

## **IC 36-10-7**

### **Chapter 7. Miscellaneous Township Recreation Provisions**

#### **IC 36-10-7-1**

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

Sec. 1. This chapter applies to the townships indicated in each section.

*As added by Acts 1981, P.L.309, SEC.114.*

#### **IC 36-10-7-2**

##### **Townships except those in county having consolidated city; establishment of community center or recreational land area; bonds; maintenance**

Sec. 2. (a) This section applies to all townships except those in a county having a consolidated city.

(b) The township executive may, upon petition of at least twenty-five (25) resident freeholders and approval of the township legislative body, purchase or improve suitable land or purchase, construct, reconstruct, renovate, remodel, or improve room space, buildings, or equipment for:

- (1) a township community center for civic, social, recreation, or other township purposes; or
- (2) a township recreational land area.

(c) A township may issue general obligation bonds for the purposes set forth in subsection (b) in the manner provided by IC 36-10-3 for the issue of bonds under that chapter.

(d) Money for the purposes set forth in subsection (b) must be appropriated as provided by statute from funds belonging to the township or from the proceeds of a general obligation bond.

(e) The executive may operate and maintain the community center or recreational land area. A property tax levy may be imposed as provided by statute for the cost of all or part of the operation and maintenance expense incurred under this section.

(f) The executive may rent to others all or part of the community center or recreational land area when it is not needed for township purposes. The money received for rent shall be used to pay maintenance and utility expenses of the community center or recreational land area.

*As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.3; P.L.157-1991, SEC.8.*

#### **IC 36-10-7-3**

##### **Townships; programs, facilities, or services; tax levy; appropriation**

Sec. 3. (a) This section applies to all townships.

(b) The township executive may:

- (1) levy a tax; and
- (2) use appropriated township funds;

to pay for recreation programs, facilities (including a community center used for recreational purposes), or services.

*As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.354-1985, SEC.4; P.L.157-1991, SEC.9.*

#### **IC 36-10-7-4**

##### **Certain townships; public park or playground; management; records; violation**

Sec. 4. (a) This section applies to each township:

- (1) in a county having a consolidated city; or
- (2) containing a second class city within its boundaries that is not a county seat.

(b) If there is a public park or playground in the township under the jurisdiction of the township, the township executive shall manage the park or playground. The executive shall keep complete records of the management and all related transactions, including receipts such as fees, concessions, licenses, permits, and sales. The receipts shall be credited to the general fund of the township.

(c) An executive who violates this section commits a Class C infraction.

*As added by Acts 1981, P.L.309, SEC.114.*

#### **IC 36-10-7-5**

##### **Acquisition of land for park purposes in certain townships; procedure; establishment, maintenance, and improvement of parks; issuance of bonds; tax levy; park and recreation fund; fees; appointment and duties of parks superintendent**

Sec. 5. (a) This section applies to a township having a population of more than one hundred fifty thousand (150,000) located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000).

(b) The township executive may purchase, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land for park purposes within the township, either inside or outside the corporate boundaries of a municipality, and may make necessary improvements.

(c) If the executive does not purchase, accept, or acquire land within the township for park purposes or make necessary improvements, two hundred (200) resident taxpayers and voters of the township may petition the executive and the legislative body in writing to:

- (1) purchase, accept, or otherwise acquire the land described in the petition so that a township park may be established under this section; or
- (2) make the improvements designated in the petition.

The petition must be addressed to the executive and legislative body and bear the signatures and addresses of the petitioners in ink, acknowledged before a notary public. After the petition is filed in the office of the executive, the executive shall have notice of the filing published in accordance with IC 5-3-1. The notice must name a date at least sixty (60) days after the date of the last publication on which the executive and legislative body will hear and consider the petition.

The notice constitutes notice of the proceedings to all taxpayers within the township, whether resident or nonresident.

(d) At the hearing the executive and legislative body shall hear and consider all remonstrances, whether written and signed in ink or from a resident of the township upon the question of whether the land should be purchased, accepted, or acquired by the township and a township park established, maintained, and improved. After the hearing, the executive and legislative body shall approve the petition unless twenty percent (20%) of the resident taxpayers of the township remonstrate in writing by filing their remonstrance on or before the day fixed for the hearing. In that case the executive and legislative body shall dismiss the petition.

(e) If land has been acquired for park purposes, the executive shall establish a park. After it is established, the executive shall provide for necessary improvements and construct facilities for the comfort and convenience of the public in the township park. Except as otherwise provided, all expenses incurred shall be paid out of the park and recreation fund of the township.

