

IC 36-4

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GENERALLY**

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IC 36-4-1

**Chapter 1. Classification of Municipalities; City Status and
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IC 36-4-1-1

Basis of classification

Sec. 1. (a) Municipalities are classified according to their status and population as follows:

STATUS AND POPULATION	CLASS
Cities of 600,000 or more	First class cities
Cities of 34,000 to 599,999	Second class cities
Cities of less than 34,000	Third class cities
Other municipalities of any population	Towns

(b) Except as provided in subsection (c), a city that attains a population of thirty-four thousand (34,000) remains a second class city even though its population decreases to less than thirty-four thousand (34,000) at the next federal decennial census.

(c) The legislative body of a city to which subsection (b) applies may, by ordinance, adopt third class city status.

[Pre-Local Government Recodification Citations: 18-2-1-1; 18-2-1-1.5; 18-2-1-2 part; 18-3-2-1 part; 18-3-3-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.37; P.L.340-1987, SEC.1; P.L.71-1997, SEC.2; P.L.64-2004, SEC.34; P.L.81-2004, SEC.46; P.L.119-2012, SEC.184; P.L.56-2022, SEC.3.

IC 36-4-1-1.1 Change of status to second class city

Sec. 1.1. (a) Except as provided in subsection (b), a third class city remains a third class city even though the city attains a population of at least thirty-four thousand (34,000) at a federal decennial census.

(b) The legislative body of a city to which subsection (a) applies may, by ordinance, adopt second class city status.

As added by P.L.209-1999, SEC.1. Amended by P.L.56-2022, SEC.4.

IC 36-4-1-1.5 Classification of reorganized political subdivision

Sec. 1.5. Notwithstanding section 1 of this chapter, for purposes of local government administration under this title, a municipality reorganized under IC 36-1.5 may, subject to the approval of the department of local government finance:

(1) be classified and described as set forth in the reorganization plan adopted under IC 36-1.5-4; and

(2) maintain characteristics of any of the reorganizing political subdivisions.

As added by P.L.202-2013, SEC.28.

IC 36-4-1-2 Repealed

[Pre-Local Government Recodification Citation: 18-2-12-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1981, P.L.44, SEC.61.

IC 36-4-1-2.1 Certain localities governed as cities; validation of elections, contracts, acts, and official proceedings

Sec. 2.1. Any locality that has elected city officers, and has governed itself as a city, for at least ten (10) years immediately preceding September 1, 1981, is a city for all purposes. All elections, contracts, acts, and other official proceedings of such a locality that occurred before September 1, 1981, and would have been valid if the locality had been a city, are legalized and validated.

As added by Acts 1981, P.L.44, SEC.38.

IC 36-4-1-3 Repealed

[Pre-Local Government Recodification Citation: 18-3-2-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by P.L.111-2005, SEC.8.

IC 36-4-1-4 Repealed

[Pre-Local Government Recodification Citation: 18-3-3-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.2, SEC.15; Acts 1981, P.L.44, SEC.39; P.L.5-1986, SEC.42; P.L.3-1987, SEC.553; P.L.12-1995, SEC.127; P.L.3-1997, SEC.453; P.L.68-2003, SEC.1. Repealed by P.L.111-2005, SEC.8.

IC 36-4-1-4.1 Repealed

As added by P.L.68-2003, SEC.2. Repealed by P.L.111-2005, SEC.8.

IC 36-4-1-5 Repealed

[Pre-Local Government Recodification Citation: 18-3-3-2.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by P.L.111-2005, SEC.8.

IC 36-4-1-6 Petition to change city to town; summons; trial; issue; order; transition; provisional government

Sec. 6. (a) A petition to change a city into a town may be filed as a civil action in the circuit court for the county in which the city is located. The petition must be signed by at least two-thirds (2/3) of the taxpayers twenty-one (21) years of age or older who reside in the city.

(b) Whenever a petition is filed under this section, the clerk of the circuit court shall issue a summons to the city in its corporate name. A taxpayer who signed the petition may not withdraw the taxpayer's signature on or after the return date of the summons.

(c) An action under this section shall be tried by the court without a jury, and the only issue to be determined is whether the petition contains the genuine signatures of the number of taxpayers required. If the court finds in the affirmative, it shall enter an order changing the city into a town.

(d) After an order is entered under subsection (c), the executive and the legislative body of the municipality shall organize as a town legislative body, with the executive becoming the town executive, and the remaining officers of the municipality shall exercise only the functions that may be exercised by the corresponding town officers. If none of the functions of a city officer or board is exercised under a town government, that officer or board shall immediately file a final report with and turn over all records and property in the officer's or the board's custody to the town legislative body. After the final report of a former city officer or board is approved by the town legislative body, that office or board is abolished.

(e) The provisional town government provided for in subsection (d) shall serve until the time prescribed by IC 3-10-6-5 for a regular town election.

[Pre-Local Government Recodification Citation: 18-1-15-1.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1983, SEC.11; P.L.5-1986, SEC.43; P.L.127-2017, SEC.121.

IC 36-4-1-7 Petition to change name of city; hearing; ordinance

Sec. 7. (a) A petition to change the name of a city may be filed with the city legislative body. The petition must:

- (1) be signed by at least five hundred (500) voters of the city, or, in a city having less than five hundred (500) registered voters at the time of the most recent general election, by at least ten percent (10%) of those voters;
- (2) be verified by one (1) or more of the petitioners; and
- (3) set forth reasons for the change of name.

(b) If the legislative body considers the reasons set forth in the petition sufficient, it shall conduct a public hearing on the petition after giving notice by publication in the manner prescribed by IC 5-3-1.

(c) If after the hearing the legislative body finds that the matters set forth in the petition are true and that the requested change of name should be granted, it shall pass an ordinance changing the name of the city. The change of name takes effect sixty (60) days after the effective date of the ordinance.

[Pre-Local Government Recodification Citation: 18-5-18-1.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.12.

IC 36-4-1-8 Classification change due to population change; applicable laws

Sec. 8. (a) Whenever the classification of a city under section 1 of this chapter changes due to a change in the city's population, the city shall be governed by the laws applicable to its new class, except as provided by subsection (b).

(b) The membership of a city legislative body remains unchanged until the expiration of the terms of its members, despite a change in the classification of the city for any reason. At the municipal election preceding the expiration of those terms, the number of members of the legislative body required by the laws applicable to its new class shall be elected. The powers, duties, functions, and office of an elected official of a city shall remain unchanged until the expiration of the term of the elected official, despite a change in city classification for any reason.

[Pre-Local Government Recodification Citation: 18-2-1-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.40; P.L.209-1999, SEC.2.

IC 36-4-1-9 Continuation of prior acts, contracts, obligations, ordinances, and regulations

Sec. 9. The validity of the prior acts, contracts, and obligations of a city that changes its status, name, or classification under this chapter is not affected by that change. The ordinances, rules, and regulations of the city continue in effect until amended or repealed.

[Pre-Local Government Recodification Citations: 18-5-15-1 part; 18-2-1-2 part; 18-2-1-3 part; 18-3-3-4; 18-5-18-2.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.111-2005, SEC.1.

IC 36-4-1.5 Chapter 1.5. Changing a Town Into a City

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36-4-1.5-2	Change of status; procedure
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36-4-1.5-6	Continuation of town acts, ordinances, contracts, rules, and regulations

IC 36-4-1.5-1 Change of status; town to city

Sec. 1. (a) A town may be changed into a city only as provided in this chapter.

(b) A town with a population of less than two thousand (2,000) may not be changed into a city.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-2 Change of status; procedure

Sec. 2. A town may be changed into a city through the following:

(1) The town legislative body must adopt a resolution submitting to the town's voters the question of whether the town should be changed into a city. The town legislative body shall adopt a resolution described in this subdivision if at least the number of registered voters of the town equal to ten percent (10%) of the total votes cast in the town at the last election for secretary of state sign a petition requesting the town legislative body to adopt such a resolution. In determining the number of signatures required under this subdivision, any fraction that exceeds a whole number shall be disregarded.

(2) The town legislative body must adopt the resolution under subdivision (1) not later than thirty (30) days after the date on which a petition having a sufficient number of signatures is filed. A resolution adopted under subdivision (1) must fix the date for an election on the question of whether the town should be changed into a city as follows:

(A) If the election is to be on the same date as a general election or municipal election:

(i) the resolution must state that fact and be certified in accordance with IC 3-10-9-3; and

(ii) the election must be held on the date of the next general election or municipal election, whichever is earlier, at which the question can be placed on the ballot under IC 3-10-9.

(B) If the election is to be a special election, the date must be:

(i) not less than seventy-four (74) and not more than one hundred four (104) days after the notice of the election; and

(ii) not later than the next general election or municipal election, whichever is earlier, at which the question can be placed on the ballot under IC 3-10-9.

(3) The town legislative body shall file a copy of the resolution adopted under subdivision (1) with the circuit court clerk of each county in which the town is located. The circuit court clerk shall immediately certify the resolution to the county election board.

(4) The county election board shall give notice of the election in the manner prescribed by IC 3-8-2-19. IC 3-10-6 applies to the election.

(5) The question described in subdivision (1) shall be placed on the ballot in the form prescribed by IC 3-10-9-4. The text of the question shall be: "Shall the town of _____ change into a city?"

(6) If a majority of the voters voting on the question described in subdivision (1) vote "yes", the town is changed into a city as provided in this chapter. If a majority of the voters voting on the question vote "no", the town remains a town.

As added by P.L.111-2005, SEC.2. Amended by P.L.202-2013, SEC.29; P.L.2-2014, SEC.119; P.L.76-2014, SEC.66.

IC 36-4-1.5-3 Adoption of ordinance

Sec. 3. (a) A town legislative body may satisfy the requirements of this section in an ordinance adopted either before or after the town's voters vote on the question described in section 2 of this chapter.

(b) If a resolution is adopted under section 2 of this chapter, the town legislative body shall adopt an ordinance providing for the transition from governance as a town to governance as a city. The ordinance adopted under this section must include the following details:

(1) A division of the town into city legislative body districts as provided in the applicable provisions of IC 36-4-6.

(2) Provisions for the election of the following officers:

(A) The city executive.

(B) The members of the city legislative body.

(C) The city clerk or city clerk-treasurer as appropriate under IC 36-4-10.

(3) The date of the first election of the city officers. The first election may be held only on the date of the next general election or municipal election, whichever is earlier, following the date fixed for an election under section 2 of this chapter on the question of whether the town should be changed into a city. Candidates for election to the city offices shall be nominated:

(A) at the corresponding primary election during a general election year or a municipal election year; or

(B) as otherwise provided in IC 3.

(4) Subject to section 4 of this chapter, the term of office of each city officer elected at the first election of city officers.

(5) Any other details the town legislative body considers useful in providing for the transition of the town into a city.

(c) An ordinance adopted under this section is effective only if the voters of the town approve the conversion of the town into a city under section 2(6) of this chapter.

(d) The provisions of an ordinance adopted under this section are subject to all other laws governing the structure of city government.

(e) Subject to this chapter, the town legislative body or the city legislative body (after the town is changed into a city) may amend an ordinance adopted under this section.

As added by P.L.111-2005, SEC.2. Amended by P.L.202-2013, SEC.30.

IC 36-4-1.5-4 Newly elected city officers' term of office

Sec. 4. (a) Notwithstanding any other law, the term of office of the city officers elected at the first election of city officers held under the ordinance adopted under section 3 of this chapter:

(1) begins on January 1 after the first election of city officers; and

(2) may not extend after December 31 of the next municipal election year that occurs after the first election of city officers.

(b) The ordinance adopted under section 3 of this chapter may provide for a shorter term of office for specified members of the city legislative body to stagger terms as permitted under IC 3 and IC 36-4-6 if a general election will occur before the next municipal election after the first election of city officers.

(c) After the first municipal election after the first election of city officers, the term of office of each city officer is four (4) years.

As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-5 Effective date of status change

Sec. 5. A town becomes a city under this chapter on January 1 after the first election of city officers under section 4 of this chapter.
As added by P.L.111-2005, SEC.2.

IC 36-4-1.5-6 Continuation of town acts, ordinances, contracts, rules, and regulations

Sec. 6. (a) The acts, contracts, and obligations of a town that is changed into a city under this chapter become the acts, contracts, and obligations of the city.

(b) The ordinances, rules, and regulations of a town that is changed into a city under this chapter continue in effect as ordinances, rules, and regulations of the city until amended or repealed.

As added by P.L.111-2005, SEC.2.

IC 36-4-2**Chapter 2. Merger of Adjoining Municipalities**

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36-4-2-3	Petition; contents; affidavit
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36-4-2-6	Place of election; manner; expense; voting
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36-4-2-9	Effective date of merger; effect of merger
36-4-2-10	Election of officers at large and by district
36-4-2-11	Joint election board; members; powers and duties
36-4-2-12	Joint session of legislative bodies of merging municipalities; resolution to fix boundaries of districts; exclusion of territory in any territory or inclusion of territory in more than one district; certification, attestation, and filing of resolution
36-4-2-13	Elected officers; date of taking office
36-4-2-14	Elected officers; delivery of money, property, and records by officers of merging municipalities to successors
36-4-2-15	Terms of office of elective and appointed officers of merging municipalities
36-4-2-16	Effect of merger; rights, powers, and liabilities; pending actions
36-4-2-17	Effect of merger; ordinances, rules, and resolutions; continuation

IC 36-4-2-1 Application of chapter

Sec. 1. This chapter applies to all municipalities.

[Local Government Recodification Citation: New.]

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

IC 36-4-2-2 Resolution; election; notice; ballot; result; certified copies of agreement and result of election

Sec. 2. (a) If the legislative bodies of two (2) or more adjoining municipalities each agree, by resolution, on:

(1) the date of an election to consider the merger of the municipalities; and

(2) the name by which the municipality formed by the merger would be known;

the municipalities shall certify the question to the county election board. The board shall conduct an election to consider the merger. The election shall be held in each of the municipalities.

(b) Notice of an election under this section shall be given in each municipality by publication in the manner prescribed by IC 5-3-1.

(c) An election under this section shall be held in each municipality in the manner prescribed by IC 3-10-8-6. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall _____ and _____ merge and become the (City or Town) of _____?".

(d) The election board shall report the results of the election to each legislative body, and a certified copy of the result of the election in each municipality shall be filed with the legislative body of each of the municipalities involved in the election.

(e) If a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by this section and sections 9 through 17 of this chapter. A certified copy of the agreement, and of the result of the election, shall be filed in the office of the recorder of the county or counties in which the new municipality is located. The agreement must be:

(1) signed by the municipal executive;

(2) attested by the clerk; and

(3) sealed with the seal;

of each of the constituent municipalities. Copies of the record shall be received in all courts and places as conclusive of the merger of the municipality under the name agreed on.

[Pre-Local Government Recodification Citation: 18-5-10-8 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.13; P.L.5-1986, SEC.44; P.L.3-1987, SEC.554.

IC 36-4-2-3 Petition; contents; affidavit

Sec. 3. (a) If each of the clerks of two (2) or more adjoining municipalities receives a written petition:

(1) signed by at least ten percent (10%) of the qualified voters of the municipality, as determined by the votes cast in the municipality for secretary of state at the most recent general election;

(2) requesting that a special election be held to determine whether the municipalities should be merged into one (1) municipality; and

(3) stating the name by which the proposed municipality will be known;

the clerk shall deliver a certified copy of the petition to the clerk of every other municipality involved in the proposed merger, and the respective legislative bodies of the municipalities shall hold an election in each municipality.

(b) An affidavit of one (1) or more freeholders of the municipality, stating that the persons who signed the petition are legal voters of the municipality, must be attached to each petition filed under this section. An affidavit filed under this section is conclusive evidence of the facts stated in the affidavit.

[Pre-Local Government Recodification Citations: 18-5-10-9; 18-5-10-10 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.122.

IC 36-4-2-4 Election; date; notice

Sec. 4. (a) If petitions are filed under section 3 of this chapter, the legislative body of each municipality involved in the proposed merger shall meet and by resolution fix a date for the election. The date must be the same in each of the municipalities, and may not be more than three (3) months after the date of the filing of the petitions.

(b) Notice of an election under section 3 of this chapter must be given by publication in each municipality in the manner prescribed by IC 5-3-1.

