

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

### Chapter 4. Legislative Bodies

#### **IC 36-3-4-0.1**

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

Sec. 0.1. The amendments made to sections 12 and 14 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.648.*

#### **IC 36-3-4-1**

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

Sec. 1. This chapter applies to each consolidated city and its county.

*As added by Acts 1980, P.L.212, SEC.2.*

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

##### **City-county council; membership; election; eligibility; vacancy; term of office**

Sec. 2. (a) A twenty-nine (29) member city-county council, which is the legislative body of both the consolidated city and the county, shall be elected under IC 3-10-6 by the voters of the county.

(b) To be eligible to serve as a member of the legislative body, a person must meet the qualifications prescribed by IC 3-8-1-25.

(c) A member of the legislative body must reside within:

- (1) the county as provided in Article 6, Section 6 of the Constitution of the State of Indiana; and
- (2) the district from which the member was elected, if applicable.

(d) A vacancy in the legislative body occurs whenever a member:

- (1) dies, resigns, or is removed from office;
- (2) ceases to be a resident of the county or district from which the member was elected; or
- (3) is incapacitated to the extent that the member is unable to perform the member's duties for more than six (6) months.

(e) The vacancy shall be filled under IC 3-13-8.

(f) The term of office of a member of the legislative body is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.5-1986, SEC.40; P.L.3-1987, SEC.552.*

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

##### **City-county legislative body; division of county into districts; composition of body; election; petition for division of county**

Sec. 3. (a) The city-county legislative body shall, by ordinance,

divide the whole county into twenty-five (25) districts that:

- (1) are compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) do not cross precinct boundary lines.

This division shall be made during the second year after a year in which a federal decennial census is conducted and may also be made at any other time, subject to IC 3-11-1.5-32.

(b) The legislative body is composed of twenty-five (25) members elected from the districts established under subsection (a) and four (4) members elected from an at-large district containing the whole county.

(c) Each voter of the county may vote for four (4) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The four (4) at-large candidates receiving the most votes from the whole county and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(d) If the legislative body fails to make the division before the date prescribed by subsection (a) or the division is alleged to violate subsection (a) or other law, a taxpayer or registered voter of the county may petition the superior court of the county to hear and determine the matter. The court shall hear and determine the matter as a five (5) member panel of judges from the superior court. The clerk of the court shall select the judges electronically and randomly. Not more than three (3) members of the five (5) member panel of judges may be of the same political party. The first judge selected shall maintain the case file and preside over the proceedings. There may not be a change of venue from the court or from the county. The court may appoint a master to assist in its determination and may draw proper district boundaries if necessary. An appeal from the court's judgment must be taken within thirty (30) days, directly to the supreme court, in the same manner as appeals from other actions.

(e) An election of the legislative body held under the ordinance or court judgment determining districts that is in effect on the date of the election is valid, regardless of whether the ordinance or judgment is later determined to be invalid.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.2; P.L.346-1983, SEC.2; P.L.5-1986, SEC.41; P.L.13-1988, SEC.15; P.L.230-2005, SEC.84; P.L.141-2007, SEC.2.*

### **IC 36-3-4-3.5**

#### **Territories not included in any district or more than one district**

Sec. 3.5. (a) If any territory in any county is not included in one (1) of the districts established under section 3 of this chapter, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(b) If any territory in any county is included in more than one (1) of the districts established under section 3 of this chapter, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under section 3 of this chapter;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

*As added by P.L.3-1993, SEC.260.*

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

##### **City-county legislative body; expulsion of member; declaration of vacancy; rules**

Sec. 4. The city-county legislative body may:

- (1) expel any member for violation of an official duty;
- (2) declare the seat of any member vacant if he is unable to perform the duties of his office; and
- (3) adopt its own rules to govern proceedings under this subsection.

However, a two-thirds (2/3) vote is required to expel a member or vacate his seat.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-5**

##### **Special service district council; composition**

Sec. 5. (a) Each special service district of the consolidated city has a special service district council, which is the legislative body of the special service district, but only for the purposes prescribed by section 18(b) of this chapter.