(f) If a park or parkland is acquired by a township under this section and the expense of the acquisition or of the development and improvement of the park is too great to be borne by the park and recreation fund of the township, the legislative body may authorize its chairman to issue the bonds of the township to procure money for these purposes. However, the total bonded indebtedness of the township for park purposes may not exceed one million dollars (\$1,000,000). Upon special notice of the chairman in writing to each member of the legislative body stating the time, place, and purpose of the meeting, the legislative body may determine whether to issue the bonds of the township to pay the cost of acquiring, developing, or improving the park or parkland. If the legislative body determines that it is of public benefit to issue the bonds of the township, the legislative body, by a special order entered and signed upon the record, may authorize its chairman to issue the bonds of the township. The bonds may run for a period not to exceed ten (10) years, may bear interest at any rate, and may be sold for not less than their par value. Before issuing the bonds, the chairman shall publish notice of their sale in accordance with IC 5-3-1. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. The legislative body shall attend the sale and must concur before bonds are sold.

(g) The legislative body shall annually levy a sufficient tax to pay at least one-tenth (1/10) of the amount of the bonds, together with the accrued interest, each year, and the legislative body shall apply the annual tax to the payment of the bonds and interest each year. The tax levy is in addition to all other tax levies authorized by statute. A tax levy authorized by this section shall be levied and collected on all property within the boundaries of the township, including municipalities.

(h) There is established a special nonreverting operating fund for

park purposes to be known as the park and recreation fund. Appropriations may be made from the fund by the township's legislative body for park purposes only. The cost of the maintenance and improvement of the park shall be paid out of the park and recreation fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(i) Money in the form of fees procured from golf courses, swimming pools, skating rinks, clubhouses, social centers, or other similar facilities requiring major expenditures for maintenance and improvement shall be deposited in the park and recreation fund and shall be appropriated by the township legislative body either in the annual budget or by additional appropriation in the manner as set out in IC 6-1.1-18-5.

(j) The executive shall appoint a superintendent of parks. Said appointment shall be made within thirty (30) days of a vacancy in the position of superintendent of parks. If the executive fails to make said appointment within the prescribed period, the legislative body shall have the power to make said appointment. Political affiliation may not be considered in the selection of the superintendent. The superintendent must:

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

(k) The superintendent must do the following:

- (1) Propose annually to the executive a plan for the operation of the park.
- (2) Administer the plan as approved by the executive.
- (3) Supervise the general maintenance of the park.
- (4) Keep the records of the park and preserve all papers and documents of the park.
- (5) Keep accurate records of park income and expenditures in the manner prescribed by the state board of accounts.
- (6) Appoint and discharge employees of the park without regard to political affiliation.
- (7) Prepare and present to the executive an annual report.
- (8) Perform other duties that the executive directs.

(l) The executive shall execute an employment contract with the superintendent that must contain the terms and conditions of the superintendent's employment.

*As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.29; Acts 1982, P.L.1, SEC.69; P.L.207-1984, SEC.2; P.L.355-1985, SEC.1; P.L.157-1991, SEC.10; P.L.12-1992, SEC.194; P.L.170-2002, SEC.175.*

#### **IC 36-10-7-6**

**Townships containing a town and having a population of at least 8,500; acquisition, improvement, maintenance, and disposal of land for park purposes; procedure; issuance of bonds; tax levy;**

**employment of needy persons**

Sec. 6. (a) This section applies to all townships having a population of at least eight thousand five hundred (8,500) that contain a town.

(b) The township executive may do the following in relation to township parks:

- (1) Purchase, acquire by eminent domain, accept by grant, devise, bequest, or other conveyance, or otherwise acquire land within the township for park purposes.
- (2) Make necessary improvements on the land.
- (3) Maintain and operate the land.
- (4) Dispose of all or part of the land that is unnecessary for the park or park purposes.

(c) If the executive decides to acquire land for park purposes under this section, the following procedures apply:

