## *Chapter 9: Cumulative Funds*



*In this section, we will discuss the following:*

- *The procedure for establishment of a Cumulative Fund.*
- *The types of Cumulative Funds available to Cities/Towns.*
- *The timing requirements for establishing a Cumulative Fund.*
- *The public notices required for establishment of a Cumulative Fund.*
- *The DLGF's final determination.*

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**PROCEDURE FOR ESTABLISHMENT OF A CUMULATIVE FUND**

In addition to complying with the budget, tax rate and tax levy requirements of Ind. Code § 6-1.1-17, a taxing unit must follow the steps for establishing a cumulative fund pursuant to Ind. Code § 6-1.1-41. If the establishment is not in compliance with Ind. Code § 6-1.1-41 and this section, a tax may not be levied in the ensuing year. In addition the fund may not have a rate that exceeds what is stated in the applicable statute. After a political subdivision complies with Ind. Code § 6-1.1-41 to establish the cumulative fund, it may levy a property tax annually at the rate approved without further action. The tax levy must be advertised annually as other tax levies are advertised and the tax rate must be adopted. Steps 1 through 3 must occur before August 2nd per Ind. Code § 6-1.1-17-16.7. (Transcript postmarked or file marked no later than August 1.)

**Step 1:**

If a city/town decides to levy a new cumulative fund, or increase the rate on an existing cumulative fund that is currently below the statutory maximum rate, it shall hold a public hearing on the proposal. Taxpayers are notified of this public hearing by the publication of a Notice to Taxpayers (a sample is included in this chapter), describing the tax levy and rate to be imposed. The Notice shall be published two (2) times, at least one (1) week apart, with the first publication being at least ten (10) days before the date of the public hearing and the second publication made at least three (3) days before the date of the hearing in accordance with Ind. Code § 5-3-1-2(f)). The notice must describe the tax rate that will be imposed for the fund. To count the number of days, begin counting days with the day after the notice first appears and count the day of the hearing. Use the same procedure to count days for the second appearance of the legal advertisement.

For city/towns that are uncertain whether a local newspaper meets the requirements for publishing, the definition of qualified newspaper follows.

A qualified publication as defined in IC 5-3-1-0.7 is as follows:

“(a) As used in this chapter, "qualified publication" means a publication that:

- 1) is published daily, weekly, semiweekly, or tri-weekly;
- 2) is of general circulation to the public;
- 3) has been published for at least three (3) consecutive years in the same city or town;
- 4) has continuity as to title and general nature of content from issue to issue;
- 5) contains news of general or community interest, community notices, or editorial comment;
- 6) contains advertisements from unrelated advertisers in each issue;
- 7) has, in more than one half (1/2) of its issues published during the previous twelve month period, not more than seventy five percent (75%) advertising content;
- 8) has a known office location in the county which it is published; and
- 9) has been entered, authorized, and accepted by the United States Postal Service as mailable matter of requester second class or of the third class (as defined in 39 U.S.C. 3623) for the time published."

I.C. 5-3-1-4 covers the guidelines for publication requirements for all political subdivisions. A brief summary of the requirements pertaining to cities/towns is as follows:

- a. City, Town, or School- if only one newspaper is published in the municipality or School Corporation, publication in that newspaper alone is sufficient. If no newspaper is published in the municipality or School Corporation, then publication shall be made in a newspaper or newspapers published in the county in which the municipality or school corporation is located and that circulates within the municipality or School Corporation. Also, the notice shall be posted:
  - (1) at or near the city or town hall or school administration building; or
  - (2) at the:
    - a. public building where the governing body of the respective city, town, or school corporation meets; or
    - b. post office in the municipality or school corporation (or at the bank if there is no post office);

if the municipality does not have a city or town hall, or the school corporation does not have an administration building.

### CROSS COUNTY UNITS

City, Town, or School- if a political subdivision has territory in more than one county:

- (1) publish in **two** newspapers within boundaries of the political subdivision.
- (2) **if there is only one** newspaper published within the boundaries of the political subdivision, then publish in that paper and in any other newspaper that:
  - a) is published in the county in which the subdivision extends
  - b) has a general circulation in the political subdivision.
- (3) **if no** newspaper is published within the political subdivision's boundaries, then publish in two newspapers that:
  - a) are published in a county in which the political subdivision extends:
  - b) has a general circulation in the political subdivision.
- (4) **if only one** newspaper is published in any of the counties in which the subdivision extends, then publish in that newspaper if it circulates within the political subdivision.