(b) A special service district legislative body is composed of every member of the city-county legislative body.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.3; P.L.346-1983, SEC.1.*

#### **IC 36-3-4-6**

##### **Meetings**

Sec. 6. (a) The city-county legislative body shall hold regular meetings at least once a month, at times and places prescribed by its rules or established by resolution. A special service district legislative body shall meet as required by IC 36-3-6.

(b) A special meeting of a legislative body shall be held when called by its president or presiding officer or when called by at least two-fifths (2/5) of its members, at any place in the county designated in the call.

(c) No notice of a regular meeting, or meeting required by statute, need be given to a member of a legislative body. For a special meeting, a written notice specifying the time and place of the meeting must be delivered, mailed, or sent by telegram to all members so that each member has at least seventy-two (72) hours notice of the meeting. However, this requirement is waived as to a

member if he:

- (1) attends the meeting; or
- (2) executes a written waiver of notice of the time and place of the meeting.

A written waiver of notice may be executed before or after the meeting, but it must state in general terms the purpose of the meeting if executed after the meeting.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-7**

##### **Election of president and officers of city-county legislative body**

Sec. 7. At its regular meeting in January each year, the city-county legislative body shall elect a president and other officers as it sees fit.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-8**

##### **Clerk of city-county legislative body; appointment; duties**

Sec. 8. (a) The city-county legislative body shall appoint a clerk for a term of one (1) year. The clerk serves at the pleasure of the legislative body and continues in office until his successor is appointed and qualified.

(b) The clerk is the clerk of the consolidated city. He shall:

- (1) act as secretary to the legislative body;
- (2) send out all notices of its meetings;
- (3) keep all its records;
- (4) present ordinances and resolutions to the executive under section 15 of this chapter; and
- (5) perform other duties connected with the work of the legislative body that are delegated to him by it.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-8.5**

##### **Employment of attorneys or legal research assistants**

Sec. 8.5. (a) A clerk may hire or contract with competent attorneys or legal research assistants on terms the clerk considers appropriate.

(b) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget.

*As added by P.L.69-1995, SEC.4.*

#### **IC 36-3-4-9**

##### **Quorum**

Sec. 9. A majority of all the elected members of a legislative body constitutes a quorum.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-10**

##### **Ordinance or resolution; majority vote; two-thirds vote**

Sec. 10. (a) A requirement that an ordinance or resolution of a

legislative body be passed by a majority vote means at least a majority vote of all the elected members.

(b) A requirement that an ordinance or resolution of a legislative body 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.2.*

#### **IC 36-3-4-11**

##### **Ordinance or resolution; majority vote; joint passage**

Sec. 11. (a) A majority vote of a legislative body is required to pass an ordinance or resolution, unless a greater vote is required by statute.

(b) Any two (2) or more ordinances or resolutions may be jointly passed by the same vote of a legislative body.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-12**

##### **Ordinance requiring two-thirds vote with unanimous consent of members present**

Sec. 12. (a) A two-thirds (2/3) vote of all the elected members, after unanimous consent of the members present to consider the ordinance, is required to pass an ordinance of a legislative body on the same day or at the same meeting at which it is introduced.

(b) Subsection (a) does not apply to an ordinance that is:

- (1) initiated by a director, board, or commission and does not provide for an appropriation or tax levy or the incurring of any general obligation indebtedness; or
- (2) for a reappropriation or transfer of money previously appropriated by the annual budget ordinance.

Such an ordinance may be passed by a majority vote on the same day or at the same meeting at which it is introduced.

(c) Subsection (a) does not apply to a zoning ordinance or amendment to a zoning ordinance that is adopted under IC 36-7.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1982, P.L.33, SEC.20; P.L.335-1985, SEC.33.*

#### **IC 36-3-4-13**

##### **Ordinance or resolution; public hearing requirement**

Sec. 13. (a) The city-county legislative body need not hold a hearing before passing any ordinance, except an ordinance that:

- (1) provides for the annual budget and tax levy;
- (2) appropriates previously unappropriated monies; or
- (3) provides for any general obligation indebtedness.