[Pre-Local Government Recodification Citations: 18-5-10-10 part; 18-5-10-11 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.4; Acts 1981, P.L.45, SEC.14.

IC 36-4-2-5 Petition proposing name of municipality; submission to electorate

Sec. 5. (a) If, at least thirty (30) days before an election held under section 3 of this chapter, voters of each municipality involved in the election file with each of their municipal clerks a petition signed by at least the number of voters required under IC 3-8-6-3 to place a candidate on the ballot in each of the municipalities and proposing a name for the new municipality, the election board shall place that name on the ballot for the election. The election board shall list names added to the ballot under this subsection in the order in which the petitions proposing them were received, but shall place them after the name included on the ballot under section 2 of this chapter.

(b) The names proposed under this section shall be submitted as public questions in the form prescribed by IC 3-10-9-4 and must state "Shall the merged municipality be named _____?"

[Pre-Local Government Recodification Citations: 18-5-10-11 part; 18-5-10-13.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.5; P.L.3-1987, SEC.555; P.L.12-1995, SEC.128.

IC 36-4-2-6 Place of election; manner; expense; voting

Sec. 6. (a) An election held under section 3 of this chapter shall be held in each municipality in the manner prescribed by IC 3-10-8-6. Each municipality is responsible for the expense of the election within its own corporate boundaries.

(b) A voter in an election held under section 3 of this chapter may:

- (1) vote "Yes" or "No" on the proposed merger; and
- (2) vote in favor of one (1) proposed name listed on the ballot under section 5 of this chapter.

[Pre-Local Government Recodification Citation: 18-5-10-11 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.45.

IC 36-4-2-7 Filing of returns of election; effect

Sec. 7. (a) After an election held under section 3 of this chapter, the election board shall file with the clerk of each municipality the returns of the election in each voting precinct in the manner prescribed by IC 3-12-4.

(b) Within ten (10) days after an election held under section 3 of this chapter, the election board shall certify and file with:

- (1) the legislative bodies of the municipalities; and
- (2) the county auditor;

a copy of the result of the election in each municipality. The county auditor shall enter the copy the county auditor receives in the records of the county executive.

(c) If, in an election held under section 3 of this chapter, a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by sections 9 through 17 of this chapter. After the merger becomes effective, the name of the new municipality is the name receiving the highest number of votes at the election.

[Pre-Local Government Recodification Citations: 18-5-10-11 part; 18-5-10-12.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.46; P.L.127-2017, SEC.123.

IC 36-4-2-8 Election year under this chapter

Sec. 8. An election held under section 2 or 3 of this chapter may not be held in a calendar year in which a general municipal election is to be held.

[Pre-Local Government Recodification Citation: 18-5-10-14 part.]

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

IC 36-4-2-9 Effective date of merger; effect of merger

Sec. 9. (a) A merger approved under this chapter takes effect when:

- (1) the officers of the new municipality are elected and qualified, as prescribed by section 13 of this chapter; and
- (2) a copy of the agreement under section 2 of this chapter or the certified election results under section 7 of this chapter are filed with:
 - (A) the office of the secretary of state; and
 - (B) the circuit court clerk of each county in which the municipality is located.

(b) On the effective date of the merger, the merging municipalities cease to exist and are merged into a single municipality of the class created by the combined population of the merging municipalities. The new municipality shall be governed by the laws applicable to that class.

[Pre-Local Government Recodification Citations: 18-5-10-14 part; 18-5-10-17 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.90; P.L.3-1997, SEC.454; P.L.123-2000, SEC.4; P.L.113-2010, SEC.115; P.L.104-2022, SEC.153.

IC 36-4-2-10 Election of officers at large and by district

Sec. 10. At the next general municipal election after a vote in favor of a merger at an election held under section 2 or 3 of this chapter, one (1) set of officers for a municipality having the combined population of the merging municipalities shall be elected by the voters of the merging municipalities as prescribed by statute, except that:

- (1) one (1) member of the municipal legislative body shall be elected from each district established under section 12 of this chapter; and
- (2) the total number of at large members prescribed by statute for the municipal legislative body shall be elected.

[Pre-Local Government Recodification Citation: 18-5-10-14 part.]

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

IC 36-4-2-11 Joint election board; members; powers and duties

Sec. 11. (a) The election prescribed by section 10 of this chapter shall be conducted in the manner prescribed by the applicable election statutes, except that there must be a joint election board for the new municipality in place of separate boards for each of the merging municipalities. The joint election board consists of:

- (1) the clerks of each of the merging municipalities; and
- (2) three (3) persons appointed by the executive of the county in which the merging municipalities are located, not more than two (2) of whom are resident voters of one (1) of the merging municipalities.

(b) In order to conduct the election prescribed by section 10 of this chapter, the joint election board shall meet and organize in the manner prescribed by IC 3-6 for election boards and has the same powers and duties as those boards. All subsequent primary and general elections in the new municipality shall be held in the manner prescribed by statute.

[Pre-Local Government Recodification Citation: 18-5-10-15.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.7-1983, SEC.36; P.L.5-1986, SEC.47.

IC 36-4-2-12 Joint session of legislative bodies of merging municipalities; resolution to fix boundaries of districts; exclusion of territory in any territory or inclusion of territory in more than one district; certification, attestation, and filing of resolution

Sec. 12. (a) The legislative bodies of municipalities that vote to merge under this chapter shall meet in joint session at the hall of the municipality having the largest population at 8 p.m. on the second Monday of January of the next year in which a general municipal election is to be held. At the joint meeting, the legislative bodies shall:

- (1) elect a presiding officer and clerk; and
- (2) fix, by joint resolution, the boundaries of the districts from which members will be elected to the legislative body of the new municipality.

The legislative bodies shall fix the district boundaries so that, as nearly as is possible, all parts of the merging municipalities have equal representation in the legislative body of the new municipality. The district boundaries fixed under this subsection constitute the district boundaries for the new municipality until they are altered by the legislative body of the new municipality.

(b) If any territory in the municipality is not included in one (1) of the districts established under subsection (a), 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.

(c) If any territory in the municipality is included in more than one (1) of the districts established under subsection (a), the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the joint resolution adopted under subsection (a);
- (2) is contiguous to that territory; and

- (3) contains the least population of all districts contiguous to that territory.
- (d) A copy of the joint resolution passed under subsection (a) shall be:
 - (1) certified by the presiding officer;
 - (2) attested by the clerk; and
 - (3) filed with the legislative body of each of the merging municipalities and the circuit court clerk of each county in which the municipalities are located.

[Pre-Local Government Recodification Citation: 18-5-10-16.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.3-1993, SEC.261.

IC 36-4-2-13 Elected officers; date of taking office

Sec. 13. Officers elected under section 10 of this chapter shall qualify and take office at noon on the first Monday of January after their election.

[Pre-Local Government Recodification Citation: 18-5-10-17 part.]

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

IC 36-4-2-14 Elected officers; delivery of money, property, and records by officers of merging municipalities to successors

Sec. 14. Officers elected under section 10 of this chapter are the successors in office of the officers of municipalities merging under this chapter. When the officers elected under section 10 of this chapter take office, each officer of the merging municipalities shall deliver to the officer's successor in office all money, property, and records pertaining to the office.

[Pre-Local Government Recodification Citation: 18-5-10-17 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.124.

IC 36-4-2-15 Terms of office of elective and appointed officers of merging municipalities

Sec. 15. The terms of office of elective and appointive officers of municipalities merging under this chapter are not shortened by the merger. The officers shall serve out the respective terms of office to which they have been elected or appointed at the time of the election on the proposed merger.

[Pre-Local Government Recodification Citation: 18-5-10-14 part.]

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

IC 36-4-2-16 Effect of merger; rights, powers, and liabilities; pending actions

Sec. 16. (a) After a merger under this chapter takes effect, the new municipality:

- (1) has all the rights, powers, privileges, immunities, and obligations of the merging municipalities;
- (2) is liable for all the debts, contracts, and liabilities of the merging municipalities;
- (3) is entitled to all the rights, credits, monies, and properties of the merging municipalities; and
- (4) may, in the name adopted in the merger, sue and be sued in relation to the debts, contracts, liabilities, rights, credits, monies, and properties of the merging municipality.

(b) After a merger under this chapter takes effect, pending actions that involve municipalities taking part in the merger shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new municipality without any change of the name of the plaintiff or defendant.

[Pre-Local Government Recodification Citations: 18-5-10-8 part; 18-5-10-17 part; 18-5-10-18.]

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

IC 36-4-2-17 Effect of merger; ordinances, rules, and resolutions; continuation

Sec. 17. After a merger under this chapter takes effect, the ordinances, rules, resolutions,

bylaws, and regulations of each of the merging municipalities remain in force within the territory to which they applied before the merger, and continue in force until amended or repealed by the legislative body or an administrative body of the new municipality.

[Pre-Local Government Recodification Citation: 18-5-10-17 part.]

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

IC 36-4-3**Chapter 3. Municipal Annexation and Disannexation**

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IC 36-4-3-0.1 Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

- (1) The addition of sections 8.5 and 8.6 (before its repeal) of this chapter by P.L.379-1987(ss) applies to taxable years that begin after January 1, 1987.
- (2) The amendments made to section 4 of this chapter by P.L.379-1987(ss) apply to taxable years that begin after January 1, 1987.

As added by P.L.220-2011, SEC.649.

IC 36-4-3-1 Application of chapter

Sec. 1. This chapter applies to all municipalities except consolidated cities. However, sections 3 and 21 of this chapter do not apply to towns.

[Pre-Local Government Recodification Citations: Part new; 18-4-2-34 part; 18-4-15-1 part.]

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

IC 36-4-3-1.4 Annexation prohibited while reorganization pending

Sec. 1.4. If a township is a participant in a proposed reorganization under IC 36-1.5-4-1(a)(2), IC 36-1.5-4-1(a)(7), or IC 36-1.5-4-1(a)(8), a municipality may not adopt an annexation ordinance annexing territory within the township within the period set forth in IC 36-1.5-4-45.

As added by P.L.202-2013, SEC.31.

IC 36-4-3-1.5 Contiguous territory; annexation of public highway

Sec. 1.5. (a) For purposes of this chapter, territory sought to be annexed may be considered "contiguous" only if at least one-eighth (1/8) of the aggregate external boundaries of the territory coincides with the boundaries of the annexing municipality. In determining if a territory is contiguous, a strip of land less than one hundred fifty (150) feet wide that connects the annexing municipality to the territory is not considered a part of the boundaries of either the municipality or the territory.

(b) This subsection applies to an annexation for which an annexation ordinance is adopted after June 30, 2015. A public highway or the rights-of-way of a public highway are contiguous to:

- (1) the municipality; or
- (2) property in the unincorporated area adjacent to the public highway or rights-of-way of a public highway;

if the public highway or the rights-of-way of a public highway are contiguous under subsection (a) and one (1) of the requirements in subsection (c) is satisfied.

(c) A public highway or the rights-of-way of a public highway are not contiguous unless one (1) of the following requirements is met:

- (1) The municipality obtains the written consent of the owners of all property:
 - (A) adjacent to the entire length of the part of the public highway and rights-of-way

of the public highway that is being annexed; and

(B) not already within the corporate boundaries of the municipality.

A waiver of the right of remonstrance executed by a property owner or a successor in title of the property owner for sewer services or water services does not constitute written consent for purposes of this subdivision.

(2) All property adjacent to at least one (1) side of the entire length of the part of the public highway or rights-of-way of the public highway being annexed is already within the corporate boundaries of the municipality.

(3) All property adjacent to at least one (1) side of the entire length of the part of the public highway or rights-of-way of the public highway being annexed is part of the same annexation ordinance in which the public highway or rights-of-way of a public highway are being annexed.

A municipality may not annex a public highway or the rights-of-way of a public highway or annex territory adjacent to the public highway or rights-of-way of a public highway unless the requirements of this section are met.

As added by Acts 1981, P.L.308, SEC.1. Amended by P.L.228-2015, SEC.3; P.L.206-2016, SEC.1.

IC 36-4-3-1.6 Territory covered by lake

Sec. 1.6. (a) For purposes of this chapter, the acreage of the territory sought to be annexed that is covered by a public or private lake shall not be considered when determining whether the territory meets the population density or subdivision percentages required by this chapter.

(b) This section does not affect the definition of "contiguous" prescribed by section 1.5 of this chapter.

As added by P.L.348-1983, SEC.1.

IC 36-4-3-1.7 Outreach program

Sec. 1.7. (a) This section applies only to an annexation ordinance adopted after June 30, 2015. This section does not apply to an annexation under section 5.1 of this chapter.

(b) Not earlier than six (6) months before a municipality introduces an annexation ordinance, the municipality shall conduct an outreach program to inform citizens regarding the proposed annexation. For an annexation under section 3 or 4 of this chapter, the outreach program must conduct at least six (6) public information meetings regarding the proposed annexation. For an annexation under section 5 or 5.2 of this chapter, the outreach program must conduct at least three (3) public information meetings regarding the proposed annexation. The public information meetings must provide citizens with the following information:

(1) Maps showing the proposed boundaries of the annexation territory.

(2) Proposed plans for extension of capital and noncapital services in the annexation territory, including proposed dates of extension. In the case of an annexation under section 5.2 of this chapter, a copy of the preliminary written fiscal plan.

(3) Expected fiscal impact on taxpayers in the annexation territory, including any increase in taxes and fees.

(c) The municipality shall provide notice of the dates, times, and locations of the outreach program meetings. The municipality shall publish the notice of the meetings under IC 5-3-1, including the date, time, and location of the meetings, except that notice must be published not later than thirty (30) days before the date of each meeting. The municipality shall also send notice to each owner of land within the annexation territory not later than thirty (30) days before the date of the first meeting of the outreach program. The notice to landowners shall be sent by first class mail, certified mail with return receipt requested, or any other means of delivery that includes a return receipt and must include the following information:

(1) The notice must inform the landowner that the municipality is proposing to annex territory that includes the landowner's property.

(2) The municipality is conducting an outreach program for the purpose of providing information to landowners and the public regarding the proposed annexation.

(3) The date, time, and location of the meetings to be conducted under the outreach program.

(d) The notice shall be sent to the address of the landowner as listed on the tax duplicate.

If the municipality provides evidence that the notice was sent:

(1) by certified mail, with return receipt requested or any other means of delivery that includes a return receipt; and

(2) in accordance with this section;

it is not necessary that the landowner accept receipt of the notice. If a remonstrance is filed under section 11 of this chapter, the municipality shall file with the court proof that notices were sent to landowners under this section and proof of publication.

(e) The notice required under this section is in addition to any notice required under sections 2.1 and 2.2 of this chapter.

As added by P.L.228-2015, SEC.4. Amended by P.L.206-2016, SEC.2; P.L.70-2022, SEC.1.

IC 36-4-3-2 Territories inside corporate boundaries of another municipality

Sec. 2. Territory may be annexed by a municipality under section 3 or 4 of this chapter. However, a municipality may not annex territory that is inside the corporate boundaries of another municipality, although municipalities may merge under IC 36-4-2.

[Pre-Local Government Recodification Citation: 18-5-10-27.]

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

IC 36-4-3-2.1 Public hearing; notice

Sec. 2.1. (a) This section does not apply to an annexation under section 5.1 or 5.2 of this chapter.

(b) A municipality may adopt an ordinance under this chapter only after the legislative body has held a public hearing concerning the proposed annexation. The municipality shall hold the public hearing not earlier than sixty (60) days after the date the ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Except as provided in subsection (d), notice of the hearing shall be:

(1) published in accordance with IC 5-3-1 except that the notice shall be published at least sixty (60) days before the hearing; and

(2) mailed as set forth in section 2.2 of this chapter, if section 2.2 of this chapter applies to the annexation.

(c) A municipality may adopt an ordinance under this chapter not earlier than thirty (30) days or not later than sixty (60) days after the legislative body has held the public hearing under subsection (b).

(d) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation.

Notice of the hearing shall be:

(1) published one (1) time at least twenty (20) days before the hearing in accordance with IC 5-3-1; and

(2) mailed as set forth in section 2.2 of this chapter.

As added by P.L.231-1996, SEC.1. Amended by P.L.248-1999, SEC.1; P.L.49-2000, SEC.1; P.L.224-2001, SEC.1; P.L.70-2022, SEC.2.