- (1) A resolution to that effect shall be adopted by the legislative body and shall be entered upon the minutes of the legislative body. The resolution must be signed by the members of the legislative body and by the executive.
- (2) Upon a petition signed in ink by at least one hundred (100) resident taxpayers and freeholders of the township, the executive shall, after the adoption of the resolution, fix a day not less than fifteen (15) nor more than twenty (20) days after adoption during which time remonstrances may be filed with the executive against the resolution.
- (3) The executive shall give notice by publication of the resolution and of the time limits for filing remonstrances in accordance with IC 5-3-1.
- (4) Remonstrances must be signed in ink and shall be filed not later than the day fixed for the expiration of the time for filing remonstrances in the notices.
- (5) If the number of signers of remonstrances exceeds the number of signers who have signed the original petition, determined by the same qualifications, the executive may give notice, in accordance with IC 5-3-1, of a date by which time a supplementary petition containing the names of qualified signers in addition to the names signed to the first petition may be filed asking for acquisition.
- (6) A supplemental petition must be signed in ink by signers having the same qualifications as required for the original petition.
- (7) If, after the expiration of the period for filing a supplemental petition, it is determined that the number of qualified signers to the original petition and the supplemental petition exceeds the number of signers to the remonstrance, the executive may proceed with the acquisition of land and the improvement and operation of it.
- (8) If the number signing the remonstrance is greater than the number signing the original and supplemental petition, then the township may not proceed with the improvement.

However, the remonstrance does not prevent the acquisition of land or inhibit the power of the executive to acquire parkland unless at least twenty percent (20%) of the resident freeholders who are also legal voters, execute the remonstrance. Only the executive and the legislative body may determine the sufficiency of a petition or remonstrance and the qualifications of a signer. These matters are subject to review only for fraud.

(d) The executive may acquire any property, land, privilege, immunities, or other species of interest reasonably necessary for the park or for the purpose of improving, maintaining, or operating it. The executive may sue in the name of the township for the condemnation of any property, land, privilege, immunities, or other species of interest in accordance with statutes available to municipal corporations for condemnation.

(e) To provide money for any of the purposes of this section, the legislative body may authorize the executive to issue the bonds of the township. However, the total bonds issued and outstanding at any time for such purposes may not exceed ninety thousand dollars (\$90,000). The bonds may bear interest at any rate, may be made payable semiannually, shall be sold for at least their par value, and run for a period of not less than ten (10) nor more than twenty (20) years. Parts of the total issue may be sold from time to time as the executive determines. After the authorization of the bonds, the executive shall, in accordance with IC 5-3-1, publish notice of that part of the bonds that will be sold at that time. The notice must state the amount of bonds offered, the denomination, the period to run, the rate of interest, and the date, place, and hour of sale. No part of the bonds may be sold except after notice.

(f) The legislative body shall levy annually a sufficient tax to pay at least the principal and interest of bonds that will mature in the following year, and the executive shall apply the tax to the payment of bonds and interest. The tax levy is in addition to other tax levies. The tax shall be levied and collected on all property within the boundaries of the township, including municipalities. The cost of the care, upkeep, repair, maintenance, and improvement of the park shall be paid out of the general fund of the township, and the legislative body shall increase the levy of the fund each year by an amount sufficient to provide the money to maintain the park.

(g) The executive shall direct the expenditure of the money raised by the bond issue to save money that otherwise would be expended for township assistance. The executive may offer persons who are able-bodied and capable of work the opportunity to work upon the park improvement. If a person refuses without good excuse, the executive shall consider the refusal prima facie evidence that the person is not entitled to township assistance.

*As added by Acts 1981, P.L.309, SEC.114. Amended by Acts 1982, P.L.6, SEC.31; P.L.157-1991, SEC.11; P.L.73-2005, SEC.175.*

#### **IC 36-10-7-7**

#### **Acquisition and maintenance of grounds and structures by certain**

**townships for use as public parks; public park fund**

Sec. 7. (a) This section applies to all townships having a population between two thousand (2,000) and three thousand (3,000).

(b) The township executive may accept, acquire, and maintain grounds and structures to be used as public parks upon petition of at least fifty-one percent (51%) of the resident taxpayers of the township.

(c) Whenever a park has been established in the township, the legislative body shall, at its annual meeting and annually each following year, levy a tax not exceeding one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of taxable property in the township. The money shall be set aside in a public park fund to be used by the executive for the maintenance and improvement of the park and for no other purpose.

*As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.157-1991, SEC.12; P.L.6-1997, SEC.235.*

**IC 36-10-7-8**

**Acquisition of land for park purposes by certain townships; improvements; maintenance; bonds; levy of taxes**

Sec. 8. (a) This section applies to all townships having a population of less than two thousand (2,000).

(b) The township executive may lease, purchase, accept by grant, devise, bequest, or other conveyance to the township, or otherwise acquire land for park purposes and may make necessary improvements only as provided by this section.

