

## **IC 36-10-7.5**

### **Chapter 7.5. Township General Park and Recreation Law**

#### **IC 36-10-7.5-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all townships.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-1.5**

##### **"Park and recreation board" defined**

Sec. 1.5. As used in this chapter, "park and recreation board" refers to a township park and recreation board established under section 5.5 of this chapter.

*As added by P.L.271-1993, SEC.3.*

#### **IC 36-10-7.5-2**

##### **"Department" defined**

Sec. 2. As used in this chapter, "department" refers to a department of parks and recreation created under section 5 of this chapter.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.4.*

#### **IC 36-10-7.5-3**

##### **"District" defined**

Sec. 3. As used in this chapter, "district" refers to a special taxing district created under this chapter.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-3.5**

##### **"Park governor" defined**

Sec. 3.5. As used in this chapter, "park governor" means the following:

(1) The executive, if a township park and recreation board is not established under section 5.5 of this chapter.

(2) The township park and recreation board, if a township park and recreation board is established under section 5.5 of this chapter.

*As added by P.L.271-1993, SEC.5.*

#### **IC 36-10-7.5-4**

##### **"Superintendent" defined**

Sec. 4. As used in this chapter, "superintendent" refers to a superintendent of parks and recreation appointed under this chapter.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.6.*

#### **IC 36-10-7.5-5**

**Creation of department of parks and recreation; resolution; transfer of property from prior authority**

Sec. 5. (a) The legislative body of a township may adopt a resolution creating a department of parks and recreation under this chapter and repealing prior resolutions creating other park and recreation authorities. Except as provided in IC 36-10-7-9, the department consists of:

- (1) the park governor;
- (2) the superintendent of parks and recreation, if the township has a superintendent appointed under section 11 of this chapter; and
- (3) other personnel that the park governor determines.

(b) After a department has been created under this section, all books, papers, documents, and other property of former park and recreation authorities are transferred to and become the property of the department.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.7.*

### **IC 36-10-7.5-5.5**

#### **Township park and recreation board**

Sec. 5.5. (a) In a township having a department of parks and recreation established under section 5 of this chapter, the executive may establish a township park and recreation board.

(b) A township park and recreation board established under this section consists of:

- (1) the executive; and
- (2) three (3) persons appointed by the executive to serve at the pleasure of the executive.

(c) The executive or an appointed member of the township park and recreation board established under this section remains a member of the board until a successor is elected or appointed and qualified.

*As added by P.L.271-1993, SEC.8.*

### **IC 36-10-7.5-6**

#### **Park governor; powers and duties**

Sec. 6. The park governor shall do the following:

- (1) Exercise general supervision of and make rules for the department.
- (2) Establish rules governing the use of the park and recreation facilities by the public.
- (3) Provide police protection for park property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers. The deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers.
- (4) Appoint the necessary administrative officers of the department and fix their duties.
- (5) Establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics.



*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.10.*

### **IC 36-10-7.5-8**

#### **Lease of buildings and grounds**

Sec. 8. The park governor may lease any buildings or grounds that:

- (1) belong to the township; and
- (2) are located within a park;

to a person for a period not greater than fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.11.*

### **IC 36-10-7.5-9**

#### **Sale of surplus property; appraisal**

Sec. 9. (a) The park governor may sell or order sold through a designated representative by public or private sale any personal property that the park governor has declared to be surplus and declared to have an aggregate appraised value not greater than five thousand dollars (\$5,000).

(b) Whenever the park governor decides to sell at a private sale, the park governor must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish the following information in the manner provided in IC 5-3-1:

- (1) The fact that a private sale will be held.
- (2) The location of the sale.
- (3) The dates of the beginning and end of the sale.
- (4) The time of day during which the sale will take place.
- (5) The kinds of items to be sold at the sale.
- (6) The price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

(c) If the park governor decides to sell at a public sale, the park governor shall conduct the sale in the manner provided by law for the township to sell surplus property.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.12.*

### **IC 36-10-7.5-10**

#### **Conference attendance**

Sec. 10. If the park governor determines that the executive or any park employee should attend a state, regional, or national conference dealing with park and recreation problems, the park governor may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the department's appropriation.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.13.*

#### **IC 36-10-7.5-11**

##### **Superintendent; appointment; qualifications**

Sec. 11. (a) The park governor may appoint a superintendent of parks and recreation. The park governor may not consider political affiliation in the selection of the superintendent.

(b) The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; or
- (2) have a certification or an advanced degree in the field of parks and recreation.