**\*\*\*Qualified publications must circulate to not less than ten percent of the population of the county in which the qualified publication is published. \*\*\***

### **Step 2:**

The adopting body shall conduct a public hearing on the proposed Cumulative Fund on the date, time and location as indicated in the Notice to Taxpayers. At this meeting, taxpayers of the affected taxing district(s) have the right to be heard. Upon completion of the public hearing, the adopting body must pass a resolution/ordinance (a sample is included in this chapter) adopting the proposed Cumulative Fund as presented or at a lesser rate.

**Step 3:**

If a resolution/ordinance is passed by the adopting body that proposes a rate for a Cumulative Fund, such proposal shall be submitted by the fiscal officer of the political subdivision on behalf of the adopting body to the DLGF for approval. The proposal forwarded to the DLGF shall contain the following:

- (a) Procedure Checklist (A sample checklist is included at the end of this chapter.)
- (b) Resolution/Ordinance of Adopting Body (A sample resolution/ordinance is included at the end of this chapter.)
- (c) Proofs of Publication (and proofs of posting, if required) of Notice to Taxpayers

**Step 4:**

The proposal, as submitted, will be reviewed by the DLGF for completeness. If the proposal contains errors or proper procedure is not followed, the packet will be returned to the fiscal officer of the adopting unit for correction, providing the time constraints can be met.

**Step 5:**

The DLGF shall require that a Notice of Submission be given to affected taxpayers. This notice will be prepared by the DLGF and mailed to the taxing unit. The taxing unit shall publish the notice one (1) time in two (2) newspapers. If only one (1) newspaper is published in your political subdivision, publication in that newspaper alone is sufficient. (If the fund is a Cumulative Channel Maintenance Fund (IC 8-10-5) the notice shall also be posted in three (3) public places in the political subdivision.)

**Step 6:**

**No Taxpayer Objections**

After the required remonstrance period has passed, the adopting unit shall forward the following information to the DLGF:

- 1. Proof of publication of the Notice of Submission
- 2. Proof of posting of a public hearing (if required)
- 3. County Auditor's Certificate of No Objection (a sample certificate is included at the end of this chapter). It is the responsibility of the applying taxing unit to secure a Certificate of No Objection from the County Auditor. Proofs of publication of the Notice of Submission must be provided to the Auditor in order to verify that the proper time for filing objections has passed.

**Taxpayer Objections**

Taxpayers who are affected by the proposed Cumulative Fund may file an objecting petition with the County Auditor not later than noon, by the end of the required remonstrance period after publication of the Notice of Submission setting forth their objections to the proposed rate. Pursuant to IC 6-1.1-41, the number of signatures required for a valid objecting petition is specific to each type of Cumulative Fund as follows:

IC 36-8-14	Cumulative Fire and Building Fund	10
IC 36-9-4	Cumulative Transportation Fund	10
IC 36-10-4	Cumulative Sinking & Bldg. Fund – Parks	10
IC 36-9-15.5	Cumulative Capital Development Fund	10
IC 8-16-3-3	Cumulative Bridge Fund	10
IC 8-10-5-17	Cumulative Channel Maintenance Fund	10
IC 36-10-3	Park Cumulative Bldg. Fund	30
IC 36-9-15.5	Cumulative Capital Development Fund	50
IC 36-9-16	Cumulative Capital Improvement (Rate)	50
IC 36-9-16-1	Cumulative Building Fund	50
IC 8-22-3-25	Cumulative Building Airport Fund	50
IC 36-9-17	Cumulative General Improvement Fund	50
IC 36-9-27-100	Cumulative Drainage Fund	50
IC 36-9-26-4	Cumulative Sewer Fund	50

The County Auditor shall immediately certify the objecting petition(s) to the DLGF by verifying:

- (a) the number of taxpayers on the petition and counterparts who are property owners with the taxing district(s) where the proposed Cumulative Fund will be levied;
- (b) that the proper number of qualified signatures appear on the petition and counterparts; and
- (c) the petition(s) was filed within the proper number of days after the publication of the Notice of Submission.

