

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

### **Chapter 10. City Clerk and Fiscal Officer**

#### **IC 36-4-10-1**

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

Sec. 1. This chapter applies to second and third class cities.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.50.*

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

##### **City clerk or city clerk-treasurer; election; fiscal officer; term of office; immunity**

Sec. 2. (a) A city clerk shall be elected under IC 3-10-6 by the voters of each second class city, and a city clerk-treasurer shall be elected under IC 3-10-6 by the voters of each third class city.

(b) The city clerk or clerk-treasurer is the clerk of each city.

(c) The city controller appointed under IC 36-4-9-6 is the fiscal officer of each second class city, and the city clerk-treasurer is the fiscal officer of each third class city.

(d) The city controller of a second class city is not liable, in an individual capacity, for any act or omission occurring in connection with the performance of the city controller's duty as fiscal officer of the second class city, unless the act or omission constitutes gross negligence or an intentional disregard of the controller's duty.

(e) The term of office of a city clerk or clerk-treasurer 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.3. Amended by Acts 1981, P.L.44, SEC.51; P.L.5-1986, SEC.52; P.L.67-2002, SEC.5.*

#### **IC 36-4-10-2.5**

##### **Office space provided**

Sec. 2.5. If office space exists in a building owned or leased by the city, the city executive and legislative body shall provide office space for:

(1) the clerk or clerk-treasurer; and

(2) the staff and records of the clerk or clerk-treasurer.

*As added by P.L.69-1995, SEC.8.*

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

##### **Clerk; eligibility; residence**

Sec. 3. (a) A person is eligible to be the clerk only if the person meets the qualifications prescribed by IC 3-8-1-28.

(b) Residency in territory that is annexed by the city before the election is considered residency for the purposes of subsection (a), even if the annexation takes effect less than one (1) year before the election.

(c) The clerk must reside within the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The clerk forfeits office if the clerk ceases to be a resident of the city.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.164; P.L.5-1986, SEC.53; P.L.3-1987, SEC.558.*

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

##### **Clerk; duties**

Sec. 4. The clerk shall do the following:

- (1) Serve as clerk of the city legislative body under IC 36-4-6-9 and maintain custody of its records.
- (2) Maintain all records required by law.
- (3) Keep the city seal.
- (4) As soon as a successor is elected and qualified, deliver to the successor all the records and property of the clerk's office.
- (5) Perform other duties prescribed by law.
- (6) Administer oaths when necessary in the discharge of the clerk's duties, without charging a fee.
- (7) Take depositions, without charging a fee.
- (8) Take acknowledgement of instruments that are required by statute to be acknowledged, without charging a fee.
- (9) Serve as clerk of the city court under IC 33-35-3-2, if the judge of the court does not serve as clerk of the court or appoint a clerk of the court under IC 33-35-3-1.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.36-1986, SEC.3; P.L.189-1988, SEC.1; P.L.33-1998, SEC.9; P.L.98-2004, SEC.160.*

#### **IC 36-4-10-4.5**

##### **Third class cities; fiscal officer; duties**

Sec. 4.5. (a) This section applies to third class cities.

(b) The fiscal officer is the head of the city department of finance.

The fiscal officer shall do the following:

- (1) Receive and care for all city money and pay the money out only on order of the approving body.
- (2) Keep accounts showing when and from what sources the fiscal officer has received city money and when and to whom the fiscal officer has paid out city money.
- (3) Prescribe payroll and account forms for all city offices.
- (4) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (5) Manage the finances and accounts of the city and make investments of city money.
- (6) Prepare for the legislative body the budget estimates of miscellaneous revenue, financial statements, and the proposed tax rate.
- (7) Issue all licenses authorized by statute and collect the fees fixed by ordinance.
- (8) Serve as clerk of the board of public works by attending meetings, preparing agendas, and recording proceedings.
- (9) Perform all other duties prescribed by statute.

(c) A fiscal officer is not liable in an individual capacity for an act or omission occurring in connection with the performance of the

duties prescribed by subsection (b), unless the act or omission constitutes gross negligence or an intentional disregard of the fiscal officer's duties.

*As added by P.L.189-1988, SEC.2. Amended by P.L.35-1999, SEC.6.*

### **IC 36-4-10-5**

#### **Second class cities; fiscal officer; duties**

Sec. 5. (a) This section applies to second class cities.

(b) The fiscal officer is the head of the city department of finance.

The fiscal officer shall do the following:

- (1) Prescribe the form of reports and accounts to be submitted to the department.
- (2) Sign and issue all warrants on the city treasury.
- (3) Audit and revise all accounts and trusts in which the city is concerned.
- (4) Keep separate accounts for each item of appropriation made for each city department, including a statement showing the amount drawn on each appropriation, the unpaid contracts charged against it, and the balance remaining.
- (5) At the end of each fiscal year, submit under oath to the city legislative body a report of the accounts of the city published in pamphlet form and showing revenues, receipts, expenditures, and the sources of revenues.
- (6) Maintain custody of the records of the department and turn them over to the fiscal officer's successor in office.
- (7) Perform duties prescribed by statute concerning the negotiation of city bonds, notes, and warrants.
- (8) Keep a register of bonds of the city and of transfers of those bonds.
- (9) Manage the finances and accounts of the city and make investments of city money, subject to the ordinances of the legislative body.
- (10) Issue city licenses on payment of the license fee.
- (11) Collect fees as fixed by ordinance.
- (12) Pay into the city treasury, once each week, all fees and other city money collected by the department during the preceding week, specifying the source of each item.
- (13) Prescribe payroll and account forms for all city offices.
- (14) Prescribe the manner in which salaries shall be drawn.
- (15) Prescribe the manner in which creditors, officers, and employees shall be paid.
- (16) Provide that all salaries are payable monthly, unless the legislative body establishes more frequent payments.
- (17) Notify the city executive of the failure of any city officer to collect money due the city or to pay city money into the city treasury.
- (18) Draw warrants on the city treasury for miscellaneous city expenditures not made under the direction of a department and not specifically fixed by statute.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.189-1988,*

SEC.3.

**IC 36-4-10-5.5**

**Employment of attorneys or legal research assistants**

Sec. 5.5. (a) A clerk or clerk-treasurer may hire or contract with competent attorneys or legal research assistants on terms the clerk or clerk-treasurer considers appropriate.

(b) Employment of an attorney under this section does not affect a city department of law established under IC 36-4-9-4.

(c) Appropriations for the salaries of attorneys and legal research assistants employed under this section shall be approved in the annual budget and must be allocated to the clerk or clerk-treasurer for the payment of attorney's and legal research assistant's salaries.  
*As added by P.L.69-1995, SEC.9. Amended by P.L.34-1999, SEC.2.*

**IC 36-4-10-6**

**Repealed**

*(Repealed by P.L.173-2003, SEC.41.)*

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

**Third class cities; clerk's deputies and employees**

Sec. 7. (a) This section applies to third class cities.

(b) The clerk shall appoint the number of deputies and employees needed for the effective operation of the office, with the approval of the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

(c) If a city owns a utility and the clerk is directly responsible for the billing and collection of that utility's rates and charges, the clerk shall appoint those employees who are also responsible for that billing and collection. These employees serve at the clerk's pleasure.

(d) Whenever the city court judge does not serve as clerk of the city court or appoint a clerk to serve as clerk of the city court under IC 33-35-3-1, the clerk shall serve as clerk of the city court.

*As added by P.L.189-1988, SEC.4. Amended by P.L.33-1998, SEC.10; P.L.98-2004, SEC.161.*