IC 36-4-3-2.2 Hearing notice to landowners

Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in

subsections (f) and (g), the notice must be sent by:

- (1) certified mail, return receipt requested; or
- (2) any other means of delivery that includes a return receipt;

at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of section 2.5 of this chapter on the side of the public highway that is not part of the annexed territory.

(d) The notice required by this section must include the following:

- (1) A legal description of the real property proposed to be annexed.
- (2) The date, time, location, and subject of the hearing.
- (3) A map showing the current municipal boundaries and the proposed municipal boundaries.
- (4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.
- (5) A detailed summary of the fiscal plan, described in section 13 of this chapter, if applicable.
- (6) The location where the public may inspect and copy the fiscal plan, if applicable.
- (7) A statement that the municipality will provide a copy of the fiscal plan, if applicable, after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.
- (8) The name and telephone number of a representative of the municipality who may be contacted for further information.

(e) If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

(f) This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by:

- (1) certified mail, return receipt requested; or
- (2) any other means of delivery that includes a return receipt;

not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(g) This subsection applies to an annexation under section 5.2 of this chapter. The written notice described in this section must be sent by:

- (1) certified mail, return receipt requested; or
- (2) any other means of delivery that includes a return receipt;

not later than thirty (30) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

As added by P.L.248-1999, SEC.2. Amended by P.L.217-1999, SEC.2; P.L.49-2000, SEC.2; P.L.224-2001, SEC.2; P.L.69-2010, SEC.2; P.L.228-2015, SEC.5; P.L.70-2022, SEC.3.

IC 36-4-3-2.5 "Public highway" defined

Sec. 2.5. (a) As used in this section, "public highway" has the meaning set forth in IC 9-25-2-4.

(b) An annexation of territory under this chapter after June 30, 1996, that includes land contiguous to a public highway must also include contiguous areas of:

- (1) the public highway; and
- (2) rights-of-way of the public highway.

As added by P.L.232-1996, SEC.1.

IC 36-4-3-3 Annexation of contiguous territory; authorization

Sec. 3. (a) The legislative body of a municipality may, by an ordinance defining the corporate boundaries of the municipality, annex territory that is contiguous to the municipality, subject to subsection (b).

(b) If territory that was not contiguous (under section 1.5 of this chapter) was annexed in proceedings begun before May 1, 1981, an ordinance adopted after April 30, 1981, may not annex additional territory that is contiguous when the contiguity is based on the additional territory's boundaries with the previously annexed territory.

(c) Subsection (b) does not apply when the previously annexed territory has been used as a part of the contiguous boundary of separate parcels of land successfully annexed to the municipality before May 1, 1981.

(d) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance described by subsection (a) must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

[Pre-Local Government Recodification Citation: 18-5-10-19 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.2; P.L.333-1985, SEC.2; P.L.5-1989, SEC.91; P.L.3-1993, SEC.262.

IC 36-4-3-3.1 Written fiscal plan

Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d) and section 5.2 of this chapter, the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5 or 5.1 of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

As added by P.L.248-1999, SEC.3. Amended by P.L.217-1999, SEC.3; P.L.224-2001, SEC.3; P.L.70-2022, SEC.4.

IC 36-4-3-3.3 Application of section 8 of this chapter to certain annexation ordinances

Sec. 3.3. (a) This section applies to a municipality that:

- (1) adopts an annexation ordinance under section 3 or 4 of this chapter:
 - (A) before July 1, 1999; and
 - (B) that becomes effective after July 1, 1999;
- (2) approves the establishment of a fiscal plan under section 13 of this chapter before July 1, 1999; and
- (3) is subject to section 8 of this chapter.

(b) Notwithstanding section 8 of this chapter, a municipality described in this section is not required to amend its annexation ordinance and its fiscal plan. However, a municipality described in this section shall comply with section 8 of this chapter.

As added by P.L.220-2011, SEC.650.

IC 36-4-3-3.5 Annexation ordinance; contents

Sec. 3.5. (a) An annexation ordinance adopted under this chapter must contain the following information:

- (1) A description of the boundaries of the territory to be annexed, including any public highway or right-of-way.
- (2) The approximate number of acres in the territory to be annexed.
- (3) A description of any special terms and conditions adopted under section 8 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must also contain a description of any property tax abatements adopted under section 8.5 of this chapter.

As added by P.L.217-1999, SEC.4.

IC 36-4-3-4 Annexation of noncontiguous territory

Note: This version of section effective until 7-1-2022. See also following version of this section, effective 7-1-2022.

Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

- (1) Territory that is contiguous to the municipality.
- (2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated as either of the following:
 - (A) An airport or landing field.
 - (B) A wastewater treatment facility or water treatment facility. After a municipality annexes territory under this clause, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance.
- (3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by:
 - (A) a municipally owned or regulated sanitary landfill, golf course, or hospital;
 - (B) a police station of the municipality; or
 - (C) a solar electric generating facility that is or will be interconnected to an electric utility owned by the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be used for the purpose for which the territory was annexed for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in any of the following counties:

- (1) A county having a population of more than sixty-six thousand six hundred (66,600) and less than seventy thousand (70,000).
- (2) A county having a population of more than eighty-two thousand (82,000) and less than eighty-three thousand (83,000).
- (3) A county having a population of more than eighty thousand four hundred (80,400) and less than eighty-two thousand (82,000).
- (4) A county having a population of more than forty-six thousand (46,000) and less than forty-six thousand four hundred (46,400).
- (5) A county having a population of more than thirty-seven thousand (37,000) and less than thirty-seven thousand nine hundred (37,900).
- (6) A county having a population of more than thirty-six thousand five hundred

(36,500) and less than thirty-six thousand seven hundred (36,700).

(7) A county having a population of more than thirty-two thousand (32,000) and less than thirty-three thousand (33,000).

(8) A county having a population of more than twenty-three thousand (23,000) and less than twenty-three thousand three hundred seventy-five (23,375).

(9) A county having a population of more than two hundred thousand (200,000) and less than two hundred fifty thousand (250,000).

(10) A county having a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000).

(11) A county having a population of more than thirty thousand nine hundred (30,900) and less than thirty-two thousand (32,000).

(12) A county having a population of more than eighty thousand (80,000) and less than eighty thousand four hundred (80,400).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

(1) annexing additional territory:

(A) in a county that is not described by clause (B); or

(B) in a county having a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

(2) expanding the municipality's extraterritorial jurisdictional area; or

(3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-eight thousand (28,000) and less than twenty-nine thousand (29,000). The city legislative body may, by ordinance, annex territory that:

(1) is not contiguous to the city;

(2) has its entire area not more than eight (8) miles from the city's boundary;

(3) does not extend more than:

(A) one and one-half (1 1/2) miles to the west;

(B) three-fourths (3/4) mile to the east;

(C) one-half (1/2) mile to the north; or

(D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

(4) is owned by the city or by a property owner that consents to the annexation.

(i) This subsection applies to a city having a population of more than thirty-four thousand (34,000) and less than thirty-four thousand five hundred (34,500). The city legislative body may, by ordinance, annex territory under section 5.1 of this chapter:

(1) that is not contiguous to the city;

(2) that is south of the southernmost boundary of the city;

(3) the entire area of which is not more than four (4) miles from the city's boundary; and

(4) that does not extend more than one (1) mile to the east of a state highway (as designated by the state highway authorities).

Territory annexed under this subsection is not considered a part of the city for purposes of annexation of additional territory. A city may not require connection to a sewer installed to provide service to territory annexed under this subsection.

[Pre-Local Government Recodification Citations: 18-5-10-20 part; 18-5-10-20.1; 18-5-10-20.2; 18-5-10-29; 18-5-10-30 part; 18-5-10-30.1; 19-6-1-16.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.91-1985, SEC.2; P.L.379-1987(ss), SEC.12; P.L.5-1989, SEC.92; P.L.12-1992, SEC.156; P.L.62-1992, SEC.2; P.L.2-1993, SEC.202; P.L.257-1993, SEC.1; P.L.1-1994, SEC.174; P.L.166-1994, SEC.1; P.L.79-1996, SEC.2; P.L.255-1997(ss), SEC.9; P.L.2-1998, SEC.83; P.L.170-2002, SEC.141; P.L.111-2005, SEC.3; P.L.182-2009(ss), SEC.402; P.L.119-2012, SEC.185; P.L.207-2014, SEC.1; P.L.183-2016, SEC.8; P.L.206-2016, SEC.3; P.L.160-2020, SEC.8; P.L.38-2021, SEC.82; P.L.104-2022, SEC.154.

IC 36-4-3-4 Annexation of noncontiguous territory

Note: This version of section effective 7-1-2022. See also preceding version of this section, effective until 7-1-2022.

Sec. 4. (a) The legislative body of a municipality may, by ordinance, annex any of the following:

(1) Territory that is contiguous to the municipality.

(2) Territory that is not contiguous to the municipality and is occupied by a municipally owned or operated as either of the following:

(A) An airport or landing field.

(B) A wastewater treatment facility or water treatment facility. After a municipality annexes territory under this clause, the municipality may annex additional territory to enlarge the territory for the use of the wastewater treatment facility or water treatment facility only if the county legislative body approves that use of the additional territory by ordinance.

(3) Territory that is not contiguous to the municipality but is found by the legislative body to be occupied by:

(A) a municipally owned or regulated sanitary landfill, golf course, or hospital;

(B) a police station of the municipality; or

(C) a solar electric generating facility that is or will be interconnected to an electric utility owned by the municipality.

However, if territory annexed under subdivision (2) or (3) ceases to be used for the purpose for which the territory was annexed for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices required

to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation. Territory that is annexed under subdivision (2) (including territory that is enlarged under subdivision (2)(B) for the use of the wastewater treatment facility or water treatment facility) or subdivision (3) may not be considered a part of the municipality for purposes of annexing additional territory.

(b) This subsection applies to municipalities in any of the following counties:

- (1) A county having a population of more than sixty-six thousand six hundred (66,600) and less than seventy thousand (70,000).
- (2) A county having a population of more than eighty-two thousand (82,000) and less than eighty-three thousand (83,000).
- (3) A county having a population of more than eighty thousand four hundred (80,400) and less than eighty-two thousand (82,000).
- (4) A county having a population of more than forty-six thousand (46,000) and less than forty-six thousand four hundred (46,400).
- (5) A county having a population of more than thirty-seven thousand (37,000) and less than thirty-seven thousand nine hundred (37,900).
- (6) A county having a population of more than thirty-six thousand five hundred (36,500) and less than thirty-six thousand seven hundred (36,700).
- (7) A county having a population of more than thirty-two thousand (32,000) and less than thirty-three thousand (33,000).
- (8) A county having a population of more than twenty-three thousand (23,000) and less than twenty-three thousand three hundred seventy-five (23,375).
- (9) A county having a population of more than two hundred thousand (200,000) and less than two hundred fifty thousand (250,000).
- (10) A county having a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000).
- (11) A county having a population of more than thirty thousand nine hundred (30,900) and less than thirty-two thousand (32,000).
- (12) A county having a population of more than eighty thousand (80,000) and less than eighty thousand four hundred (80,400).

Except as provided in subsection (c), the legislative body of a municipality to which this subsection applies may, by ordinance, annex territory that is not contiguous to the municipality, has its entire area not more than two (2) miles from the municipality's boundary, is to be used for an industrial park containing one (1) or more businesses, and is either owned by the municipality or by a property owner who consents to the annexation. However, if territory annexed under this subsection is not used as an industrial park within five (5) years after the date of passage of the annexation ordinance, or if the territory ceases to be used as an industrial park for at least one (1) year, the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation if the unit that had jurisdiction over the territory still exists. If the unit no longer exists, the territory reverts to the jurisdiction of the unit that would currently have jurisdiction over the territory if the annexation had not occurred. The clerk of the municipality shall notify the offices entitled to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the unit having jurisdiction before the annexation.

(c) A city in a county with a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000) may not annex territory as prescribed in subsection (b) until the territory is zoned by the county for industrial purposes.

(d) Notwithstanding any other law, territory that is annexed under subsection (b) or (h) is not considered a part of the municipality for the purposes of:

- (1) annexing additional territory:
 - (A) in a county that is not described by clause (B); or
 - (B) in a county having a population of more than two hundred fifty thousand

(250,000) and less than three hundred thousand (300,000), unless the boundaries of the noncontiguous territory become contiguous to the city, as allowed by Indiana law;

- (2) expanding the municipality's extraterritorial jurisdictional area; or
- (3) changing an assigned service area under IC 8-1-2.3-6(1).

(e) As used in this section, "airport" and "landing field" have the meanings prescribed by IC 8-22-1.

(f) As used in this section, "hospital" has the meaning prescribed by IC 16-18-2-179(b).

(g) An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

(h) This subsection applies to a city having a population of more than twenty-eight thousand (28,000) and less than twenty-nine thousand (29,000). The city legislative body may, by ordinance, annex territory that:

- (1) is not contiguous to the city;
- (2) has its entire area not more than eight (8) miles from the city's boundary;
- (3) does not extend more than:
 - (A) one and one-half (1 1/2) miles to the west;
 - (B) three-fourths (3/4) mile to the east;
 - (C) one-half (1/2) mile to the north; or
 - (D) one-half (1/2) mile to the south;

of an interchange of an interstate highway (as designated by the federal highway authorities) and a state highway (as designated by the state highway authorities); and

- (4) is owned by the city or by a property owner that consents to the annexation.

(i) This subsection applies to a city having a population of more than thirty-four thousand (34,000) and less than thirty-four thousand five hundred (34,500). The city legislative body may, by ordinance, annex territory under section 5.1 of this chapter:

- (1) that is not contiguous to the city;
- (2) that is south of the southernmost boundary of the city;
- (3) the entire area of which is not more than four (4) miles from the city's boundary; and
- (4) that does not extend more than one (1) mile to the east of a state highway (as designated by the state highway authorities).

Territory annexed under this subsection is not considered a part of the city for purposes of annexation of additional territory. A city may not require connection to a sewer installed to provide service to territory annexed under this subsection.

(j) A third class city may annex a residential development under section 5.2 of this chapter that is not contiguous to the city.

[Pre-Local Government Recodification Citations: 18-5-10-20 part; 18-5-10-20.1; 18-5-10-20.2; 18-5-10-29; 18-5-10-30 part; 18-5-10-30.1; 19-6-1-16.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.91-1985, SEC.2; P.L.379-1987(ss), SEC.12; P.L.5-1989, SEC.92; P.L.12-1992, SEC.156; P.L.62-1992, SEC.2; P.L.2-1993, SEC.202; P.L.257-1993, SEC.1; P.L.1-1994, SEC.174; P.L.166-1994, SEC.1; P.L.79-1996, SEC.2; P.L.255-1997(ss), SEC.9; P.L.2-1998, SEC.83; P.L.170-2002, SEC.141; P.L.111-2005, SEC.3; P.L.182-2009(ss), SEC.402; P.L.119-2012, SEC.185; P.L.207-2014, SEC.1; P.L.183-2016, SEC.8; P.L.206-2016, SEC.3; P.L.160-2020, SEC.8; P.L.38-2021, SEC.82; P.L.104-2022, SEC.154; P.L.70-2022, SEC.5; P.L.105-2022, SEC.38.

IC 36-4-3-4.1 Property tax exemption for agricultural property

Sec. 4.1. (a) A municipality may annex territory under this section or (after June 30, 2015) this chapter only if the territory is contiguous to the municipality.

(b) This subsection applies only to an annexation ordinance adopted before July 1, 2015. Territory annexed under this section is exempt from all property tax liability under IC 6-1.1 for municipal purposes for all portions of the annexed territory that are classified for zoning

purposes as agricultural and remain exempt from the property tax liability while the property's zoning classification remains agricultural.

(c) This subsection applies only to an annexation ordinance adopted after June 30, 2015. Real property annexed under this chapter:

- (1) is exempt; and
- (2) remains exempt;

from all property tax liability under IC 6-1.1 for municipal purposes while the property is assessed as agricultural land under the real property assessment rules and guidelines of the department of local government finance.

(d) There may not be a change in the zoning classification of territory annexed under this section without the consent of the owner of the annexed territory.

