

## **IC 36-2-4**

### Chapter 4. Legislative Procedures

#### **IC 36-2-4-0.1**

##### **Application of certain amendments to chapter**

Sec. 0.1. The amendments made to sections 7 and 8 of this chapter by P.L.335-1985 do not affect a proposal initiated before September 1, 1986, to amend, repeal, or otherwise change a comprehensive plan or zoning ordinance under IC 36-7-4. Such a proposal may be considered, adopted, and approved under the statutes in effect before September 1, 1986, as if P.L.335-1985 had not been enacted.

*As added by P.L.220-2011, SEC.642.*

#### **IC 36-2-4-1**

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

Sec. 1. This chapter applies to all counties not having a consolidated city.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-2**

##### **Adoption of ordinance, order, resolution, or motion**

Sec. 2. A county executive or county fiscal body adopting an ordinance, order, resolution, or motion for the government of the county or the transaction of county business must comply with this chapter.

*As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.148.*

#### **IC 36-2-4-3**

##### **Quorum**

Sec. 3. (a) A majority of all the elected members constitutes a quorum, except as provided by subsection (b).

(b) A county fiscal body may, by a two-thirds (2/3) vote, adopt a rule specifying that a certain number of members greater than a majority constitutes a quorum.

*As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.149; Acts 1981, P.L.17, SEC.14.*

#### **IC 36-2-4-4**

##### **Majority vote; two-thirds vote**

Sec. 4. (a) A requirement that an ordinance, resolution, or other action be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance, resolution, or other action be passed by a two-thirds (2/3) vote means at least a two-thirds (2/3) vote of all the elected members.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-5**

##### **Majority vote required to pass ordinance**

Sec. 5. A majority vote is required to pass an ordinance, unless a greater vote is required by statute.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-6**

##### **Disagreements on question; continuance**

Sec. 6. If only two (2) members of a county executive are present at a meeting of the executive, and they disagree on a question that is before the executive, the question shall be continued until the next meeting.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-7**

##### **Consent to pass ordinance; inapplicability to additional appropriations and zoning ordinances**

Sec. 7. (a) This section does not apply to:

- (1) an ordinance of a county fiscal body for additional appropriations; or
- (2) a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

(b) Unanimous consent of the members present is required to pass an ordinance on the same day or at the same meeting at which it is introduced.

*As added by Acts 1980, P.L.212, SEC.1. Amended by P.L.335-1985, SEC.31.*

#### **IC 36-2-4-8**

##### **Adoption and effective date of ordinance, order, or resolution; requirements**

Sec. 8. (a) An ordinance, order, or resolution is considered adopted when it is signed by the presiding officer. If required, an adopted ordinance, order, or resolution must be promulgated or published according to statute before it takes effect.

(b) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published once each week for two (2) consecutive weeks, according to IC 5-3-1. However, if such an ordinance is adopted by the legislative body of a county subject to IC 36-2-3.5 and there is an urgent necessity requiring its immediate effectiveness, it need not be published if:

- (1) the county executive proclaims the urgent necessity; and
- (2) copies of the ordinance are posted in three (3) public places in each of the districts of the county before it takes effect.

(c) The following apply in addition to the other requirements of this section:

- (1) An ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 is considered adopted only if it is:

- (A) approved by signature of a majority of the county executive;
- (B) neither approved nor vetoed by a majority of the

executive, within ten (10) days after passage by the legislative body; or

(C) passed over the veto of the executive by a two-thirds (2/3) vote of the legislative body, within sixty (60) days after presentation of the ordinance or resolution to the executive.

(2) Subject to subsection (g), the legislative body of a county shall:

(A) subject to subdivision (3), give written notice to the department of environmental management not later than sixty (60) days before amendment or repeal of an environmental restrictive ordinance; and

(B) give written notice to the department of environmental management not later than thirty (30) days after passage, amendment, or repeal of an environmental restrictive ordinance.

(3) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subdivision (2)(A).

(4) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subdivision (2).

(5) The failure of an environmental restrictive ordinance to comply with subdivision (4) does not void the ordinance.

(d) After an ordinance or resolution passed by the legislative body of a county subject to IC 36-2-3.5 has been signed by the presiding officer, the county auditor shall present it to the county executive, and record the time of the presentation. Within ten (10) days after an ordinance or resolution is presented to it, the executive shall:

(1) approve the ordinance or resolution, by signature of a majority of the executive, and send the legislative body a message announcing its approval; or

(2) veto the ordinance or resolution, by returning it to the legislative body with a message announcing its veto and stating its reasons for the veto.

(e) This section (other than subsection (c)(2)) does not apply to a zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(f) An ordinance increasing a building permit fee on new development must:

(1) be published:

(A) one (1) time in accordance with IC 5-3-1; and

(B) not later than thirty (30) days after the ordinance is adopted by the legislative body in accordance with IC 5-3-1; and

(2) delay the implementation of the fee increase for ninety (90) days after the date the ordinance is published under subdivision (1).

(g) The notice requirements of subsection (c)(2) apply only if the municipal corporation received under IC 13-25-5-8.5(f) written

notice that the department is relying on the environmental restrictive ordinance referred to in subsection (c)(2) as part of a risk based remediation proposal:

- (1) approved by the department; and
- (2) conducted under IC 13-22, IC 13-23, IC 13-24, IC 13-25-4, or IC 13-25-5.

*As added by Acts 1980, P.L.212, SEC.1. Amended by Acts 1981, P.L.11, SEC.150; P.L.192-1984, SEC.1; P.L.335-1985, SEC.32; P.L.100-2003, SEC.1; P.L.78-2009, SEC.23; P.L.159-2011, SEC.44.*

#### **IC 36-2-4-9**

##### **Recording of ordinance; effect**

Sec. 9. Within a reasonable time after an ordinance is adopted, the county auditor shall record it in a book kept for that purpose. The record must include the signature of the presiding officer and the attestation of the auditor. The record, or a certified copy of the record, is presumptive evidence that the ordinance was adopted and took effect.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-10**

##### **Meetings; rules**

Sec. 10. A county executive or county fiscal body may adopt rules for the transaction of business at its meetings.

*As added by Acts 1980, P.L.212, SEC.1.*

#### **IC 36-2-4-11**

##### **Seal**

Sec. 11. A county executive shall use a common seal.

*As added by Acts 1980, P.L.212, SEC.1.*