If the County Auditor certifies an objecting petition to the DLGF, the DLGF shall fix a date for hearing within a reasonable time after receipt. Notice of the hearing, under the signature of the Commissioner of the DLGF, shall be given to the County Auditor and the first ten (10) taxpayers whose names appear on the petition at least five (5) days before the date of the hearing.

A hearing will be conducted in the County by a hearing officer of the DLGF at which time all affected taxpayers have the right to be heard. Testimony will be accepted from those in opposition as well as those in favor. The hearing officer(s) will submit a report on the hearing to the Commissioner.

In years following the year of adoption and pursuant to IC 6-1.1-41-12, taxpayers of the taxing district(s) where the rate is levied may file with the County Auditor a petition for reduction or revision of the Cumulative Fund levy. Such petitions must be

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filed on or before August 1 for the next ensuing year. The required number of taxpayers to file an objection is as follows:

<u>Cumulative Fund</u>	<u>Code Cite</u>	<u># of Taxpayers</u>
Cumulative Channel Maintenance Fund	§ 8-10-5	10
Cumulative Bridge Fund	§ 8-16-3	10
Airport Cumulative Fund	§ 8-22-3	50
Cumulative Hospital Fund	§ 16-23-1	10
Cumulative Fire Fund	§ 36-8-14	10
Cumulative Transportation Fund	§ 36-9-4	10
Cumulative Capital Development	§ 36-9-15.5	50
Cumulative Capital Improvement Fund (Rate)	§ 36-9-16	50
General Improvement Fund	§ 36-9-17	50
Cumulative Bldg. Fund for Municipal Sewers	§ 36-9-26	50
Cumulative Drainage Fund	§ 36-9-27	50
Cumulative Park Fund	§ 36-10-3	50
Cumulative Park Fund (Certain Cities)	§ 36-10-4	10

**Step 7:**

The DLGF shall certify approval, disapproval, or modification of the proposal to the county auditor. The action of the DLGF with respect to the proposed levy is final. The approved Cumulative Fund may be levied beginning with the first annual tax levy after approval or the year as stated in the Notice to Taxpayers and the final order approving the fund. The Cumulative Fund does not expire and may be levied from year to year as long as the levy is advertised annually with the annual budget or is not limited by the establishing resolution/ordinance.

For Cumulative Capital Development Funds, the fiscal body shall specify in its establishing resolution the rates for year one, year two, year three (and thereafter). This method will allow for the increasing rates without the unit having to reestablish each of the first three years of the fund. However, the unit must clearly state the increasing rates in its resolution and publications. (Sample resolutions/ordinances and publications are included at the end of this chapter.)

If the appropriate fiscal body for a given calendar year reduces the Cumulative Fund rate and wishes to increase the rate in subsequent years, the fund must be established and presented to taxpayers. The fund must also be reestablished if the use of the Cumulative Fund is changed.

The tax rate may not exceed the rate as specified by the statute authorizing the fund. The DLGF will apply the rate cap calculations to all Cumulative Funds as listed in this chapter. The maximum property tax rate levied may be adjusted each year as a result of trending assessed values. When a Cumulative Fund is established, the DLGF order will reflect the (statutory) rate adopted by the taxing unit. The Budget Order will reflect the rate cap adjustment pursuant to Ind. Code § 6-1.1-18.5-9.8.

**General**

Taxes collected shall be deposited in a specific fund and may only be used for the purposes as stated in the statute and/or the resolution/ordinance as adopted. All funds must be appropriated before expenditure. The DLGF must approve all appropriations, except for the Cumulative Bridge Fund. Appropriations may be included in the political subdivision's annual budget or may be established by additional appropriation.

If the political subdivision establishing the fund;

- (1) decides that the purposes for which the fund was established have been accomplished or no longer exists; or
- (2) rescinds the tax levy for the fund;

the governing body establishing the fund for the political subdivision may transfer the balance in the fund to the General Fund of the unit. The money in a Cumulative Fund does not revert to the General Fund at the end of the fiscal year.