(e) Territory annexed under this section or (after June 30, 2015) this chapter may not be considered a part of the municipality for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this section or (after June 30, 2015) this chapter shall be considered a part of the municipality for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

As added by P.L.166-1994, SEC.2. Amended by P.L.79-1996, SEC.3; P.L.71-1997, SEC.3; P.L.224-1997, SEC.1; P.L.253-1997(ss), SEC.31; P.L.224-2001, SEC.4; P.L.170-2002, SEC.142; P.L.111-2005, SEC.4; P.L.71-2006, SEC.1; P.L.119-2012, SEC.186; P.L.243-2013, SEC.1; P.L.228-2015, SEC.6.

IC 36-4-3-4.2 County infrastructure reimbursement

Sec. 4.2. (a) As used in this section, "infrastructure" means the capital improvements that comprise:

- (1) a sanitary sewer system or wastewater treatment facility;
- (2) a building and appurtenances;
- (3) a park or recreational facility;
- (4) a road, street, highway, or bridge; or
- (5) a water treatment, water storage, or water distribution facility.

(b) This section applies:

- (1) only to an annexation for which an annexation ordinance is adopted after June 30, 2015; and
- (2) if there is debt, evidenced by bonds, leases, or other obligations, that is outstanding on infrastructure on the date that the annexation becomes effective.

(c) This subsection applies if:

- (1) the municipality takes ownership of infrastructure located within the annexation territory, or part of an item of infrastructure, owned by the county; and
- (2) the outstanding debt is payable from property taxes or from revenue bonds or obligations.

The annexing municipality is liable to the county for reimbursements only if the municipality assumes ownership or partial ownership of the infrastructure. If the municipality assumes ownership or partial ownership of the infrastructure, the municipality shall reimburse the county for the appropriate share of the remaining debt that is payable by the county from property taxes or revenues. The county and the annexing municipality shall enter into an interlocal agreement under IC 36-1-7 regarding the allocation of the debt and reimbursement terms.

(d) This subsection applies if the local income tax under IC 6-3.6 has been pledged by the county to pay outstanding debt on infrastructure located within the county. To offset the change in local income tax distributions that will occur after the annexation, the annexing municipality is liable to the county for reimbursements in the amount that represents part of the outstanding debt on the infrastructure until the debt is fully paid. The amount that the municipality is required to reimburse the county is the percent of the total county income tax distribution that is indebted, multiplied by the amount of local income tax revenue for the

distribution year that is shifted from the county to the municipality as a result of the annexation.

(e) Reimbursements received by a county under this section shall be deposited in the appropriate debt service fund.

As added by P.L.228-2015, SEC.7. Amended by P.L.197-2016, SEC.122.

IC 36-4-3-4.3 Property owned by county redevelopment commission

Sec. 4.3. (a) This section applies only to real property that is owned by a county redevelopment commission established under IC 36-7.

(b) A municipality may not annex real property owned by a county redevelopment commission without obtaining the consent of the county executive.

As added by P.L.228-2015, SEC.8.

IC 36-4-3-4.5 Applicability of IC 36-4-3-4(g)

Sec. 4.5. Section 4(g) of this chapter does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1.

As added by P.L.3-1993, SEC.263. Amended by P.L.255-1997(ss), SEC.10.

IC 36-4-3-5 Private lands; petition requesting ordinance to annex; filing; proceedings

Sec. 5. (a) This subsection applies only to a petition requesting annexation that is filed before July 1, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land in the territory sought to be annexed; or

(B) the owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes; and

(2) requesting an ordinance annexing the area described in the petition.

(b) This subsection applies only to a petition requesting annexation that is filed after June 30, 2015. If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition that meets the following requirements:

(1) The petition is signed by at least one (1) of the following:

(A) Fifty-one percent (51%) of the owners of land in the territory sought to be annexed. An owner of land may not:

(i) be counted in calculating the total number of owners of land in the annexation territory; or

(ii) have the owner's signature counted;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(B) The owners of seventy-five percent (75%) of the total assessed value of the land for property tax purposes. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a petition with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The petition requests an ordinance annexing the area described in the petition.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) If the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection (a) or (b), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall include a written statement of why the annexation should take place. Notice of the proceedings, in the form of a summons, shall be served on the municipality named in the petition. The municipality is the defendant in the cause and shall appear and answer.

(e) The court shall hear and determine the petition without a jury, and shall order the proposed annexation to take place only if the evidence introduced by the parties establishes that:

- (1) essential municipal services and facilities are not available to the residents of the territory sought to be annexed;
- (2) the municipality is physically and financially able to provide municipal services to the territory sought to be annexed;
- (3) the population density of the territory sought to be annexed is at least three (3) persons per acre; and
- (4) the territory sought to be annexed is contiguous to the municipality.

If the evidence does not establish all four (4) of the preceding factors, the court shall deny the petition and dismiss the proceeding.

(f) This subsection does not apply to a town that has abolished town legislative body districts under IC 36-5-2-4.1. An ordinance adopted under this section must assign the territory annexed by the ordinance to at least one (1) municipal legislative body district.

[Pre-Local Government Recodification Citation: 18-5-10-23.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.3; P.L.5-1989, SEC.93; P.L.3-1993, SEC.264; P.L.255-1997(ss), SEC.11; P.L.224-2001, SEC.5; P.L.173-2003, SEC.22; P.L.228-2015, SEC.9; P.L.149-2016, SEC.96.

IC 36-4-3-5.1 Petitions signed by 100% of landowners

Sec. 5.1. (a) Owners of land that is located outside but contiguous to a municipality or that is located in territory described in section 4(i) of this chapter may file a petition with the legislative body of the municipality:

- (1) requesting an ordinance annexing the area described in the petition; and
- (2) signed by:
 - (A) one hundred percent (100%) of the landowners that reside within the territory that is proposed to be annexed, in the case of a petition filed before July 1, 2015; and
 - (B) in the case of a petition filed after June 30, 2015, one hundred percent (100%) of the owners of land within the territory that is proposed to be annexed.

(b) Sections 2.1 and 2.2 of this chapter do not apply to an annexation under this section.

(c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

(d) The municipality may:

- (1) adopt an annexation ordinance annexing the territory; and
- (2) adopt a fiscal plan and establish a definite policy by resolution of the legislative body;

after the legislative body has held a public hearing on the proposed annexation.

(e) The municipality may introduce and hold the public hearing on the annexation ordinance not later than thirty (30) days after the petition is filed with the legislative body. Notice of the public hearing may be published one (1) time in accordance with IC 5-3-1 at least twenty (20) days before the hearing. All interested parties must have the opportunity to

testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the petition not more than thirteen (13) days after the municipality adopts the fiscal plan by providing written notice to the office of the clerk of the municipality. If a landowner withdraws the landowner's signature, the petition shall automatically be considered a voluntary petition that is filed with the legislative body under section 5 of this chapter, fourteen (14) days after the date the fiscal plan is adopted. All provisions applicable to a petition initiated under section 5 of this chapter apply to the petition.

(h) If the municipality does not adopt an annexation ordinance within sixty (60) days after the landowners file the petition with the legislative body, the landowners may file a duplicate petition with the circuit or superior court of a county in which the territory is located. The court shall determine whether the annexation shall take place as set forth in section 5 of this chapter.

(i) A remonstrance under section 11 of this chapter may not be filed. However, an appeal under section 15.5 of this chapter may be filed.

(j) In the absence of an appeal under section 15.5 of this chapter, an annexation ordinance adopted under this section takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing and recording of the ordinance under section 22 of this chapter. *As added by P.L.224-2001, SEC.6. Amended by P.L.228-2015, SEC.10; P.L.160-2020, SEC.9.*

IC 36-4-3-5.2 Residential developments

Sec. 5.2. (a) As used in this section, "homeowners association" means a corporation that satisfies all of the following:

- (1) The corporation is exempt from federal income taxation under 26 U.S.C. 528.
- (2) The control and management of the corporation is vested in a board of directors.
- (3) The corporation is organized and operated exclusively for the benefit of two (2) or more persons who each own:
 - (A) a dwelling in fee simple; or
 - (B) a commercial building in fee simple;within the residential development.
- (4) The purpose of the corporation is to:
 - (A) own, maintain, and operate common areas and facilities;
 - (B) administer and enforce covenants and restrictions on property; and
 - (C) collect and distribute assessments on property;located within the residential development.
- (5) The corporation acts in accordance with the articles, bylaws, or other documents governing the corporation to:
 - (A) adopt and enforce rules and regulations necessary for the enjoyment of common areas, recreation facilities, and other amenities located within the residential development; and
 - (B) exercise the corporation's power to:
 - (i) levy assessments on property within the residential development; and
 - (ii) collect assessments on property located within the residential development by enforcing the corporation's lien and foreclosure rights.

(b) As used in this section, "residential development" means a parcel of land that is subdivided into:

- (1) lots, parcels, tracts, units, or interests that include:
 - (A) an existing Class 2 structure (as defined in IC 22-12-1-5); or
 - (B) is designated for the construction of a Class 2 structure;each of which is encumbered by substantively identical restrictive covenants

concerning one (1) or more servient estates located within the boundaries of the original undivided parcel, or other governing document of record;

(2) lots, parcels, tracts, units, or interests that include:

(A) an existing Class 1 structure (as defined in IC 22-12-1-4); or

(B) are designated for the construction of a Class 1 structure; and

(3) a common area.

(c) In addition to annexing territory under sections 3, 4, 5, or 5.1 of this chapter, a third class city may annex a residential development and a public highway right-of-way that connects the residential development to the corporate limits of the third class city, if all of the following are satisfied:

(1) The residential development is governed by a homeowners association.

(2) The residential development has at least three hundred (300) single family dwellings.

(3) The residential development is located in its entirety not more than three (3) miles outside the third class city's corporate boundaries.

(4) The residential development dwellings are connected to the third class city's sewer or water service.

(5) The residential development includes a commercial area containing buildings intended to be used and operated for commercial purposes.

(6) The residential development is adjacent to the public highway right-of-way.

(7) The public highway that connects the residential development to the corporate limits of the city is part of the state highway system (as defined in IC 8-23-1-40).

(8) The annexation territory includes only the public highway right-of-way and the residential development.

(9) The aggregate external boundary of the annexation territory that coincides with the boundary of the municipality is greater than zero (0).

(d) Unless the articles, bylaws, or other governing documents of the homeowners association expressly provide otherwise, the board of directors of the homeowners association may file a petition with the legislative body of the third class city requesting the city to annex all property within the residential development. The annexation may proceed only if the third class city adopts a resolution approving the initiation of the annexation process not more than sixty (60) days after the petition is filed. If the third class city does not adopt a resolution within the sixty (60) day period, the petition is void.

(e) If the legislative body of the third class city adopts a resolution approving initiation of the annexation, the city shall prepare a written preliminary fiscal plan that must be made available to the public at each of the outreach program meetings under section 1.7 of this chapter.

(f) Upon completion of the outreach program meetings and before mailing the notification to landowners under section 2.2 of this chapter, the legislative body of the third class city shall adopt a written fiscal plan by resolution that incorporates any revisions to the preliminary fiscal plan.

(g) The third class city shall hold a public hearing not earlier than thirty (30) days after the date the annexation ordinance is introduced. All interested parties must have the opportunity to testify as to the proposed annexation. Notice of the hearing shall be:

(1) published in accordance with IC 5-3-1 except that the notice shall be published at least thirty (30) days before the hearing; and

(2) mailed as set forth in section 2.2 of this chapter.

A third class city may adopt an ordinance not earlier than thirty (30) days or not later than sixty (60) days after the legislative body of the third class city has held the public hearing under this subsection.

(h) A landowner may file a remonstrance against the annexation as provided in section 11 of this chapter.

(i) Territory annexed under this section may not be considered a part of the third class city

for purposes of annexing additional territory under section 3 or 4 of this chapter. However, territory annexed under this chapter shall be considered a part of the third class city for purposes of annexing additional territory under section 5 or 5.1 of this chapter.

(j) For purposes of an annexation under this section:

- (1) section 1.5 of this chapter does not apply; and
- (2) the landowner of the public highway right-of-way that is part of the state highway system (as defined in IC 8-23-1-40) is considered to be the state of Indiana.

As added by P.L.70-2022, SEC.6.

IC 36-4-3-6 Effect of certified copy of ordinance

Sec. 6. (a) A certified copy of an ordinance adopted under section 3 of this chapter is conclusive evidence of the corporate boundaries of the municipality in any proceeding.

(b) A certified copy of an ordinance adopted under section 4 of this chapter is conclusive evidence in any proceeding that the territory described in the ordinance was properly annexed and is a part of the municipality.

[Pre-Local Government Recodification Citations: 18-5-10-19 part; 18-5-10-20 part.]

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

IC 36-4-3-7 Publication of adopted ordinance; effectiveness; fire protection districts

Note: This version of section effective until 7-1-2022. See also following version of this section, effective 7-1-2022.

Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (e), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) Subsections (c) and (d) apply to fire protection districts that are established after July 1, 1987, and to which subsection (f) does not apply. For the purposes of this section, territory that has been:

- (1) added to an existing fire protection district under IC 36-8-11-11; or
- (2) approved by ordinance of the county legislative body to be added to an existing fire protection district under IC 36-8-11-11, notwithstanding that the territory's addition to the fire protection district has not yet taken effect;

shall be considered a part of the fire protection district as of the date that the fire protection district was originally established.

(c) Whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. Except in the case of an annexation to which subsection (f) applies, the municipality shall:

- (1) provide fire protection to that territory beginning the date the ordinance is effective; and
- (2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(d) If the fire protection district from which a municipality annexes territory under subsection (c) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the

annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(e) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsection (c), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

(f) Whenever a municipality annexes territory that lies within a fire protection district that has a total net assessed value (as determined by the county auditor) of more than one billion dollars (\$1,000,000,000) on the date the annexation ordinance is adopted:

- (1) the annexed area shall remain a part of the fire protection district after the annexation takes effect; and
- (2) the fire protection district shall continue to provide fire protection services to the annexed area.

The municipality shall not tax the annexed territory for fire protection services. The annexing municipality shall establish a special fire fund for all fire protection services that are provided by the municipality within the area of the municipality that is not within the fire protection district, and which shall not be assessed to the annexed special taxing district. The annexed territory that lies within the fire protection district shall continue to be part of the fire protection district special taxing district.

[Pre-Local Government Recodification Citations: 18-5-10-19 part; 18-5-10-20 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.4; Acts 1982, P.L.33, SEC.21; P.L.341-1987, SEC.1; P.L.5-1989, SEC.94; P.L.224-2001, SEC.7; P.L.113-2010, SEC.116; P.L.86-2018, SEC.342; P.L.236-2019, SEC.1; P.L.104-2022, SEC.155.

IC 36-4-3-7 Publication of adopted ordinance; effectiveness; fire protection districts

Note: This version of section effective 7-1-2022. See also preceding version of this section, effective until 7-1-2022.

Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, 5.1, or 5.2 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (e), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) For the purposes of this section, territory that has been:

- (1) added to an existing fire protection district under IC 36-8-11-11; or
- (2) approved by ordinance of the county legislative body to be added to an existing fire protection district under IC 36-8-11-11, notwithstanding that the territory's addition to the fire protection district has not yet taken effect;

shall be considered a part of the fire protection district as of the date that the fire protection district was originally established.

(c) This subsection applies only to a fire protection district established after July 1, 1987. This subsection does not apply to an annexation under subsection (g). Whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

- (1) provide fire protection to that territory beginning the date the ordinance is effective;

and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(d) This subsection applies only to a fire protection district established after July 1, 1987. This subsection does not apply to an annexation under subsection (g). If the fire protection district from which a municipality annexes territory is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(e) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsection (c), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

(f) Whenever a municipality annexes territory that lies within a fire protection district that has a total net assessed value (as determined by the county auditor) of more than one billion dollars (\$1,000,000,000) on the date the annexation ordinance is adopted:

(1) the annexed area shall remain a part of the fire protection district after the annexation takes effect; and

(2) the fire protection district shall continue to provide fire protection services to the annexed area.

The municipality shall not tax the annexed territory for fire protection services. The annexing municipality shall establish a special fire fund for all fire protection services that are provided by the municipality within the area of the municipality that is not within the fire protection district, and which shall not be assessed to the annexed special taxing district. The annexed territory that lies within the fire protection district shall continue to be part of the fire protection district special taxing district.