(b) Whenever a legislative body is required by statute to hold a public hearing before passing an ordinance or resolution, a hearing held by a committee of the legislative body meets the requirement.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-14**

##### **Ordinance or resolution adoption; requirements**

Sec. 14. (a) An ordinance or resolution passed by a legislative body is considered adopted when it is:

- (1) signed by the presiding officer; and
- (2) if subject to veto, either approved by the executive or passed over the executive's veto by the legislative body, under section 16 of this chapter.

(b) All ordinances and resolutions of a legislative body are subject to veto, except the following:

- (1) An ordinance or resolution, or part of either, providing for the budget or appropriating money for an office or officer of the county provided for by the Constitution of Indiana or for a judicial office or officer.
- (2) An ordinance or resolution approving or modifying the budget of a political subdivision that the legislative body is permitted by statute to review.
- (3) A resolution making an appointment that the legislative body is authorized to make.
- (4) A resolution selecting officers or employees of the legislative body.
- (5) A resolution prescribing rules for the internal management of the legislative body.
- (6) A zoning ordinance or amendment to a zoning ordinance, or a resolution approving a comprehensive plan, that is adopted under IC 36-7.

(c) An ordinance prescribing a penalty or forfeiture for a violation must, before it takes effect, be published in the manner prescribed by IC 5-3-1, unless:

- (1) it is published under subsection (d); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in the county.

(d) If a legislative body publishes any of its ordinances in book or pamphlet form, no other publication is required. If an ordinance prescribing a penalty or forfeiture for a violation is published under this subsection, it takes effect two (2) weeks after the publication of the book or pamphlet. Publication under this subsection, if authorized by the legislative body, constitutes presumptive evidence:

- (1) of the ordinances in the book or pamphlet;
- (2) of the date of adoption of the ordinances; and
- (3) that the ordinances have been properly signed, attested, recorded, and approved.

(e) Unless a legislative body provides in an ordinance or resolution for a later effective date, the ordinance or resolution takes effect when it is adopted, subject to subsections (c) and (d).

(f) Subsections (a), (c), (d), and (e) do not apply to zoning ordinances or amendments to zoning ordinances, or resolutions approving comprehensive plans, that are adopted under IC 36-7.

(g) Subject to subsection (k), the legislative body shall:

- (1) subject to subsection (h), 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

(2) 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.

(h) Upon written request by the legislative body, the department of environmental management may waive the notice requirement of subsection (g)(1).

(i) An environmental restrictive ordinance passed or amended after 2009 by the legislative body must state the notice requirements of subsection (g).

(j) The failure of an environmental restrictive ordinance to comply with subsection (i) does not void the ordinance.

(k) The notice requirements of subsection (g) 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 (g) 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.2. Amended by P.L.335-1985, SEC.34; P.L.78-2009, SEC.24; P.L.159-2011, SEC.45.*

#### **IC 36-3-4-15**

##### **Ordinance or resolution; passage and presentation**

Sec. 15. After an ordinance or resolution subject to veto has been passed by the city-county legislative body and signed by the presiding officer, the clerk shall present it to the executive, noting on it the time of both the passage and the presentation.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-16**

##### **Ordinance or resolution; approval or veto; executive's failure to perform duty; passage over veto**

Sec. 16. (a) Within ten (10) days after an ordinance or resolution is presented to him, the executive shall:

(1) approve the ordinance or resolution, by entering his approval on it, signing it, and sending the legislative body a message announcing his approval; or

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

The executive may approve or veto separate items of an ordinance appropriating money or levying a tax.

(b) If the executive fails to perform his duty under subsection (a), the ordinance or resolution is considered vetoed.

(c) Whenever an ordinance or resolution is vetoed by the executive, it is considered defeated unless the legislative body, at its

first regular or special meeting after the ten (10) day period prescribed by subsection (a), passes the ordinance or resolution over his veto by a two-thirds (2/3) vote.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-17**

##### **Recording of adopted ordinance**

Sec. 17. Within a reasonable time after an ordinance of the legislative body is adopted, the clerk shall record it in a book kept for that purpose. The record must include:

- (1) the signature of the presiding officer;
- (2) the attestation of the clerk;
- (3) the executive's approval or veto of the ordinance;
- (4) if applicable, a memorandum of the passage of the ordinance over the veto; and
- (5) the date of each recorded item.