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED CUMULATIVE FUND**

(Name of Fund)

Notice is hereby given the taxpayers of \_\_\_\_\_, (Name of Unit)

\_\_\_\_\_, County, Indiana, that the \_\_\_\_\_ (County Name) \_\_\_\_\_ (Name of Adopting Body)

will consider at \_\_\_\_\_ (Location of Meeting)

at \_\_\_\_\_ o'clock am/pm on \_\_\_\_\_, 2\_\_\_\_\_, the establishment of (Time) (Day and Month) (Year)

a Cumulative \_\_\_\_\_ Fund under the provisions of Indiana Code (Name of Fund)

\_\_\_\_\_ for the purposes as follows: \_\_\_\_\_ (Code Citation)

**Do not publish this informational box**  
***Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC \_\_\_\_\_"***

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed \$\_\_\_\_\_ per \$100 of assessed valuation. The proposed fund will be levied (Adopted Rate)

beginning with taxes due and payable in the year 2\_\_\_\_\_. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative \_\_\_\_\_ Fund is subject to approval by the Department of Local (Name of Fund)

Government Finance, who will require a Notice of Submission to be given to the taxpayers by publication. After the publication of the Notice of Submission, \_\_\_\_\_ or more taxpayers in the taxing district may file a petition with the County Auditor not later than \_\_\_\_\_ days after publication, setting forth their objections to the proposed levy.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 2\_\_\_\_\_

(Adopting Body) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ORDINANCE/RESOLUTION ESTABLISHING  
CUMULATIVE \_\_\_\_\_ FUND**  
(Name of Fund)

**Under Indiana Code \_\_\_\_\_**  
(Code Citation)

**BE IT RESOLVED** by the \_\_\_\_\_  
(Adopting Body)

of \_\_\_\_\_, County, Indiana that a need now exists for the  
(Name of County)  
establishment of a Cumulative \_\_\_\_\_ Fund for the following purposes:  
(Name of Fund)

\_\_\_\_\_  
(purpose)

***Do not use this informational box in your resolution/ordinance  
Unit may set out selective uses as provided by the establishing statute or the unit may  
state "For all uses as set out in IC \_\_\_\_\_"***

**BE IT FURTHER RESOLVED** that this Board/Council will adhere to the provisions of  
Indiana Code \_\_\_\_\_. The proposed fund will not exceed \$ \_\_\_\_\_ on each  
(Code Citation) (Adopted Rate)  
\$100 of assessed valuation. Said tax rate will be levied beginning with taxes for 20 \_\_\_\_\_  
payable 2 \_\_\_\_\_.

**BE IT FURTHER RESOLVED** that proofs of publication of the public hearing held  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and a certified copy of this resolution  
be submitted to the DLGF of the State of Indiana as provided by law. Said Cumulative Fund is  
subject to the approval of the DLGF.

Duly adopted by the following vote of the members of said  
\_\_\_\_\_ this \_\_\_\_\_ day of 2\_\_\_\_\_  
(Adopting Body)

<b><u>AYE</u></b>	<b><u>NAY</u></b>
_____	_____
_____	_____
_____	_____

**Attest:** \_\_\_\_\_, **Fiscal Officer**

**PROCEDURE CHECKLIST**

(Complete the top portion of this form and submit to the DLGF with proof of publication of Notice to Taxpayers and the adopted resolution/ordinance.)

TAXING UNIT: \_\_\_\_\_ COUNTY: \_\_\_\_\_

CUMULATIVE FUND: \_\_\_\_\_

IC CODE: \_\_\_\_\_

YEAR TO BE FIRST LEVIED 20\_\_\_\_ PAYABLE 20\_\_\_\_

**NOTICE TO TAXPAYERS:**

1<sup>st</sup> Publication: \_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)  
\_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)

2<sup>nd</sup> Publication \_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)  
\_\_\_\_\_ in the \_\_\_\_\_  
(Date) (Name of Newspaper)

PUBLIC HEARING HELD ON: \_\_\_\_\_, 2\_\_\_\_

ORDINANCE ADOPTED ON: \_\_\_\_\_, 2\_\_\_\_

PROPOSED RATE : \$ \_\_\_\_\_

CONTACT PERSON: \_\_\_\_\_

MAILING ADDRESS OF UNIT: \_\_\_\_\_

\_\_\_\_\_

E-MAIL ADDRESS (OPTIONAL): \_\_\_\_\_

\*\*\*\*\*

**CERTIFICATE OF NO OBJECTION**

I, \_\_\_\_\_, Auditor of  
\_\_\_\_\_, County, Indiana, do hereby certify that there were no  
remonstrance filed on the proposed Cumulative \_\_\_\_\_ Fund  
(Name of Fund)  
as adopted by the \_\_\_\_\_  
(Name of Adopting Body)  
on \_\_\_\_\_, 2\_\_\_\_. Notice of Submission to the Department of Local  
Government Finance was published on \_\_\_\_\_  
in the \_\_\_\_\_ newspaper.  
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