(c) An incumbent township employee performing park and recreation functions in a supervisory capacity at the time a township adopts a creating resolution under this chapter is eligible for appointment as superintendent or as an assistant, but the employee must have the required training, experience, or certification.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.14.*

#### **IC 36-10-7.5-12**

##### **Powers and duties of superintendent**

Sec. 12. Under the direction of the park governor, the superintendent of the township shall do the following:

- (1) Propose annually to the park governor a plan for the operation of the department.
- (2) Administer the plan as approved by the park governor.
- (3) Supervise the general administration of the department.
- (4) Keep the records of the department and preserve all papers and documents of the department.
- (5) Recommend persons for appointment as assistants if the park governor determines there is a need for assistants.
- (6) Appoint the employees of the department, subject to the approval of the park governor according to the standards and qualifications fixed by the park governor and without regard to political affiliation.
- (7) Prepare and present to the park governor an annual report.
- (8) Perform other duties that the park governor directs.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.15.*

#### **IC 36-10-7.5-13**

##### **Assistants to superintendent**

Sec. 13. (a) If the park governor determines that the size of the department's operation requires assistants for the superintendent, the park governor may appoint, upon the recommendation of the superintendent, at least one (1) assistant. The park governor shall determine the assistant's qualifications on a basis similar to that prescribed for the superintendent.

(b) Each assistant is directly responsible to the superintendent and shall perform the duties specified by the superintendent.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.16.*

#### **IC 36-10-7.5-14**

##### **Officers' and employees' bonds and crime policies**

Sec. 14. (a) Each officer and employee who handles money in the performance of duties under this chapter must execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the township may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and approved by the park governor.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.17; P.L.49-1995, SEC.13.*

#### **IC 36-10-7.5-15**

##### **Advisory council or special committee; membership; responsibilities**

Sec. 15. (a) The park governor may create an advisory council or special committees composed of citizens who are interested in parks and recreation.

(b) In selecting an advisory council or a special committee, the park governor shall give consideration to the groups in the community particularly interested in parks and recreation. When creating an advisory council or a special committee, the park governor shall specify the terms of the members and the purposes for which the council or committee is created.

(c) An advisory council or a special committee shall do the following:

(1) Study the subjects and problems specified by the park governor and recommend to the park governor additional problems in need of study.

(2) Advise the park governor concerning these subjects, particularly as they relate to different areas and groups in the community.

(3) Report only to the park governor.

(4) Make inquiries and reports only in those areas specified by the park governor.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.18.*

#### **IC 36-10-7.5-16**

##### **Gifts, grants, and transfers**

Sec. 16. (a) The park governor may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of property to the park governor may not be made without the approval of the park governor.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the park governor for purposes specified by the grantor. The fiscal officer of the township may draw warrants against the fund only upon vouchers signed by the executive.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993, SEC.19.*

#### **IC 36-10-7.5-17**

##### **Special benefit taxes; provision of operating revenues**

Sec. 17. (a) The territory within the boundaries of the township comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the township shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

(1) a specific levy to be used exclusively for these purposes;

(2) a special appropriation; or

(3) both.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-18**

##### **Special nonreverting capital fund**

Sec. 18. (a) Upon the request of the executive, the fiscal body of the township may establish by resolution a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the department's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution. The fiscal body may not repeal the resolution under suspension of the rules.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-19**

##### **Township park and recreation cumulative building fund**

Sec. 19. (a) The fiscal body may establish a cumulative building fund under IC 6-1.1-41 to provide money for:

(1) building, remodeling, and repair of park and recreation facilities; or

(2) purchase of land for park and recreation purposes.

(b) To provide for the cumulative building fund, the township fiscal body may levy a tax in compliance with IC 6-1.1-41 not greater than one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of assessed valuation of taxable property within the township.

(c) The tax shall be collected and held in a special fund known as the township park and recreation cumulative building fund.

*As added by P.L.157-1991, SEC.15. Amended by P.L.17-1995, SEC.44; P.L.6-1997, SEC.237.*

### **IC 36-10-7.5-20**

#### **Fees; management and deposit of collections**

Sec. 20. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the park governor may charge a reasonable fee.

(b) The township fiscal body may establish by resolution upon request of the executive any of the following:

(1) A special nonreverting operating fund for park purposes from which expenditures may be made as provided by resolution by appropriation by the board township fiscal body.

(2) A special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the township fiscal body.

(c) The fiscal body shall designate the fund or funds into which the township fiscal officer shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance.

(d) Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the township fiscal officer either in the special nonreverting operating fund or in the nonreverting capital fund as directed by the fiscal body. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the township general fund.

(e) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the resolution establishing the fund. The fiscal body may not repeal the resolution under suspension of the rules.