The record or a certified copy of it constitutes presumptive evidence of the adoption of the ordinance.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-18**

##### **City-county legislative body; ordinances and resolutions; permitted acts; special service district legislative body; powers**

Sec. 18. (a) The city-county legislative body may pass ordinances and resolutions for the government of the consolidated city and the county. The legislative body:

- (1) alone may approve budgets, levy taxes, and make appropriations for the consolidated city, its departments, and its special taxing districts, except the appropriation of the proceeds of the bonds of a special taxing district if the legislative body has approved the bond issue;
- (2) may make loans for the consolidated city under sections 21 and 22 of this chapter;
- (3) alone may approve budgets, levy taxes, and make appropriations for the county;
- (4) may make loans for the county under IC 36-2-6-20;
- (5) may pass ordinances prescribing a penalty or forfeiture for violation;
- (6) may establish committees having powers as prescribed by ordinance; and
- (7) may prescribe rules for its internal management.

(b) The special service district legislative body of any special service district shall, with respect to such district, have exclusive power by ordinance to approve its budget and make appropriations and tax levies required to be made under the provisions of this title. No special service district legislative body shall have authority to originate or separately to adopt any other ordinance. However, any ordinance adopted by the city-county legislative body relating solely or exclusively to a special service district shall be suspended and of no effect until separately approved and concurred in by a majority of

a special service district legislative body when, but only when, the Constitution of the United States or the Constitution of Indiana prohibits such taking effect without such approval.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-19**

##### **City-county legislative body; statutory powers and duties**

Sec. 19. (a) The city-county legislative body shall perform the duties and may exercise the powers prescribed by statute for:

- (1) the common council of a first class city; or
- (2) the county council of the county.

(b) The city-county legislative body may exercise any power prescribed for the board of commissioners of the county by statute:

- (1) to pass any ordinance; or
- (2) to pass any rule or regulation prescribing a penalty.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-20**

##### **City-county legislative body; statutory appointments**

Sec. 20. The city-county legislative body shall make all appointments required by statute to be made by it or by:

- (1) the common council of a first class city; or
- (2) the county council of the county.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-21**

##### **City-county legislative body; making loans and issuing bonds by ordinance; procedure for issuing bonds**

Sec. 21. (a) The city-county legislative body may, by ordinance, make loans of money for the consolidated city and issue bonds for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the city and for the payment of city debts.

(b) An ordinance adopted under this section:

- (1) must include the terms of the bonds to be issued in evidence of the loan;
  - (2) must include the time and manner of giving notice of the sale of the bonds;
  - (3) must include the manner in which the bonds will be sold;
- and
- (4) may authorize a total amount for any issue of bonds.

(c) Bonds issued under this section may be sold in parcels of any size and at any time their proceeds are needed by the city.

(d) Bonds issued and sold by the city under this section:

- (1) are negotiable with or without registration, as may be provided by the ordinance authorizing the issue;
- (2) may bear interest at any rate;
- (3) may run not longer than thirty (30) years;
- (4) may contain an option allowing the city to redeem them in whole or in part at specified times prior to maturity; and

- (5) may be sold for not less than par value.
- (e) The fiscal officer of the consolidated city shall:
- (1) manage and supervise the preparation, advertisement, negotiations, and sale of bonds under this section, subject to the terms of the ordinance authorizing the sale;
  - (2) deliver them to the county treasurer after they have been properly executed and shall take his receipt for them; and
  - (3) when a contract for the sale of all or any part of the bonds is consummated, certify to the county treasurer the amount the purchaser is to pay, together with the name and address of the purchaser.

The county treasurer shall then receive from the purchaser the amount certified by the fiscal officer, deliver the bonds to the purchaser, and take the purchaser's receipt for the bonds. The fiscal officer and county treasurer shall then report the proceedings in the sale to the legislative body. However, if the county treasurer is not present to receive the properly executed bonds from the fiscal officer or to issue the bonds, the fiscal officer shall perform his duties under this subsection.

