

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

### **Chapter 9. City Departments, Boards, and Appointed Officers**

#### **IC 36-4-9-1**

##### **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.46.*

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

##### **Appointment of department heads; approval by certain boards and commissions; eligibility**

Sec. 2. (a) Notwithstanding any other law, the city executive shall appoint the head of each department established under section 4 of this chapter. However, the executive's appointment of the head of the department is subject to the approval of any statutory board or commission established in the department, including and limited to:

- (1) the works board, if a department of public works is established;
- (2) the safety board, if a department of public safety is established;
- (3) the board of parks and recreation, if a department of parks and recreation is established;
- (4) the city plan commission, if a planning department is established;
- (5) the economic development commission, if a department of economic development is established;
- (6) the redevelopment commission, if a department of redevelopment is established;
- (7) the board of sanitary commissioners, if a department of public sanitation is established;
- (8) the board of flood control commissioners, if a department of flood control is established;
- (9) the utility service board, if a department of utilities is established;
- (10) the waterworks board of trustees, if a department of waterworks is established; and
- (11) the board of aviation commissioners, if a department of aviation is established.

(b) Each department head appointed under subsection (a) must have the qualifications required by statute for that department.

(c) To be eligible to be appointed as a member of a city board established under section 5 of this chapter, a person must be a resident of the city.

(d) This section does not apply to departments, boards, or commissions established by interlocal cooperation agreements under IC 36-1-7 or to other joint entities established by law.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.22; P.L.185-1988, SEC.2.*

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

#### **Repealed**

*(Repealed by Acts 1981, P.L.17, SEC.29(b).)*

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

#### **Executive departments; establishment by city legislative body; administrative functions; termination; transfer of powers, duties, or obligations**

Sec. 4. (a) The city legislative body shall, by ordinance passed upon the recommendation of the city executive, establish the executive departments that it considers necessary to efficiently perform the administrative functions required to fulfill the needs of the city's citizens.

(b) The head of each city department or agency is under the jurisdiction of the executive.

(c) The following departments may be established:

- (1) Department of finance or administration.
- (2) Department of law.
- (3) Department of public works.
- (4) Department of public safety.
- (5) Department of parks and recreation.
- (6) Department of human resources and economic development.
- (7) Any other department considered necessary.

These departments shall perform the administrative functions assigned by statute and ordinance.

(d) The city legislative body may, by ordinance passed upon the recommendation of the city executive:

- (1) terminate departments established under subsection (c); and
- (2) transfer to or from those departments any powers, duties, functions, or obligations.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.23.*

### **IC 36-4-9-5**

#### **Board of public works and safety; establishment**

Sec. 5. (a) A board of public works and safety is established in each city.

(b) Notwithstanding subsection (a), the legislative body of a second class city may by ordinance establish as separate boards:

- (1) a board of public works; and
- (2) a board of public safety;

to perform the functions of the board of public works and safety.

*As added by Acts 1980, P.L.212, SEC.3.*

### **IC 36-4-9-6**

#### **Second class cities; appointment of officers, employees, boards, and commissions; notice of change in membership of public works or safety board**

Sec. 6. (a) This section applies only to second class cities.

(b) The city executive shall appoint:

- (1) a city controller;
- (2) a city civil engineer;
- (3) a corporation counsel;
- (4) a chief of the fire department;
- (5) a chief of the police department; and
- (6) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety may be composed of three (3) members or five (5) members appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The executive shall appoint a clerk for the board.

(d) If the board of public works and board of public safety are established as separate boards, each board may be composed of three (3) members or five (5) members who are appointed by the executive. A member may hold other appointive positions in city government during the member's tenure. The executive shall appoint a clerk for each board.