\_\_\_\_\_  
County Auditor

**Sample Ordinance/Resolution for Cumulative Capital Development Funds**

**ORDINANCE/RESOLUTION ESTABLISHING  
CUMULATIVE CAPITAL DEVELOPMENT FUND  
UNDER INDIANA CODE \_\_\_\_\_  
(CODE CITATION)**

BE IT RESOLVED by the \_\_\_\_\_  
(Adopting Body)  
of \_\_\_\_\_, County, Indiana that a need now exists for the establishment  
(Name of County)  
a Cumulative Capital Development Fund for the following purposes: \_\_\_\_\_

***Do not use this informational box  
Unit may set out selective uses as provided by the establishing statute or the unit may  
state "For all uses as set out in IC \_\_\_\_\_"***

BE IT FURTHER RESOLVED that this Board/Council will adhere to the provisions of  
Indiana Code \_\_\_\_\_. The proposed fund will not exceed:

\$\_\_\_\_\_ per \$100 of assessed valuation beginning with taxes payable in 20\_\_\_\_,  
\$\_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_, and  
\$\_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_ and thereafter, continuing until reduced  
or rescinded.

BE IT FURTHER RESOLVED that proofs of publication of the public hearing held  
on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, and a certified copy of this resolution be submitted  
to the DLGF of the State of Indiana as provided by law. Said Cumulative Fund is subject to the approval of  
the DLGF.

Duly adopted by the following vote of the members of said \_\_\_\_\_ this  
\_\_\_\_\_ day of 2\_\_\_\_\_.

(Adopting Body)

AYE

NAY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest: \_\_\_\_\_, Fiscal Officer

***Sample Notice to Taxpayers for the Establishment of a Cumulative Capital Development Fund.***

**NOTICE TO TAXPAYERS OF HEARING ON PROPOSED CUMULATIVE CAPITAL DEVELOPMENT FUND**

Notice is hereby given the taxpayers of \_\_\_\_\_,  
(Name of Unit)

\_\_\_\_\_, County, Indiana, that the \_\_\_\_\_  
(County Name) (Name of Adopting Body)

will consider at \_\_\_\_\_  
(Location of Meeting)

at \_\_\_\_\_ o'clock am/pm on \_\_\_\_\_, 2\_\_\_\_, the establishment of  
(Time) (Day and Month) (Year)

a Cumulative Capital Development Fund under the provisions of Indiana Code

\_\_\_\_\_ for the purposes as follows: \_\_\_\_\_.  
(Code Citation)

***Do not publish this informational box***  
**Unit may set out selective uses as provided by the establishing statute or the unit may state "For all uses as set out in IC \_\_\_\_\_"**

The tax will be levied on all taxable real and personal property within the taxing district and will not exceed:

- \$\_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_,
- \$\_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_, and
- \$\_\_\_\_\_ per \$100 of assessed valuation payable in 20\_\_\_\_, and thereafter,

continuing until reduced or rescinded. Taxpayers appearing at such hearing shall have the right to be heard thereon. The proposal for establishment of the Cumulative Capital Development Fund is subject to approval by the DLGF, who will require a Notice of Submission to be given to the taxpayers by publication. After the publication of the Notice of Submission, fifty (50) or more taxpayers in the taxing district may file a petition with the County Auditor not later than thirty (30) days after publication, setting forth their objections to the proposed levy.

Dated this \_\_\_\_\_, day of \_\_\_\_\_, 2\_\_\_\_\_

(Adopting Body)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Summary

## Chapter 9: Cumulative Funds



*In this section, we have discussed the following:*

- *The city/town unit has until August 1<sup>st</sup> to establish a cumulative fund.*
- *The city/town unit must consider the cumulative fund during budget preparation.*
- *The city/town unit must advertise and adopt its cumulative fund budget, levy and rate.*
- *The DLGF provides the Notice of Submission to the city/town units establishing a cumulative fund.*
- *The DLGF approves or disapproves cumulative funds.*