*As added by Acts 1980, P.L.212, SEC.2.*

#### **IC 36-3-4-22**

##### **City-county legislative body; temporary or short-term loans in anticipation of current revenues; procedures**

Sec. 22. (a) The city-county legislative body may, by ordinance, make temporary loans in anticipation of current revenues of the consolidated city that have been levied and are being collected for the fiscal year in which the loans are made. Loans under this subsection shall be made in the same manner as loans under section 21 of this chapter, except that:

- (1) the ordinance authorizing the loans must appropriate and pledge to their payment a sufficient amount of the revenues in anticipation of which they are issued and out of which they are payable; and
- (2) the loans must be evidenced by time warrants of the city in terms designating the nature of the consideration, the time and place payable, and the revenues in anticipation of which they are issued and out of which they are payable.

(b) The city-county legislative body may, by ordinance, make loans of money for not more than five (5) years and issue notes for the purpose of refunding those loans. The loans may be made only for the purpose of procuring money to be used in the exercise of the powers of the consolidated city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the consolidated city's total tax levy in the current year (excluding amounts levied to pay debt service and lease rentals). Loans under this subsection shall be made in the same manner as loans made under section 21 of this chapter, except that:

- (1) the ordinance authorizing the loans must pledge to their payment a sufficient amount of tax revenues over the ensuing

- five (5) years to provide for refunding the loans; and
- (2) the loans must be evidenced by notes of the consolidated city in terms designating the nature of the consideration, the time and place payable, and the revenues out of which they will be payable.

Notes issued under this subsection are not bonded indebtedness for purposes of IC 6-1.1-18.5.

*As added by Acts 1980, P.L.212, SEC.2. Amended by P.L.37-1988, SEC.22; P.L.2-1989, SEC.24.*

### **IC 36-3-4-23**

#### **City-county legislative body; creation of agencies; transfer of agency powers**

Sec. 23. (a) The city-county legislative body may, by ordinance:

- (1) create or terminate departments, divisions, offices, community councils, and other agencies of the consolidated city; and
- (2) transfer to or from those agencies any powers, duties, functions, or obligations.

(b) The powers granted by subsection (a) may not be applied to:

- (1) the department of public utilities of the consolidated city;
- (2) offices established by the Constitution of Indiana; or
- (3) agencies of municipal corporations other than the consolidated city.

*As added by Acts 1980, P.L.212, SEC.2.*

### **IC 36-3-4-24**

#### **Departments; investigation of policies and expenditures; audit of books and records; other investigations**

Sec. 24. (a) For each department of the consolidated city, the city-county legislative body shall establish a standing committee, having at least three (3) members, to investigate the policies and expenditures of the department.

(b) The legislative body or its committee may:

- (1) hire an internal auditor or an independent certified public accountant, or both, to examine the books and records of the consolidated city, any of its special service districts or special taxing districts, and the county;
- (2) investigate any charges against a department, officer, or employee of the consolidated city, or any of its special service districts or special taxing districts, or the county; and
- (3) investigate the affairs of a person with whom a city or county agency has entered or is about to enter into a contract.

(c) When conducting an investigation under this section, the legislative body or its committee:

- (1) is entitled to access to all records pertaining to the investigation; and
- (2) may compel the attendance of witnesses and the production of evidence by subpoena and attachment served and executed in the county.

(d) If a person refuses to testify or produce evidence at an investigation conducted under this section, the legislative body may order its clerk to immediately present to the circuit court of the county a written report of the facts relating to the refusal. The court shall hear all questions relating to the refusal to testify or produce evidence and shall also hear any new evidence not included in the clerk's report. If the court finds that the testimony or evidence sought should be given or produced, it shall order the person to testify or produce evidence, or both.

*As added by Acts 1980, P.L.212, SEC.2. Amended by Acts 1980, P.L.213, SEC.4; P.L.14-2000, SEC.79.*

**IC 36-3-4-25**

**Repealed**

*(Repealed by Acts 1980, P.L.73, SEC.23.)*

**IC 36-3-4-26**

**Repealed**

*(Repealed by Acts 1980, P.L.73, SEC.23.)*