(e) If the executive:

- (1) increases the number of members of a board of public works and safety, a board of public works, or a board of public safety from three (3) to five (5) members; or
- (2) decreases the number of members of a board of public works and safety, a board of public works, or a board of public safety from five (5) to three (3) members;

the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.47; P.L.317-1995, SEC.1; P.L.68-1996, SEC.5; P.L.141-2009, SEC.10.*

### **IC 36-4-9-7**

#### **Ordinance establishing position of deputy mayor**

Sec. 7. The city legislative body may by ordinance establish the position of deputy mayor, who serves as the city executive's deputy. The ordinance must:

- (1) provide that the deputy is appointed by and serves at the pleasure of the executive; and
- (2) set forth all the powers of the deputy, which may not exceed the powers of the executive.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.24.*

### **IC 36-4-9-8**

#### **Third class cities; appointment of officers, employees, boards, and commissions; notice of change in membership of public works and safety board**

Sec. 8. (a) This section applies only to third class cities.

(b) The city executive shall appoint:

- (1) a city civil engineer;
- (2) a city attorney;
- (3) a chief of the fire department;
- (4) a chief of the police department; and
- (5) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety consists of three (3) or five (5) members (as determined by the city executive). The members of the board of public works and safety are:

- (1) the city executive; and
- (2) two (2) or four (4) persons appointed by the executive.

If the executive increases the number of board members from three (3) to five (5) members or decreases the number of board members from five (5) to three (3) members, the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total number of members appointed to the board. IC 36-4-4-2 notwithstanding, a member may hold other appointive or elective positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The city clerk is the clerk of the board.

(d) If the city legislative body adopts an ordinance under IC 36-4-12 to employ a city manager, the executive may appoint the city manager to a position on the board of public works and safety in place of the executive.

(e) The city executive may appoint a public safety director to:

- (1) serve as the chief administrative officer of; and
- (2) oversee the operations of;

the police department and fire department. The city executive shall determine the qualifications of the public safety director.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.48; P.L.350-1983, SEC.1; P.L.68-1996, SEC.6; P.L.10-1997, SEC.31; P.L.141-2009, SEC.11; P.L.33-2010, SEC.1.*

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

##### **Repealed**

*(Repealed by Acts 1981, P.L.44, SEC.61.)*

#### **IC 36-4-9-10**

##### **Repealed**

*(Repealed by Acts 1981, P.L.44, SEC.61.)*

#### **IC 36-4-9-11**

##### **Head of department of law; city attorney and assistant city attorney; eligibility for appointment**

Sec. 11. (a) In a second class city, the corporation counsel is the head of the department of law. His first deputy is the city attorney, and his second deputy is the assistant city attorney.

(b) In a third class city, the city attorney is the head of the department of law.

(c) To be eligible to be appointed as the head of the department of law, a person must meet the following requirements:

- (1) Be admitted to the practice of law in Indiana.
- (2) Except as provided in subdivision (3), be a resident of the county in which the city is located.
- (3) For a third class city located in a county having a population of less than six thousand (6,000), be a resident of Indiana.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.49; P.L.220-1991, SEC.1; P.L.12-1992, SEC.159.*

### **IC 36-4-9-12**

#### **Head of department of law; powers and duties**

Sec. 12. The head of the department of law shall:

- (1) manage the legal affairs of the city;
- (2) prosecute violators of city ordinances;
- (3) give legal advice to the officers, departments, boards, commissions, and other agencies of the city;
- (4) draft ordinances or other legal papers for the city and its departments, boards, commissions, and other agencies when requested by the proper officer;
- (5) maintain custody of the records of his office and turn them over to his successor in office;
- (6) make all title searches and examine all abstracts required in public work of any kind, including opening, widening, or changing a street, alley, or public place;
- (7) promptly commence all proceedings necessary or advisable for the protection or enforcement of the rights of the city or the public;
- (8) use all diligence to collect costs, fees, and recoveries within the scope of his duties;
- (9) report, in writing, to the city executive all matters that he considers important; and
- (10) report, in writing, to the city fiscal officer all judgments for which the city is liable.

Officers, departments, boards, commissions, and other agencies of the city may not employ attorneys without the authorization of the head of the department of law.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.25.*