[Pre-Local Government Recodification Citations: 18-5-10-19 part; 18-5-10-20 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.4; Acts 1982, P.L.33, SEC.21; P.L.341-1987, SEC.1; P.L.5-1989, SEC.94; P.L.224-2001, SEC.7; P.L.113-2010, SEC.116; P.L.86-2018, SEC.342; P.L.236-2019, SEC.1; P.L.104-2022, SEC.155; P.L.23-2022, SEC.1; P.L.70-2022, SEC.7; P.L.105-2022, SEC.39.

IC 36-4-3-7.1 Trial court hearing on annexation

Sec. 7.1. An ordinance adopted under section 4 or 5.1 of this chapter takes effect immediately upon the expiration of the remonstrance and appeal period under section 11, 11.1, or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:

(1) The annexed territory has no population.

(2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.

(3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

As added by P.L.120-1999, SEC.6. Amended by P.L.228-2015, SEC.11; P.L.257-2019, SEC.111; P.L.104-2022, SEC.156.

IC 36-4-3-7.2 Effective date of certain annexations involving fire protection districts

Sec. 7.2. (a) This section applies to an annexation that satisfies all of the following:

- (1) The annexation ordinance is adopted after December 31, 2020.
- (2) The annexation is initiated by property owners under section 5.1 of this chapter in which all property owners within the annexation territory petition the municipality to be annexed.
- (3) All or part of the annexation territory is within a fire protection district that was established after July 1, 1987.
- (4) At least a majority of the members of the board of trustees of the fire protection district adopt a resolution consenting to the annexation.
- (5) The portion of the annexation territory located within the fire protection district constitutes less than three percent (3%) of the total net assessed value (as determined by the county auditor) of the fire protection district on the date the annexation ordinance is adopted.

(b) Section 7(b), 7(c), and 7(e) of this chapter apply to an annexation under this section.

(c) Section 7(a), 7(d), 7(f), and 7(g) of this chapter do not apply to an annexation under this section.

(d) After an annexation ordinance is adopted, the ordinance must be published in the manner prescribed by IC 5-3-1. In the absence of an appeal under section 15.5 of this chapter, the annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

As added by P.L.23-2022, SEC.2.

IC 36-4-3-8 Terms and conditions in adopted ordinance

Sec. 8. (a) This section does not apply to an ordinance adopted under section 5 or 5.1 of this chapter.

(b) An ordinance adopted under section 3 or 4 of this chapter must include terms and conditions fairly calculated to make the annexation equitable to the property owners and residents of the municipality and the annexed territory. The terms and conditions may include:

- (1) postponing the effective date of the annexation for not more than three (3) years; and
- (2) establishing equitable provisions for the future management and improvement of the annexed territory and for the rendering of needed services.

(c) This subsection applies to territory sought to be annexed that meets all of the following requirements:

- (1) The resident population density of the territory is at least three (3) persons per acre.
- (2) The territory is subdivided or is parceled through separate ownerships into lots or parcels such that at least sixty percent (60%) of the total number of lots and parcels are not more than one (1) acre.

This subsection does not apply to an ordinance annexing territory described in section 4(a)(2), 4(a)(3), 4(b), or 4(h) of this chapter. The ordinance must include terms and conditions impounding in a special fund all of the municipal property taxes imposed on the annexed territory after the annexation takes effect that are not used to meet the basic services described in section 13(d)(4) and 13(d)(5) of this chapter for a period of at least three (3) years. The impounded property taxes must be used to provide additional services that were not specified in the plan of annexation. The impounded property taxes in the fund shall be expended as set forth in this section, not later than five (5) years after the annexation becomes effective.

[Pre-Local Government Recodification Citations: 18-5-10-19 part; 18-5-10-20 part; 18-5-10-21.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.248-1999, SEC.4; P.L.217-1999, SEC.5; P.L.224-2001, SEC.8.

IC 36-4-3-8.1 Advisory board

Sec. 8.1. (a) An advisory board shall be appointed to advise the municipality on the provision of services to the annexed territory that are paid for with the municipal property taxes impounded in a special fund under section 8 of this chapter.

(b) An advisory board shall be appointed not later than ninety (90) days after an annexation becomes effective by the filing prescribed under section 22 of this chapter.

(c) An advisory board consists of the following seven (7) members:

(1) The township trustee of the township with the largest number of residents living within the annexed territory.

(2) One (1) member of the county fiscal body representing the district with the largest number of residents living within the annexed territory.

(3) One (1) member who is:

(A) the municipal engineer if the annexing municipality has a municipal engineer; or

(B) a licensed professional engineer appointed by the municipal executive if the municipality does not have a municipal engineer.

(4) Two (2) citizen members appointed by the municipal executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(5) Two (2) citizen members appointed by the county executive who:

(A) own real property within; and

(B) reside within;

the annexed territory.

(d) Four (4) members of the board constitute a quorum. An affirmative vote of four (4) members is required for the board to take action.

(e) A member of the board may not receive a salary. A member may receive reimbursement for necessary expenses, but only when those necessary expenses are incurred in the performance of the member's respective duties.

(f) A vacancy on the board shall be filled by the appointing authority.

(g) The board shall serve for not longer than the date all municipal property taxes impounded in the fund are expended.

As added by P.L.248-1999, SEC.5.

IC 36-4-3-8.5 Tax abatement in annexed territory; ordinance; required provisions

Sec. 8.5. (a) A municipality may, in an ordinance adopted under section 3 or 4 of this chapter, abate a portion of the property tax liability under IC 6-1.1 for municipal purposes for all property owners in the annexed territory.

(b) An ordinance adopted under subsection (a) must provide the following:

(1) A tax abatement program that is in effect for not more than three (3) taxable years after an annexation occurs.

(2) Except single family residential property described by subdivision (3), a tax abatement for all classes of property that does not exceed:

(A) seventy-five percent (75%) of a taxpayer's liability in the first year of the abatement program;

(B) fifty percent (50%) of a taxpayer's liability in the second year of the abatement program; and

(C) twenty-five percent (25%) of a taxpayer's liability in the third year of the abatement program.

(3) For a county having a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000), a tax abatement for single family residential property that does not exceed:

(A) ninety percent (90%) of a taxpayer's liability in the first year of the abatement

- program;
- (B) eighty percent (80%) of a taxpayer's liability in the second year of the abatement program;
- (C) sixty percent (60%) of a taxpayer's liability in the third year of the abatement program;
- (D) forty percent (40%) of a taxpayer's liability in the fourth year of the abatement program; and
- (E) twenty percent (20%) of a taxpayer's liability in the fifth year of the abatement program.

(4) The procedure by which an eligible property owner receives a tax abatement under this section.

As added by P.L.379-1987(ss), SEC.13. Amended by P.L.56-1988, SEC.12; P.L.12-1992, SEC.157; P.L.231-1996, SEC.2; P.L.255-1997(ss), SEC.12; P.L.119-2012, SEC.187; P.L.104-2022, SEC.157.

IC 36-4-3-8.6 Repealed

As added by P.L.379-1987(ss), SEC.14. Repealed by P.L.3-1989, SEC.228.

IC 36-4-3-9 Town annexing within proximity of city

Sec. 9. (a) A town must obtain the consent of both the metropolitan development commission and the legislative body of a county having a consolidated city before annexing territory within the county where a consolidated city is located.

(b) A town may not annex within an area that extends one (1) mile outside the corporate boundaries of a second or third class city. A town may annex within the area that extends:

- (1) more than one (1) mile; and
- (2) not more than three (3) miles;

outside the corporate boundaries of a second or third class city, if the annexation by the town does not include territory that extends more than one (1) mile outside the corporate boundaries of the town.

(c) Subsection (b) does not apply to:

- (1) a town that proposes to annex territory located in a different county than the city; or
- (2) an annexation by a town that is:
 - (A) an annexation under section 5 or 5.1 of this chapter; or
 - (B) consented to by at least fifty-one percent (51%) of the owners of land in the territory the town proposes to annex.

(d) In determining the total number of landowners of the annexed territory and whether signers of a consent under subsection (c)(2)(B) are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(e) Each municipality that is known as an included town under IC 36-3-1-7 is also considered a town for purposes of this section.

[Pre-Local Government Recodification Citation: 18-5-10-31.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.213, SEC.5; P.L.257-1993, SEC.2; P.L.224-2001, SEC.9; P.L.170-2002, SEC.143; P.L.111-2005, SEC.5; P.L.243-2013, SEC.2.

IC 36-4-3-9.1 Annexation of territory within county; requirements

Sec. 9.1. A municipality may annex territory within a county only if:

- (1) part or all of that municipality was within the county on January 1, 1982; or
- (2) the consent of the executive of the county is first obtained.

As added by Acts 1982, P.L.210, SEC.2.

IC 36-4-3-10 Liability of annexing municipality for indebtedness or other obligations of township; payment

Sec. 10. (a) If the township from which a municipality annexes territory is indebted or has outstanding unpaid bonds or other obligations at the time of the annexation, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory bears to the assessed valuation of all property in the township, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness.

(b) The annexing municipality shall pay its indebtedness under this section to the township executive. If the indebtedness consists of outstanding unpaid bonds or notes of the township, the payments to the executive shall be made as the principal or interest on the bonds or notes becomes due.

[Pre-Local Government Recodification Citation: 18-5-10-28.]

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

IC 36-4-3-11 Remonstrances; filing; determination of signatures; hearing

Sec. 11. (a) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. Except as provided in section 5.1(i) of this chapter and subsections (e) and (f), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter, must be accompanied by a copy of that ordinance, and must state the reason why the annexation should not take place.

(b) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) This subsection applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. If the court determines that the remonstrance is sufficient, the court shall fix a time, within sixty (60) days after the court's determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) This subsection applies only to an annexation for which an annexation ordinance was adopted after June 30, 2015. If the requirements of section 11.3(c) or (after December 31, 2016) section 11.4 of this chapter are met, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located:

- (1) the signed remonstrances filed with the county auditor;
- (2) the county auditor's certification under section 11.2(i) of this chapter;
- (3) the annexation ordinance; and
- (4) a statement of the reason why the annexation should not take place.

The remonstrance must be filed with the court not later than fifteen (15) business days after the date the county auditor files the certificate with the legislative body under section 11.2(i) of this chapter. After a remonstrance petition is filed with the court, any person who signed a remonstrance may file with the court a verified, written revocation of the person's opposition to the annexation.

(e) If an annexation is initiated by property owners under section 5.1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(f) This subsection applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This subsection applies if:

- (1) the territory to be annexed consists of not more than one hundred (100) parcels; and
- (2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

[Pre-Local Government Recodification Citations: 18-5-10-24; 18-5-10-30 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.95; P.L.248-1999, SEC.6; P.L.217-1999, SEC.6; P.L.224-2001, SEC.10; P.L.173-2003, SEC.23; P.L.111-2005, SEC.6; P.L.228-2015, SEC.12; P.L.206-2016, SEC.4.

IC 36-4-3-11.1 Filing of remonstrance with county auditor; notice; locations for signing remonstrance

Sec. 11.1. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) After a municipality adopts an annexation ordinance in accordance with all applicable notice and hearing requirements under this chapter, the annexation may not proceed unless the annexing municipality completes the procedures set forth in this section.

(c) The proper officers of the municipality must give notice of the applicability of the remonstrance process by providing notice by:

- (1) publication in accordance with IC 5-3-1; and
- (2) first class mail or certified mail with return receipt requested, or any other means of delivery that includes a return receipt;

to the circuit court clerk and to owners of real property described in section 2.2 of this chapter. Notice under this section must be published and mailed or delivered on the same date that notice of the adoption of the annexation ordinance is published under section 7 of this chapter.

(d) The notice of the applicability of the remonstrance process under subsection (c) must state the following:

(1) Any owners of real property within the area proposed to be annexed who want to remonstrate against the proposed annexation must complete and file remonstrance petitions in compliance with this chapter. The notice must state:

- (A) that remonstrance petitions must be filed not later than ninety (90) days after the date that notice of the adoption of the annexation ordinance was published under section 7 of this chapter; and
- (B) the last date in accordance with clause (A) that remonstrance petitions must be filed with the county auditor to be valid.

(2) A remonstrance petition may be signed at the locations provided by the municipality under subsection (e). The notice must provide the following information regarding each location:

- (A) The address of the location.
- (B) The dates and hours during which a remonstrance petition may be signed at the location.

(e) Beginning the day after publication of the notice under subsection (c) and ending not later than ninety (90) days after publication of the notice under subsection (c), the municipality shall provide both of the following:

- (1) At least one (1) location in the offices of the municipality where a person may sign

a remonstrance petition during regular business hours.

(2) At least one (1) additional location that is available for at least five (5) days, where a person may sign a remonstrance petition. The location must meet the following requirements:

(A) The location must be in a public building:

(i) owned or leased by the state or a political subdivision, including a public library, community center, or parks and recreation building; and

(ii) located within the boundaries of the municipality or the annexation territory.

(B) The location must be open according to the following:

(i) On a day that the location is open on a weekday, the location must be open at a minimum from 5 p.m. to 9 p.m.

(ii) On a day that the location is open on a Saturday or Sunday, the location must be open at least four (4) hours during the period from 9 a.m. to 5 p.m.

(f) An additional location may not be open on a day that is a legal holiday. At any location and during the hours that a remonstrance petition may be signed, the municipality shall have a person present:

(1) to witness the signing of remonstrance petitions; and

(2) who shall swear and affirm before a notary public that the person witnessed each person sign the remonstrance petition.

As added by P.L.228-2015, SEC.13.

IC 36-4-3-11.2 Remonstrance signature requirements; remonstrance forms; procedure

Sec. 11.2. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) A remonstrance petition may be filed by an owner of real property that:

(1) is within the area to be annexed;

(2) was not exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year; and

(3) is not subject to a valid waiver of remonstrance.

(c) A remonstrance petition must comply with the following in order to be effective:

(1) Each signature on a remonstrance petition must be dated, and the date of the signature may not be earlier than the date on which the remonstrance forms may be issued by the county auditor under subsection (e)(7).

(2) Each person who signs a remonstrance petition must indicate the address of the real property owned by the person in the area to be annexed.

(3) A remonstrance petition must be verified in compliance with subsection (e).

(d) The state board of accounts shall design the remonstrance forms to be used solely in the remonstrance process described in this section. The state board of accounts shall provide the forms to the county auditor in an electronic format that permits the county auditor to copy or reproduce the forms using:

(1) the county auditor's own equipment; or

(2) a commercial copying service.

The annexing municipality shall reimburse the county auditor for the cost of reproducing the remonstrance forms.

(e) The county auditor's office shall issue remonstrance forms accompanied by instructions detailing all of the following requirements:

(1) The closing date for the remonstrance period.

(2) Only one (1) person having an interest in each single property as evidenced by the tax duplicate is considered an owner of property and may sign a remonstrance petition.

A person is entitled to sign a petition only one (1) time in a remonstrance process, regardless of whether the person owns more than one (1) parcel of real property.

(3) An individual may not be:

- (A) compensated for; or
- (B) reimbursed for expenses incurred in;

circulating a remonstrance petition and obtaining signatures.

(4) The remonstrance petition may be executed in several counterparts, the total of which constitutes the remonstrance petition. An affidavit of the person circulating a counterpart must be attached to the counterpart. The affidavit must state that each signature appearing on the counterpart was affixed in the person's presence and is the true and lawful signature of the signer. The affidavit must be notarized.

(5) A remonstrance petition that is not executed in counterparts must be verified by the person signing the petition in the manner prescribed by the state board of accounts and notarized.

(6) A remonstrance petition may be delivered to the county auditor's office in person or by:

- (A) certified mail, return receipt requested; or
- (B) any other means of delivery that includes a return receipt.

The remonstrance petition must be postmarked not later than the closing date for the remonstrance period.

(7) The county auditor's office may not issue a remonstrance petition earlier than the day that notice is published under section 11.1 of this chapter. The county auditor's office shall certify the date of issuance on each remonstrance petition. Any person may pick up additional copies of the remonstrance petition to distribute to other persons.

(8) A person who signs a remonstrance petition may withdraw the person's signature from a remonstrance petition before a remonstrance petition is filed with the county auditor by filing a verified request to remove the person's name from the remonstrance petition. Names may not be added to a remonstrance petition after the remonstrance petition is filed with the county auditor.

(f) The county auditor shall prepare and update weekly a list of the persons who have signed a remonstrance petition. The list must include a statement that the list includes all persons who have signed a remonstrance petition as of a particular date, and does not represent a list of persons certified by the county auditor as actual landowners in the annexation territory using the auditor's current tax records under subsection (i). The county auditor shall post the list in the office of the county auditor. The list is a public record under IC 5-14-3.