(c) The legislative body may establish a township park and may, by resolution, appropriate from the general fund of the township the necessary money to lease, purchase, accept, or otherwise acquire land for park purposes or make improvements thereon. The executive shall then lease, purchase, accept, or acquire the land for park purposes or shall make improvements thereon as directed in the resolution. However, the costs of the park grounds or of the improvements provided for in the resolution may not exceed in one (1) year one-fifth of one percent (0.2%) of the adjusted value of all taxable property of the township as determined under IC 36-1-15.

(d) If a park has been established under this section, the executive shall have the park maintained and may make improvements and construct and maintain facilities for the comfort and convenience of the public. However, the executive annually may not spend more than one cent (\$0.01) on each one hundred dollars (\$100) of assessed valuation of taxable property in the township as it appears on the tax duplicates of the auditor of the county in which the township is located. The money shall be paid from the general fund of the township.

(e) If the general fund of the township is insufficient to meet the expenses of acquiring or improving the land for park purposes, the executive shall call a special meeting of the legislative body by written notice to each member of the legislative body at least three

(3) days before the date of the meeting. The notice must state the time, place, and purpose of the meeting. The legislative body shall meet and determine whether an emergency exists for the issuance of the warrants or bonds of the township. The legislative body shall, by resolution, authorize the issuance and sale of the warrants or bonds of the township in an amount not exceeding two percent (2%) of the adjusted value of all taxable property in the township as determined under IC 36-1-15. The amount of bonds may not exceed the total estimated cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings. The proceeds from the sale of the bonds shall be deposited in the general fund of the township. The bonds become due and payable not less than two (2) nor more than ten (10) years after the date of issuance, may bear interest at any rate, and may not be sold for less than par value. The bonds shall be sold after giving notice of the sale of bonds in accordance with IC 5-3-1. The bonds and the interest thereon are exempt from taxation as provided by IC 6-8-5 and are subject to the provisions of IC 6-1.1-20 relating to the filing of a petition requesting the issuance of bonds, the appropriation of the proceeds of the bonds, and the approval by the department of local government finance.

(f) The legislative body shall, at its next annual meeting after authorization of bonds and annually each following year, levy a sufficient tax against all the taxable property of the township to pay the principal of the bonds, together with accruing interest, as they become due. The executive shall apply the money received from the levy only to the payment of bonds and interest as they become due.

(g) In addition to the levy required by subsection (f), the legislative body shall, when a park has been established under this section and at every annual meeting after establishment, levy a tax not exceeding one cent (\$0.01) on each one hundred dollars (\$100) of taxable property in the township. The levy required by this subsection shall be used by the executive for the maintenance and improvement of the park. The executive may not expend more for maintenance and improvement of the park than the amount collected by the levy except:

- (1) upon petition by fifty-one percent (51%) of the taxpayers of the township; or
- (2) when warrants or bonds are to be issued under this section to finance the expenses of improvements.

The amount received from the levy shall be deposited in the general fund of the township.

(h) A park established under this section shall be kept open to the public in accordance with rules prescribed by the executive.

(i) If the executive determines that land or other property used for park purposes under this section should be disposed of and that the park should no longer be maintained, the executive shall appoint three (3) disinterested appraisers to appraise the property. The property shall then be disposed of either at public or private sale for at least its appraised value.

(j) This subsection applies if the township sells the property by acceptance of bids. A bid submitted by a trust (as defined in IC 30-4-1-1(a)) must identify each:

- (1) beneficiary of the trust; and
- (2) settlor empowered to revoke or modify the trust.

(k) All money from the sale of park property, less the expenses incurred in making the appraisal and sale, shall be paid into the general fund of the township.

*As added by Acts 1981, P.L.309, SEC.114. Amended by P.L.373-1983, SEC.1; P.L.208-1984, SEC.1; P.L.336-1989(ss), SEC.55; P.L.157-1991, SEC.13; P.L.6-1997, SEC.236; P.L.90-2002, SEC.518.*

### **IC 36-10-7-9**

#### **Membership of department and board of parks and recreation of certain townships**

Sec. 9. (a) This section applies to the township having the largest population in a county having a population of:

- (1) more than seventy-three thousand (73,000) but less than seventy-four thousand (74,000); or
- (2) more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding IC 36-10-7.5-5, the department of parks and recreation of a township described in subsection (a) consists of four (4) members appointed by the township executive on the basis of the members' interest in and knowledge of parks and recreation. The members of a board governed by this section may include any of the following:

- (1) The township executive.
- (2) One (1) or more members of the township board.
- (3) Any other persons residing in the township.

*As added by P.L.157-1991, SEC.14. Amended by P.L.12-1992, SEC.195; P.L.271-1993, SEC.2; P.L.170-2002, SEC.176.*