(f) Money procured from fees or received from the sale of surplus property under this chapter shall be deposited at least one time each month with the fiscal officer of the township.

*As added by P.L.157-1991, SEC.15. Amended by P.L.271-1993,*

SEC.20.

**IC 36-10-7.5-21**

**Land acquisition or appropriation and improvements**

Sec. 21. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the executive or the fiscal body decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

the legislative body may adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the executive shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. Before adopting a resolution, the legislative body shall receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the township, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the executive or the legislative body by the original notice of publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether the land is owned by one (1) or more persons. If the land or a part of the land is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The executive may, at any time before the adoption of the resolution:

- (1) obtain from the owner of the land an option for the purchase

of the land; or

(2) enter into a contract for the purchase of the land upon the terms and conditions that the executive considers best.

The option or contract is subject to the final approval of the legislative body confirming, modifying, or rescinding the option or contract and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the executive decides to acquire any lots or parcels of land by purchase, the executive shall appoint three (3) qualified appraisers to appraise the value of the land. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or that may incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall then view the land, determine the true market value of the land at that time, and report the appraisal in writing. The report shall be filed with and becomes a part of the record of the proceeding.

(h) The executive may not take an option on the land or enter into a contract to purchase the land at a higher price than the value named in the report. The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the executive due to the acquisition of land or to construction work shall be paid out of the funds under the control of the executive and is not an indebtedness or obligation of the township.

(i) At the time fixed for the hearing or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the chairman of the legislative body.

(j) At the hearing, which may be adjourned from time to time, the legislative body shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the legislative body shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

*As added by P.L.157-1991, SEC.15.*

### **IC 36-10-7.5-22**

#### **District bonds for land acquisition or improvements**

Sec. 22. (a) To raise money to pay for land to be acquired for any of the purposes named in this chapter or to pay for an improvement authorized by this chapter, and in anticipation of the special benefit tax to be levied as provided in this chapter, the legislative body shall issue in the name of the township the bonds of the district. The bonds

may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the legislative body under this chapter is confirmed whereby different parcels of land are to be acquired or more than one (1) contract for work is let by the executive at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars (\$1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the legislative body shall certify a copy of the resolution to the township's fiscal officer. The fiscal officer shall prepare the bonds, and the executive shall execute the bonds, attested by the fiscal officer.

(c) The bonds and the interest on the bonds are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

- (1) the filing of a petition requesting the issuance of bonds;
- (2) the right of:
  - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
  - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the appropriation of the proceeds of the bonds with the approval of the department of local government finance; and
- (4) the sale of bonds at public sale for not less than the par value of the bonds.

(d) The legislative body may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the total adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the township but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. A bond must recite the terms upon the face of the bond, together with

the purposes for which the bond is issued.

*As added by P.L.157-1991, SEC.15. Amended by P.L.6-1997, SEC.238; P.L.90-2002, SEC.519; P.L.219-2007, SEC.145; P.L.146-2008, SEC.795.*

#### **IC 36-10-7.5-23**

##### **Bond issue; notice and hearing**

Sec. 23. (a) Before bonds may be issued under this chapter, the legislative body shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The legislative body shall publish in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-24**

##### **Funds from bond proceeds; use; surplus**

Sec. 24. All proceeds from the sale of bonds issued under this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the district bond fund.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-25**

##### **Tax levy; district bond fund**

Sec. 25. (a) To raise money to pay all bonds issued under this chapter, the fiscal body shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as the bonds mature, including accrued interest. The fiscal body shall have the tax to be levied each year certified to the auditor of the county in which the township is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, the tax shall be accumulated and kept in a separate fund to be known as the district bond fund. The tax shall be applied to the payment of the bonds and interest as the bonds mature and may not be used for another purpose.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-26**

##### **Contracts or leases with not-for-profit corporations**

Sec. 26. (a) The executive may enter into a lease or a contract with a not-for-profit corporation providing detailed terms and conditions for the following:

- (1) The performance of historical pageants and entertainments.
- (2) The charging of admission.
- (3) The maintenance of the facilities.

(b) The contract must not extend for a longer term than the term of the bonds.

*As added by P.L.157-1991, SEC.15.*

#### **IC 36-10-7.5-27**

##### **Bondholder rights under other statutes**

Sec. 27. The general assembly covenants that it will not repeal or amend:

- (1) IC 6-9-7-6;
- (2) IC 6-9-7-7;
- (3) IC 36-10-3-40;
- (4) IC 36-10-3-41;
- (5) IC 36-10-3-42; and
- (6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.

*As added by P.L.157-1991, SEC.15.*