(g) Not later than five (5) business days after receiving the remonstrance petition, the county auditor shall submit a copy of the remonstrance petition to the legislative body of the annexing municipality.

(h) Not later than fifteen (15) business days after the legislative body of the annexing municipality receives a copy of the remonstrance petition from the county auditor, the annexing municipality shall provide documentation to the county auditor regarding any valid waiver of the right of remonstrance that exists on the property within the annexation territory.

(i) Not later than fifteen (15) business days after receiving the documentation regarding any valid waiver of the right of remonstrance from the annexing municipality under subsection (h), if any, the county auditor's office shall make a final determination of the number of owners of real property within the territory to be annexed:

- (1) who signed the remonstrance; and
- (2) whose property is not subject to a valid waiver of the right of remonstrance;

using the auditor's current tax records as provided in section 2.2 of this chapter. The county auditor shall file a certificate with the legislative body of the annexing municipality certifying the number of property owners not later than five (5) business days after making the determination.

As added by P.L.228-2015, SEC.14. Amended by P.L.206-2016, SEC.5.

IC 36-4-3-11.3 Signatures required to stop an annexation; signatures required

to permit a trial court hearing on annexation

Sec. 11.3. (a) This section applies only to an annexation ordinance adopted after June 30, 2015.

(b) An annexation ordinance is void if a written remonstrance petition is signed by one (1) of the following:

(1) At least sixty-five percent (65%) of the owners of land in the annexed territory. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance;

with regard to any single property that an owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least eighty percent (80%) in assessed valuation of the land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count the owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(c) The annexation may be appealed to the court under section 11 of this chapter, if a written remonstrance is signed by one (1) of the following:

(1) At least fifty-one percent (51%) but less than sixty-five percent (65%) of the owners of land. An owner of land may not:

(A) be counted in calculating the total number of owners of land in the annexation territory; or

(B) have the owner's signature counted on a remonstrance;

with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

(2) The owners of at least sixty percent (60%) but less than eighty percent (80%) in assessed valuation of land in the annexed territory. Land that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year may not be included in calculating the total assessed valuation of the land in the annexation territory. The court may not count an owner's signature on a remonstrance with regard to any single property that the owner has an interest in that was exempt from property taxes under IC 6-1.1-10 or any other state law for the immediately preceding year.

As added by P.L.228-2015, SEC.15.

IC 36-4-3-11.4 Signature requirements for annexation involving an economic development project

Sec. 11.4. (a) This section applies only to an annexation that meets all of the following requirements:

(1) The annexation ordinance is adopted after December 31, 2016.

(2) Notwithstanding the contiguity requirements of section 1.5 of this chapter, at least one-tenth (1/10) of the aggregate external boundaries of the territory sought to be annexed coincides with the boundaries of:

(A) the municipality; and

(B) the site of an economic development project.

(b) As used in this section, "economic development project" means any project developed by the municipality that meets all of the following requirements:

(1) The annexing municipality determines that the project will:

(A) promote significant opportunities for the gainful employment of its citizens;

- (B) attract a major new business enterprise to the municipality; or
- (C) retain or expand a significant business enterprise within the municipality.
- (2) The project involves expenditures by the annexing municipality for any of the following:
 - (A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.
 - (B) Rehabilitation, renovation, and enlargement of buildings and structures.
 - (C) Machinery, equipment, furnishings, or facilities.
 - (D) Substance removal or remedial action.
- (c) Notwithstanding section 11.3(b) of this chapter, even if a remonstrance has enough signatures to satisfy the requirements of section 11.3(b) of this chapter, the annexation ordinance is not void and may be appealed to the court under section 11 of this chapter, if all of the following requirements are met:
 - (1) The economic development project site needs the following capital services that the municipality is lawfully able to provide:
 - (A) water;
 - (B) sewer;
 - (C) gas; or
 - (D) any combination of the capital services described in clauses (A) through (C).
 - (2) The municipality finds that it is in the municipality's best interest to annex the annexation territory in order to extend, construct, or operate the capital services that are provided to the economic development project site.
 - (3) Before the date the annexation ordinance is adopted, a taxpayer whose business will occupy the economic development project site has done at least one (1) of the following:
 - (A) Filed a statement of benefits under IC 6-1.1-12.1 with the designating body for the annexing municipality for a deduction or abatement.
 - (B) Entered into an agreement with the Indiana economic development corporation for a credit under IC 6-3.1-13.
- (d) If the economic development project:
 - (1) has not commenced within twelve (12) months after the date the annexation ordinance is adopted; or
 - (2) is not completed within thirty-six (36) months after the date the annexation ordinance is adopted;

the annexation territory is disannexed from the municipality and reverts to the jurisdiction of the unit having jurisdiction before the annexation. For purposes of this subsection, a economic development project is considered to have commenced on the day that the physical erection, installation, alteration, repair, or remodeling of a building or structure commences on the site of the economic development project.

As added by P.L.228-2015, SEC.16.

IC 36-4-3-11.5 Waiver of remonstrance not required

Sec. 11.5. A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

- (1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.
- (2) A person other than the landowner or the municipality has paid the cost of connection to the service.

As added by P.L.172-1995, SEC.4.

IC 36-4-3-11.6 Attorney's fees and costs for prevailing remonstrators

Sec. 11.6. (a) This section applies to a remonstrance filed after June 30, 2015.

(b) If the court orders an annexation not to take place after a hearing under section 11 of this chapter, the remonstrators shall be reimbursed by the annexing municipality for any reasonable attorney's fees, including litigation expenses and appeal costs:

(1) that are incurred:

(A) after the date the annexation ordinance is adopted; and

(B) in remonstrating against the annexation; and

(2) not to exceed thirty-seven thousand five hundred dollars (\$37,500).

As added by P.L.228-2015, SEC.17.

IC 36-4-3-11.7 Remonstrance waivers; expiration; notice to property owner

Sec. 11.7. (a) This subsection applies to any deed recorded after June 30, 2015. This subsection applies only to property that is subject to a remonstrance waiver. A municipality shall, within a reasonable time after the recording of a deed to property located within the municipality, provide written notice to the property owner that a waiver of the right of remonstrance exists with respect to the property.

(b) A remonstrance waiver executed before July 1, 2003, is void. This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(c) A remonstrance waiver executed after June 30, 2003, and before July 1, 2019, is subject to the following:

(1) The waiver is void unless the waiver was recorded:

(A) before January 1, 2020; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

(d) A remonstrance waiver executed after June 30, 2019, is subject to the following:

(1) The waiver is void unless the waiver is recorded:

(A) not later than thirty (30) business days after the date the waiver was executed; and

(B) with the county recorder of the county where the property subject to the waiver is located.

(2) A waiver that is not void under subdivision (1) expires not later than fifteen (15) years after the date the waiver is executed.

This subsection does not invalidate an annexation that was effective on or before July 1, 2019.

As added by P.L.228-2015, SEC.18. Amended by P.L.257-2019, SEC.112.

IC 36-4-3-11.8 Voids certain annexation ordinances; terminates certain annexation actions; prohibits certain annexation actions

Sec. 11.8. (a) This section does not apply to an annexation that meets both of the following requirements:

(1) The annexation is an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), 5, or 5.1 of this chapter.

(2) No parcel within the annexation territory is subject to a waiver of remonstrance.

(b) This section does not apply to an annexation and annexation ordinance that is adopted and effective before April 30, 2017.

(c) This section applies to property that meets both of the following requirements:

(1) Is in an unincorporated area on January 1, 2017.

(2) Is within the boundaries of a territory proposed to be annexed in an annexation ordinance that was introduced after December 31, 2016, and before July 1, 2017.

(d) An annexation ordinance that is introduced after December 31, 2016, and before July

1, 2017, that proposes to annex property to which this section applies is void and the annexation action is terminated. A municipality may not take any further action to annex any of the property to which this section applies until after June 30, 2022, including introducing another annexation ordinance covering some or all of the property covered by this section after June 30, 2017, and before July 1, 2022.

As added by P.L.217-2017, SEC.161.

IC 36-4-3-12 Remonstrances; hearing; judgment

Sec. 12. The circuit or superior court shall:

- (1) on the date fixed under section 11 of this chapter, hear and determine the remonstrance without a jury; and
- (2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

[Pre-Local Government Recodification Citations: 18-5-10-25 part; 18-5-10-30 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.96; P.L.113-2010, SEC.117; P.L.104-2022, SEC.158.

IC 36-4-3-13 Remonstrances; hearing; order; requirements

Sec. 13. (a) Except as provided in subsection (e), at the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

- (1) The requirements of either subsection (b) or (c).
 - (2) The requirements of subsection (d).
 - (3) The requirements of subsection (i).
- (b) The requirements of this subsection are met if the evidence establishes the following:
- (1) That the territory sought to be annexed is contiguous to the municipality.
 - (2) One (1) of the following:
 - (A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.
 - (B) Sixty percent (60%) of the territory is subdivided.
 - (C) The territory is zoned for commercial, business, or industrial uses.
- (c) The requirements of this subsection are met if the evidence establishes one (1) of the following:
- (1) That the territory sought to be annexed is:
 - (A) contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; and
 - (B) needed and can be used by the municipality for its development in the reasonably near future.
 - (2) This subdivision applies only to an annexation for which an annexation ordinance is adopted after December 31, 2016. That the territory sought to be annexed involves an economic development project and the requirements of section 11.4 of this chapter are met.
 - (3) The territory is described in section 5.2 of this chapter.
- (d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:
- (1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.
 - (2) The method or methods of financing the planned services. The plan must explain

how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and storm water drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

(6) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect of the proposed annexation on taxpayers in each of the political subdivisions to which the proposed annexation applies, including the expected tax rates, tax levies, expenditure levels, service levels, and annual debt service payments in those political subdivisions for four (4) years after the effective date of the annexation.

(7) This subdivision applies to a fiscal plan prepared after June 30, 2015. The estimated effect the proposed annexation will have on municipal finances, specifically how municipal tax revenues will be affected by the annexation for four (4) years after the effective date of the annexation.

(8) This subdivision applies to a fiscal plan prepared after June 30, 2015. Any estimated effects on political subdivisions in the county that are not part of the annexation and on taxpayers located in those political subdivisions for four (4) years after the effective date of the annexation.

(9) This subdivision applies to a fiscal plan prepared after June 30, 2015. A list of all parcels of property in the annexation territory and the following information regarding each parcel:

(A) The name of the owner of the parcel.

(B) The parcel identification number.

(C) The most recent assessed value of the parcel.

(D) The existence of a known waiver of the right to remonstrate on the parcel. This clause applies only to a fiscal plan prepared after June 30, 2016.

(e) At the hearing under section 12 of this chapter, the court shall do the following:

(1) Consider evidence on the conditions listed in subdivision (2).

(2) Order a proposed annexation not to take place if the court finds that all of the following conditions that are applicable to the annexation exist in the territory proposed to be annexed:

(A) This clause applies only to an annexation for which an annexation ordinance was adopted before July 1, 2015. The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection.

(ii) Street and road maintenance.

(B) The annexation will have a significant financial impact on the residents or owners of land. The court may not consider:

(i) the personal finances; or

(ii) the business finances;

of a resident or owner of land. The personal and business financial records of the residents or owners of land, including state, federal, and local income tax returns, may not be subject to a subpoena or discovery proceedings.

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f).

(D) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed.

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed.

(E) This clause applies only to an annexation for which an annexation ordinance is adopted after June 30, 2015. One (1) of the following opposes the annexation:

(i) At least fifty-one percent (51%) of the owners of land in the territory proposed to be annexed.

(ii) The owners of more than sixty percent (60%) in assessed valuation of the land in the territory proposed to be annexed.

The remonstrance petitions filed with the court under section 11 of this chapter are evidence of the number of owners of land that oppose the annexation, minus any written revocations of remonstrances that are filed with the court under section 11 of this chapter.

(F) This clause applies only to an annexation for which an annexation ordinance is adopted before July 1, 2015. This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels. At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter.

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed. In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21.

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed.

(g) The most recent:

(1) federal decennial census;

(2) federal special census;

(3) special tabulation; or

(4) corrected population count;

shall be used as evidence of resident population density for purposes of subsection (b)(2)(A), but this evidence may be rebutted by other evidence of population density.

(h) A municipality that prepares a fiscal plan after June 30, 2015, must comply with this subsection. A municipality may not amend the fiscal plan after the date that a remonstrance is filed with the court under section 11 of this chapter, unless amendment of the fiscal plan is consented to by at least sixty-five percent (65%) of the persons who signed the remonstrance petition.

(i) The municipality must submit proof that the municipality has complied with:

- (1) the outreach program requirements and notice requirements of section 1.7 of this chapter; and
- (2) the requirements of section 11.1 of this chapter.

[Pre-Local Government Recodification Citations: 18-5-10-25 part; 18-5-10-32 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.161; Acts 1981, P.L.308, SEC.5; Acts 1982, P.L.33, SEC.22; P.L.56-1988, SEC.13; P.L.257-1993, SEC.3; P.L.4-1997, SEC.13; P.L.255-1997(ss), SEC.13; P.L.248-1999, SEC.7; P.L.217-1999, SEC.7; P.L.76-2001, SEC.2; P.L.170-2002, SEC.144; P.L.173-2003, SEC.24; P.L.97-2004, SEC.126; P.L.111-2005, SEC.7; P.L.119-2012, SEC.188; P.L.228-2015, SEC.19; P.L.206-2016, SEC.6; P.L.70-2022, SEC.8.

IC 36-4-3-14 Remonstrances; hearing; change of venue; status of annexation pending

Sec. 14. In a hearing under section 12 of this chapter, the laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had as in other cases. Costs follow judgment. Pending the entry of a final unappealable judgment, the territory sought to be annexed is not considered a part of the municipality.

[Pre-Local Government Recodification Citations: 18-5-10-25 part; 18-5-10-32 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.228-2015, SEC.20.

IC 36-4-3-15 Remonstrances; judgment; repeal of annexation; effective date of annexation

Sec. 15. (a) The court's judgment under section 12 or 15.5 of this chapter must specify the annexation ordinance on which the remonstrance is based. The clerk of the court shall deliver a certified copy of the final and unappealable judgment to the clerk of the municipality. The clerk of the municipality shall:

- (1) record the judgment in the clerk's ordinance record; and
- (2) make a cross-reference to the record of the judgment on the margin of the record of the annexation ordinance.

(b) If a final and unappealable judgment under section 12 or 15.5 of this chapter is adverse to annexation, the municipality may not make further attempts to annex the territory or any part of the territory during the four (4) years after the later of:

- (1) the judgment of the circuit or superior court; or
- (2) the date of the final disposition of all appeals to a higher court;

unless the annexation is petitioned for under section 5 or 5.1 of this chapter.

(c) This subsection applies if a municipality repeals the annexation ordinance:

- (1) less than sixty-one (61) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twelve (12) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(d) This subsection applies if a municipality repeals the annexation ordinance:

- (1) at least sixty-one (61) days but not more than one hundred twenty (120) days after the publication of the ordinance under section 7(a) of this chapter; and
- (2) before the hearing commences on the remonstrance under section 11(c) of this chapter.

A municipality may not make further attempts to annex the territory or any part of the territory during the twenty-four (24) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

- (e) This subsection applies if a municipality repeals the annexation ordinance:
- (1) either:
 - (A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences on the remonstrance under section 11(c) of this chapter; or
 - (B) after the hearing commences on the remonstrance as set forth in section 11(c) of this chapter; and
 - (2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) An annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

[Pre-Local Government Recodification Citation: 18-5-10-26.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.308, SEC.6; P.L.56-1988, SEC.14; P.L.5-1989, SEC.97; P.L.12-1992, SEC.158; P.L.231-1996, SEC.3; P.L.2-1997, SEC.82; P.L.248-1999, SEC.8; P.L.224-2001, SEC.11; P.L.1-2002, SEC.157; P.L.228-2015, SEC.21.

IC 36-4-3-15.3 Prohibition against annexation; settlement agreement

Sec. 15.3. (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.

(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.

- (c) Under a settlement agreement between the annexing municipality and either:
- (1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or
 - (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noncapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter), in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subdivision (1) or (2).

As added by P.L.300-1989, SEC.1. Amended by P.L.156-2020, SEC.138.

IC 36-4-3-15.5 Appeals after final publication of annexation ordinance; procedure

Sec. 15.5. (a) Except as provided in subsection (b):

- (1) an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter; or
 - (2) a municipality located in the same county as the territory proposed to be annexed;
- may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is

that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Either of the following may appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located:

(1) An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter.

(2) A municipality located in the same county as the territory proposed to be annexed.

An appeal under this subsection must be filed not later than thirty (30) days after the publication of the annexation ordinance. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

As added by Acts 1981, P.L.308, SEC.7. Amended by P.L.5-1989, SEC.98; P.L.224-2001, SEC.12; P.L.113-2010, SEC.118; P.L.207-2014, SEC.2; P.L.104-2022, SEC.159.

IC 36-4-3-15.7 Appeal of annexation pending on January 1, 2014

Sec. 15.7. A municipality located in the same county as the territory to be annexed may appeal an annexation under section 15.5(a)(2) or 15.5(b)(2) of this chapter if:

(1) the annexation was pending on January 1, 2014; and

(2) the municipality files the appeal not later than sixty (60) days after publication of the annexation ordinance.

As added by P.L.207-2014, SEC.3.

IC 36-4-3-16 Complaint alleging injury from failure to implement plan; limitation period; relief; requirements; change of venue; costs

Sec. 16. (a) Within one (1) year after the expiration of:

(1) the one (1) year period for implementation of planned services of a noncapital nature under section 13(d)(4) of this chapter; or

(2) the three (3) year period for the implementation of planned services of a capital improvement nature under section 13(d)(5) of this chapter;

any person who pays taxes on property located within the annexed territory may file a complaint alleging injury resulting from the failure of the municipality to implement the plan. The complaint must name the municipality as defendant and shall be filed with the circuit or superior court of the county in which the annexed territory is located.

(b) The court shall hear the case within sixty (60) days without a jury. In order to be granted relief, the plaintiff must establish one (1) of the following:

(1) That the municipality has without justification failed to implement the plan required by section 13 of this chapter within the specific time limit for implementation after annexation.

(2) That the municipality has not provided police protection, fire protection, sanitary sewers, and water for human consumption within the specific time limit for implementation, unless one (1) of these services is being provided by a separate taxing district or by a privately owned public utility.

(3) That the annexed territory is not receiving governmental and proprietary services substantially equivalent in standard and scope to the services provided by the municipality to other areas of the municipality, regardless of topography, patterns of land use, and population density similar to the annexed territory.

(c) The court may:

(1) grant an injunction prohibiting the collection of taxes levied by the municipality on the plaintiff's property located in the annexed territory;

(2) award damages to the plaintiff not to exceed one and one-fourth (1 1/4) times the taxes collected by the municipality for the plaintiff's property located in the annexed territory;

(3) order the annexed territory or any part of it to be disannexed from the municipality;

(4) order the municipality to submit a revised fiscal plan for providing the services to the annexed territory within time limits set up by the court; or

(5) grant any other appropriate relief.

(d) A change of venue from the county is not permitted for an action brought under this section.

(e) If the court finds for the plaintiff, the defendant shall pay all court costs and reasonable attorney's fees as approved by the court.

(f) The provisions of this chapter that apply to territory disannexed by other procedures apply to territory disannexed under this section.

[Pre-Local Government Recodification Citation: 18-5-10-32.5.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.1-1991, SEC.208; P.L.255-1997(ss), SEC.14; P.L.217-1999, SEC.8; P.L.173-2003, SEC.25.

IC 36-4-3-17 Disannexation; petition; remonstrances; hearing; order

Sec. 17. (a) The owner or owners of:

(1) fifty-one percent (51%) or more in number of the lots in an addition or subdivision to a municipality; or

(2) contiguous territory within the corporate boundaries of a municipality, constituting not less than one (1) entire block, if platted, and not less than one (1) acre, if not platted;

may file a petition for disannexation if any of the boundaries of the addition, subdivision, or contiguous territory forms part of the corporate boundary of the municipality. The petition must be filed with the works board of the municipality and must include a plat of the territory sought to be disannexed. Notice of the petition must be given in the manner prescribed by IC 5-3-1.

(b) A remonstrance against the granting of the petition may be filed by:

(1) the owner of a lot in the subdivision or addition; or

(2) the owner of territory adjoining the territory sought to be disannexed.

(c) The works board shall conduct a hearing and make a just and equitable order on the petition. In conducting the hearing, the works board may:

(1) subpoena witnesses;

(2) punish contempt;

(3) adjourn the hearing from time to time;

(4) make orders concerning streets and alleys, including their vacation; and

(5) award damages.

[Pre-Local Government Recodification Citations: 18-5-10-47 part; 18-5-10-48 part; 18-5-10-50 part; 18-5-10-52 part.]

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

IC 36-4-3-18 Disannexation; appeal of order; bond; scope of order

Sec. 18. (a) An order under section 17 of this chapter may be appealed to the circuit court, superior court, or probate court for the county in which any part of the affected territory is located. If an appeal is brought, the matters determined at the original hearing shall be tried de novo, and the circuit court's, superior court's, or probate court's order may be appealed in the same manner as other civil actions are tried and appealed. The municipality involved in the disannexation may, by its attorney, appear and defend its interests in the proceeding.

(b) The appellant or appellants in the circuit court, superior court, or probate court shall give to the clerk of the municipality a bond:

- (1) with a solvent, freehold surety who is a resident of the county in which the territory is located;
- (2) conditioned on the due prosecution of the appeal and the payment of all costs accrued by or to accrue against the appellant or appellants; and
- (3) in a sum considered adequate by the clerk.

If the clerk approves the bond, the clerk shall immediately make a transcript of all proceedings in the cause and certify it, together with all papers in the cause, to the clerk of the court in which the appeal is filed.

(c) On an appeal under this section, a court may make orders concerning streets and alleys, including their vacation, and award damages.

[Pre-Local Government Recodification Citations: 18-5-10-47; 18-5-10-48; 18-5-10-52.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.84-2016, SEC.171.

IC 36-4-3-19 Disannexation; certified transcript of proceedings; list of lots affected; certified judgment; effective date of disannexation

Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to the office of the secretary of state. The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor or to the office of the secretary of state if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to each of the following:

- (1) The auditor of each county in which the lands (1) or lots affected lie, on receipt of one dollar (\$1) for the making and certifying of the transcript from the petitioners for the disannexation.
- (2) The office of the secretary of state.
- (3) The circuit court clerk of each county in which the lands or lots affected are located.
- (4) The county election board of each county in which the lands or lots affected are located.
- (5) If a board of registration exists, the board of each county in which the lands or lots affected are located.
- (6) The office of census data established by IC 2-5-1.1-12.2.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

- (1) The county highway department of each county in which the lands or lots affected are located.
- (2) The county surveyor of each county in which the lands or lots affected are located.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed

territory.

(4) The township trustee of each township that lost or gained jurisdiction over the disannexed territory.

(5) The sheriff of each county in which the lands or lots affected are located.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

(8) The department of local government finance, not later than August 1, in the manner described by the department.

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the clerk of the municipality filing the order with:

(1) the county auditor of each county in which the annexed territory is located; and

(2) the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.

(e) The clerk of the municipality shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date a disannexation is effective under this chapter.

[Pre-Local Government Recodification Citation: 18-5-10-53.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.218-1986, SEC.1; P.L.5-1989, SEC.99; P.L.7-1990, SEC.56; P.L.3-1997, SEC.455; P.L.248-1999, SEC.9; P.L.217-1999, SEC.9; P.L.212-2001, SEC.33; P.L.1-2002, SEC.158; P.L.113-2010, SEC.119; P.L.38-2021, SEC.83; P.L.104-2022, SEC.160.

IC 36-4-3-20 Disannexation; limitation on subsequent proceedings

Sec. 20. After the termination of a disannexation proceeding under this chapter, a subsequent disannexation proceeding affecting the same property and asking for the same relief may not be initiated for a period of two (2) years.

[Pre-Local Government Recodification Citation: 18-5-10-49.]

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

IC 36-4-3-21 Contracts with owners or lessees of designated properties in lieu of annexation

Sec. 21. (a) In lieu of annexing contiguous territory or in cases not involving annexation, the executive and the proper administrative agency of a municipality, with the consent of the municipal legislative body, may enter into contracts with the owners or lessees of designated property in the vicinity of the municipality, providing for the payment or contribution of money to the municipality for municipal or public purposes specified in the contract. The payments under the contract may be:

(1) related to or in consideration of municipal services or benefits received or to be received by the property owners or lessees;

(2) in lieu of taxes that might be levied on annexation of the designated property; or

(3) wholly unrelated to municipal services or benefits to or potential tax impositions on the designated property.

(b) Any other political subdivision that has taxing power in respect to the designated property or is entitled to share in the property taxes assessed and collected by the municipality may:

(1) join in a contract under this section; or

(2) enter into a separate agreement with the municipality, providing for the division and distribution of contract payments made under this section and for the receipt of a share of those payments by the municipal authority.

(c) A contract under this section may be entered into for the term agreed to by the

municipality and the property owners or lessees, but that term may not exceed:

- (1) fifteen (15) continuous years under one (1) contract if the municipality is a consolidated or second class city; or
- (2) four (4) continuous years under one (1) contract if the municipality is not a consolidated or second class city.

(d) A contract under this section continues in effect for its full term unless it is:

- (1) induced by fraud of the property owners or lessees;
- (2) grossly and corruptly improvident on the part of the municipality; or
- (3) terminated or reduced in duration by agreement of the municipality and the property owners or lessees.

(e) A contract under this section may provide that during its effective term, the designated property of the contracting owners or lessees is not subject to annexation by the municipality.

[Pre-Local Government Recodification Citation: 18-5-10-22.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.11, SEC.162.

IC 36-4-3-21.1 Expiration of municipal utility service contracts for properties outside corporate boundaries; continuation of service; payment of rates; arbitration

Sec. 21.1. (a) This section applies if:

(1) one (1) or more contracts were entered into under section 21(a)(1) of this chapter between:

- (A) the executive and an administrative agency of a municipality; and
- (B) the owners or lessees of properties located outside the corporate boundaries of the municipality;

concerning the provision of municipal utility services in the area in which the properties referred to in clause (B) are located;

- (2) the contracts have expired;
- (3) the area in which the properties referred to in subdivision (1)(B) are located has not been annexed into the municipality; and
- (4) the parties have not agreed:

- (A) to an extension of the contracts referred to in subdivision (1); or
- (B) to enter into new contracts under section 21(a)(1) of this chapter.

(b) In a situation described in subsection (a):

(1) municipal utility services to the properties referred to in subsection (a)(1)(B) may not be terminated, except for nonpayment of the compensation due under subdivision (2); and

(2) as a condition of continuing to receive municipal utility services, the owners or lessees of the properties referred to in subsection (a)(1)(B) must continue to pay the rate charged for the municipal utility services under the expired contracts, including any payment or contribution of money to the municipality provided for in the expired contracts under section 21(a) of this chapter;

for the period specified in subsection (c)(1) or until the occurrence of one (1) of the events set forth in subsection (c)(2).

(c) The municipal utility services shall continue to be provided to the properties referred to in subsection (a)(1)(B) under the terms set forth in subsection (b):

- (1) for a period of two (2) years from the date of expiration of the contracts, if none of the events set forth in subdivision (2)(A) through (2)(C) occurs within that period; or
- (2) until one (1) of the following occurs:

(A) The executive and administrative agency of the municipality and the owners or lessees of the properties referred to in subsection (a)(1)(B) enter into a new contract under section 21(a)(1) of this chapter.

(B) The area in which the properties referred to in subsection (a)(1)(B) are located is annexed into the municipality.

(C) Subject to subsection (e), arbitration of the matter is initiated under subsection (d).

(d) At any time within the period referred to in subsection (c)(1):

- (1) the executive and administrative agency of the municipality; and
- (2) the owners or lessees of the properties referred to in subsection (a)(1)(B);

may initiate arbitration of the differences preventing the parties from entering into a new contract under section 21(a)(1) of this chapter. The arbitration shall be conducted under IC 34-57-1 by an arbitrator mutually chosen by the parties, and the award made by the arbitrator must establish reasonable and just terms of a new contract between the parties under section 21(a)(1) of this chapter, considering all relevant factors. If either party fails or refuses to enter into a new contract under section 21(a)(1) of this chapter according to the terms of the award, the other party may commence legal action to enforce the award under IC 34-57-1-13.

(e) If arbitration is initiated under subsection (d) before the expiration of the period referred to in subsection (c)(1), but the arbitration is not concluded before the expiration of the period set forth in subsection (c)(1), the municipal utility services shall continue to be provided to the properties referred to in subsection (a)(1)(B) under the terms set forth in subsection (b) until the arbitrator makes the award and the parties enter into a new contract under section 21(a)(1) of this chapter according to the terms of the award.

As added by P.L.196-2014, SEC.4.

IC 36-4-3-22 Filing and recording annexation ordinances; copies; tax records

Sec. 22. (a) The clerk of the municipality shall file:

- (1) each annexation ordinance against which:
 - (A) a remonstrance or an appeal has not been filed during the period permitted under this chapter; or
 - (B) a remonstrance was filed without a sufficient number of signatures to meet the requirements of section 11.3(c) of this chapter, in the case of an annexation for which an annexation ordinance was adopted after June 30, 2015; or
- (2) the certified copy of a final and unappealable judgment ordering an annexation to take place;

with the county auditor, circuit court clerk, and board of registration (if a board of registration exists) of each county in which the annexed territory is located, the office of the secretary of state, and the office of census data established by IC 2-5-1.1-12.2. The clerk of the municipality shall record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The ordinance or judgment must be filed and recorded no later than ninety (90) days after:

- (1) the expiration of the period permitted for a remonstrance or appeal;
- (2) the delivery of a certified order under section 15 of this chapter; or
- (3) the date the county auditor files the written certification with the legislative body under section 11.2 of this chapter, in the case of an annexation described in subsection (a)(1)(B).

(c) Failure to record the annexation ordinance as provided in subsection (a) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

- (1) The county highway department of each county in which the lots or lands affected are located.
- (2) The county surveyor of each county in which the lots or lands affected are located.
- (3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

- (4) The sheriff of each county in which the lots or lands affected are located.
- (5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.
- (6) The office of the secretary of state.
- (7) The office of census data established by IC 2-5-1.1-12.2.
- (8) The department of local government finance, not later than August 1, in the manner described by the department.

(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor. *As added by P.L.218-1986, SEC.2. Amended by P.L.301-1989, SEC.1; P.L.5-1989, SEC.100; P.L.1-1990, SEC.358; P.L.7-1990, SEC.57; P.L.3-1997, SEC.456; P.L.248-1999, SEC.10; P.L.217-1999, SEC.10; P.L.14-2000, SEC.80; P.L.212-2001, SEC.34; P.L.276-2001, SEC.9; P.L.1-2002, SEC.159; P.L.228-2015, SEC.22; P.L.38-2021, SEC.84.*

IC 36-4-3-22.1 Notice to chairman of alcohol and tobacco commission of licensed premises

Sec. 22.1. Not later than ten (10) days after an annexation ordinance is filed under section 22 of this chapter, the annexing municipality shall provide notice to the chairman of the alcohol and tobacco commission in accordance with IC 7.1-4-9-7 of any licensed premises located within the annexed territory.

As added by P.L.194-2021, SEC.67.

IC 36-4-3-23 Repealed

As added by P.L.113-2010, SEC.120. Repealed by P.L.104-2022, SEC.161.

IC 36-4-3-24 Legalization of certain annexation ordinances adopted in Tippecanoe County before March 1, 1990; legalization of declaratory resolution of redevelopment commission; assessment date

Sec. 24. (a) This section applies to a second class city located in Tippecanoe County.

(b) Notwithstanding any other law, if a city annexed territory before March 1, 1990, and the annexation proceedings included a technical failure to describe a public way that separates the annexed territory from the city, the annexation is legalized and declared valid.

(c) Notwithstanding any other law, if the redevelopment commission of a city adopted a declaratory resolution under IC 36-7-14-15 before March 1, 1990, for any of the annexed territory described in subsection (b), the declaratory resolution is legalized and declared valid. If the declaratory resolution designated any of the annexed territory as an allocation area under IC 36-7-14-39, the assessment date for purposes of determining the base assessed value of the economic development area for purposes of IC 36-7-14-39 is March 1, 1989.

As added by P.L.220-2011, SEC.651. Amended by P.L.119-2012, SEC.189.

IC 36-4-4 Chapter 4. Division of Powers of Cities

36-4-4-1	Application of chapter
36-4-4-2	Separation of powers; right of city employee to serve in office
36-4-4-3	Executive or administrative powers, duties, and functions
36-4-4-4	Legislative powers and duties
36-4-4-5	Uncertainty or dispute in nature of power or duty

IC 36-4-4-1 Application of chapter

Sec. 1. This chapter applies to all cities.

[Local Government Recodification Citation: New.]

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

IC 36-4-4-2 Separation of powers; right of city employee to serve in office

Sec. 2. (a) The powers of a city are divided between the executive and legislative branches of its government. A power belonging to one (1) branch of a city's government may not be exercised by the other branch.

(b) Subject to IC 3-5-9, a city employee other than an elected or appointed public officer may:

- (1) be a candidate for any elective office and serve in that office if elected; or
- (2) be appointed to any office and serve in that office if appointed;

without having to resign as a city employee.

[Pre-Local Government Recodification Citations: 18-1-1.5-25; 18-4-4-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.315-1995, SEC.1; P.L.135-2012, SEC.9.

IC 36-4-4-3 Executive or administrative powers, duties, and functions

Sec. 3. (a) All powers and duties of a city that are executive or administrative in nature shall be exercised or performed by the city executive, another city officer, or a city department.

(b) An ordinance of the city legislative body requiring an executive or administrative function to be performed may:

- (1) designate the department that is to perform that function; or
- (2) establish a new department or agency to perform that function.

(c) If an executive or administrative function is not assigned by a statute, ordinance, or resolution, the city executive shall assign that function to the proper department or officer.

[Pre-Local Government Recodification Citations: 18-1-1.5-27; 18-1-6-4; 18-4-4-2 part.]

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

IC 36-4-4-4 Legislative powers and duties

Sec. 4. (a) The legislative power of a city is vested in its legislative body. All powers and duties of a city that are legislative in nature shall be exercised or performed by its legislative body. The legislative body of a city may not elect or appoint a person to any office or employment, except as provided by statute.

(b) The legislative body may manage the finances of the city to the extent that that power is not vested in the executive branch.

[Pre-Local Government Recodification Citations: 18-1-1.5-26; 18-1-4-3 part; 18-4-4-4 part.]

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

IC 36-4-4-5 Uncertainty or dispute in nature of power or duty

Sec. 5. (a) If uncertainty exists or a dispute arises concerning the executive or legislative nature of a power or duty exercised or proposed to be exercised by a branch, officer, department, or agency of the government of a municipality, a petition may be filed in the

circuit court or superior court of the county in which the municipality is located by the municipal executive, another municipal elected official, the president of the municipal legislative body, or any person who alleges and establishes to the satisfaction of the court that the person is or would be adversely affected by the exercise of the power; however, in a county that does not contain a consolidated city and that has a superior court with three (3) or more judges, the petition shall be filed in the superior court and shall be heard and determined by the court sitting en banc.

(b) In a county containing a consolidated city, the petition shall be heard and determined by 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.

(c) The petition must set forth the action taken or the power proposed to be exercised, and all facts and circumstances relevant to a determination of the nature of the power, and must request that the court hear the matter and determine which branch, officer, department, or agency of the municipality, if any, is authorized to exercise the power. On the filing of the petition, the clerk of the court shall issue notice to the municipal executive, each municipal elected official, and the president of the municipal legislative body, unless the petition was filed by that person, and to the municipal attorney, department of law, or legal division.

(d) The court shall determine the matters set forth in the petition and shall affix the responsibility for the exercise of the power or the performance of the duty, unless it determines that the power or duty does not exist. Costs of the proceeding shall be paid by the municipality, except that if an appeal is taken from the decision of the court by any party to the proceeding other than the municipal executive, another municipal elected official, or the president of the municipal legislative body, the costs of the appeal shall be paid by the unsuccessful party on appeal or in the manner directed by the court deciding the appeal.

[Pre-Local Government Recodification Citation: 18-1-1.5-28.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.69-1995, SEC.5; P.L.141-2007, SEC.3; P.L.84-2016, SEC.172.

IC 36-4-5 Chapter 5. City Executive

36-4-5-1	Application of chapter
36-4-5-2	Mayor; election; eligibility; term of office
36-4-5-3	Powers and duties
36-4-5-4	Appointments
36-4-5-5	Power to hear complaints against person issued license; proceedings; findings and determination; violation, revocation, or suspension
36-4-5-6	Meetings with officers in charge of city departments; record
36-4-5-7	Appointment of persons to examine or investigate city accounts and property
36-4-5-8	Absence or inability of executive; designation and service of acting executive
36-4-5-9	Vacancy in office of executive

IC 36-4-5-1 Application of chapter

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

[Local Government Recodification Citation: New.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.41.

IC 36-4-5-2 Mayor; election; eligibility; term of office

Sec. 2. (a) A mayor, who is the city executive, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a city executive only if the person meets the qualifications prescribed by IC 3-8-1-26.

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

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

(e) The term of office of a city executive is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

[Pre-Local Government Recodification Citations: 18-1-2-1 part; 18-1-2-1.5 part; 18-2-1-4.2 part; 18-2-1-4.4 part; 18-2-1-5 part; 18-2-1-6 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.48; P.L.3-1987, SEC.556.

IC 36-4-5-3 Powers and duties

Sec. 3. The executive shall:

- (1) enforce the ordinances of the city and the statutes of the state;
- (2) provide a statement of the finances and general condition of the city to the city legislative body at least once a year;
- (3) provide any information regarding city affairs that the legislative body requests;
- (4) recommend, in writing, to the legislative body actions that the executive considers proper;
- (5) call special meetings of the legislative body when necessary;
- (6) supervise subordinate officers;
- (7) insure efficient government of the city;
- (8) fill vacancies in city offices when required by IC 3-13-8;
- (9) sign all bonds, deeds, and contracts of the city and all licenses issued by the city; and
- (10) approve or veto ordinances, orders, and resolutions of the legislative body under IC 36-4-6-15.

[Pre-Local Government Recodification Citation: 18-1-6-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.49.

IC 36-4-5-4 Appointments

Sec. 4. The executive shall make the appointments prescribed by IC 36-4-9 and IC 36-4-11-2.

[Pre-Local Government Recodification Citations: 18-1-6-2 part; 18-2-1-9 part.]

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

IC 36-4-5-5 Power to hear complaints against person issued license; proceedings; findings and determination; violation, revocation, or suspension

Sec. 5. On reasonable notice of at least three (3) days to the person complained of, the executive shall hear any complaint against a person to whom the city has issued a license, and may issue subpoenas to compel the attendance of witnesses, administer oaths to those witnesses, and require them to testify. To the extent they can be applied, the Indiana rules of procedure, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, apply to proceedings under this section. If the executive finds that the person complained of has wilfully violated a term or condition of the person's license, or has wilfully done or permitted to be done an act in violation of a statute or city ordinance relating to the business licensed, the executive shall revoke or suspend the license. The executive shall file a copy of the executive's findings and determination with the city fiscal officer within twenty-four (24) hours after it is made.

[Pre-Local Government Recodification Citations: 18-1-6-2 part; 18-1-20-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.125.

IC 36-4-5-6 Meetings with officers in charge of city departments; record

Sec. 6. At least once a month, the executive shall meet with the officers in charge of the city departments:

- (1) for consultation on the affairs of the city;
- (2) to adopt rules and regulations for the administration of the affairs of city departments; and
- (3) to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting city officers and employees.

A record of meetings under this section shall be kept.

[Pre-Local Government Recodification Citation: 18-1-6-2 part.]

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

IC 36-4-5-7 Appointment of persons to examine or investigate city accounts and property

Sec. 7. The executive may appoint three (3) competent persons to examine, without notice, the city accounts and property in the possession or custody of a city department, officer, or employee, and to report the results of their investigation.

[Pre-Local Government Recodification Citation: 18-1-6-2 part.]

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

IC 36-4-5-8 Absence or inability of executive; designation and service of acting executive

Sec. 8. (a) Whenever the executive is absent or going to be absent from the city, ill, or injured, the executive may designate:

- (1) the deputy mayor, if that position has been established under IC 36-4-9-7; or
- (2) a member of the city legislative body;

as acting executive, with all the powers of the office. The executive may exercise this power for a maximum of fifteen (15) days in any sixty (60) day period.

(b) A designation under subsection (a) shall be certified to the president or president pro tempore and clerk of the city legislative body. In addition, when the executive resumes the

executive's duties, the executive shall certify to those officers the expiration of the designation.

(c) Whenever the president or president pro tempore of the city legislative body files with the circuit court, superior court, or probate court of the county in which the city is located a written statement suggesting that the executive is unable to discharge the powers and duties of the executive's office, the circuit court, superior court, or probate court shall convene within forty-eight (48) hours to decide that question. After that, when the executive files with the circuit court, superior court, or probate court the executive's written declaration that no inability exists, the circuit court, superior court, or probate court shall convene within forty-eight (48) hours to decide whether that is the case. Upon a decision that no inability exists, the executive shall resume the powers and duties of the executive's office.

(d) If the circuit court, superior court, or probate court decides under subsection (c) that the executive is unable to discharge the powers and duties of the executive's office, then:

- (1) the deputy mayor, if that position has been established under IC 36-4-9-7; or
- (2) the president of the legislative body in a second class city, or the president pro tempore of the legislative body in a third class city, if there is no deputy mayor;

shall serve as acting executive, with all the powers of the office. A person may serve as acting executive for a maximum of six (6) months under this subsection. The city legislative body may appropriate funds to compensate a person acting as executive under subsection (d).

As added by P.L.349-1983, SEC.1. Amended by P.L.84-2016, SEC.173.

IC 36-4-5-9 Vacancy in office of executive

Sec. 9. (a) The office of executive becomes vacant whenever the executive:

- (1) dies, resigns, or is removed from office;
- (2) ceases to be a resident of the city;
- (3) is convicted of a felony, as provided in IC 5-8-1-38; or
- (4) is unable to discharge the powers and duties of the executive's office for more than six (6) months.

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

As added by P.L.349-1983, SEC.2. Amended by P.L.5-1986, SEC.50; P.L.37-2008, SEC.3; P.L.127-2017, SEC.126.

IC 36-4-6**Chapter 6. City Legislative Body**

36-4-6-0.1	Application of certain amendments to chapter
36-4-6-1	Application of chapter
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36-4-6-4	Third class cities; division into districts; boundaries; voting; recertification of districts; filing with circuit court clerk; time for filing
36-4-6-5	Third class cities having populations of less than 10,000; division into districts; boundaries; voting for legislative body candidates; recertification of districts; filing with circuit court clerk; time for filing
36-4-6-6	Power to expel member or declare seat vacant; rules
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36-4-6-11	Majority vote; two-thirds vote
36-4-6-12	Ordinance; majority vote
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36-4-6-14	Ordinance, order, or resolution adoption; requirements
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36-4-6-17	Ordinance adoption; recording; contents of record; effect as evidence
36-4-6-18	Purposes of ordinance, order, resolution, or motion
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36-4-6-20	Temporary or short term loans in anticipation of current revenues
36-4-6-21	Investigative powers of legislative body
36-4-6-22	Repealed
36-4-6-23	Repealed
36-4-6-24	Attorneys and legal research assistants

IC 36-4-6-0.1 Application of certain amendments to chapter

Sec. 0.1. The amendments made to sections 13 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.652.

IC 36-4-6-1 Application of chapter

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

[Local Government Recodification Citation: New.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.42.

IC 36-4-6-2 Common council; election; eligibility; term of office

Sec. 2. (a) A common council, which is the city legislative body, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a member of the legislative body only if the person meets the qualifications prescribed by IC 3-8-1-27.

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

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

(1) the city 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.

(e) A member forfeits office if the member ceases to be a resident of the district or city.

(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.

[Pre-Local Government Recodification Citations: 18-1-2-1 part; 18-1-2-1.5 part; 18-2-1-4.2 part; 18-2-1-4.4 part; 18-2-1-5 part; 18-2-1-6 part; 18-2-1-8 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.51; P.L.3-1987, SEC.557.

**IC 36-4-6-3 Second class cities; division into districts; boundaries;
legislative body candidates; recertification of districts; filing
with circuit court clerk; time for filing**

Sec. 3. (a) This section applies only to second class cities.

(b) The legislative body shall adopt an ordinance to divide the city into six (6) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) Except as provided in subsection (j), the division under subsection (b) shall be made only at times permitted under IC 3-5-10.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If the legislative body determines that a division under subsection (g) is not required, the legislative body shall adopt an ordinance recertifying that the districts as drawn comply with this section.

(k) A copy of the ordinance establishing districts or a recertification adopted under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance or recertification is adopted. The filing must include a map of the district boundaries:

- (1) adopted under subsection (b); or
- (2) recertified under subsection (j).

(l) The limitations set forth in this section are part of the ordinance, but do not have to be specifically set forth in the ordinance. The ordinance must be construed, if possible, to comply with this chapter. If a provision of the ordinance or an application of the ordinance violates this chapter, the invalidity does not affect the other provisions or applications of the ordinance that can be given effect without the invalid provision or application. The provisions of the ordinance are severable.

(m) IC 3-5-10 applies to a plan established under this section.

[Pre-Local Government Recodification Citations: 18-2-1-8 part; 18-2-9-1.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.6; P.L.13-1988, SEC.16; P.L.5-1989, SEC.101; P.L.7-1990, SEC.58; P.L.3-1993, SEC.265; P.L.230-2005, SEC.85; P.L.271-2013, SEC.49; P.L.169-2022, SEC.15.

IC 36-4-6-4 Third class cities; division into districts; boundaries; voting; recertification of districts; filing with circuit court clerk; time for filing

Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b), (j), or (m) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

- (1) except when following a precinct boundary line; or
- (2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) Except as provided in subsection (o), the division under subsection (b), (j), or (m)

shall be made only at times permitted under IC 3-5-10.

(h) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j) or (m). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

- (1) are composed of contiguous territory;
 - (2) are reasonably compact;
 - (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d);
- and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies only if the ordinance adopted under IC 36-4-1.5-3 by the town legislative body of a town that has a population of less than ten thousand (10,000) and that becomes a city specifies that the city legislative body districts are governed by this subsection. The ordinance adopted under IC 36-4-1.5-3(b)(1) dividing the town into city legislative body districts may provide that:

- (1) the city shall be divided into three (3) districts that:
 - (A) are composed of contiguous territory;
 - (B) are reasonably compact;
 - (C) do not cross precinct boundary lines, except as provided in subsection (c) or (d);and
- (D) contain, as nearly as is possible, equal population; and

- (2) the legislative body of the city is composed of three (3) members elected from the districts established under this subsection and two (2) at-large members.

Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(n) A copy of the ordinance establishing districts or a recertification adopted under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance or recertification is adopted. The filing must include a map of the district boundaries:

- (1) adopted under subsection (b), (j), or (m); or
- (2) recertified under subsection (o).

(o) If the legislative body determines that a division under subsection (g) is not required, the legislative body shall adopt an ordinance recertifying that the districts as drawn comply with this section.

(p) The limitations set forth in this section are part of the ordinance, but do not have to be specifically set forth in the ordinance. The ordinance must be construed, if possible, to comply with this chapter. If a provision of the ordinance or an application of the ordinance

violates this chapter, the invalidity does not affect the other provisions or applications of the ordinance that can be given effect without the invalid provision or application. The provisions of the ordinance are severable.

(q) IC 3-5-10 applies to a plan established under this section.

[Pre-Local Government Recodification Citations: 18-2-1-8 part; 18-2-12-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.7; Acts 1981, P.L.44, SEC.43; P.L.13-1988, SEC.17; P.L.5-1989, SEC.102; P.L.7-1990, SEC.59; P.L.4-1991, SEC.141; P.L.1-1992, SEC.184; P.L.3-1993, SEC.266; P.L.230-2005, SEC.86; P.L.169-2006, SEC.51; P.L.271-2013, SEC.50; P.L.169-2022, SEC.16.

**IC 36-4-6-5 Third class cities having populations of less than 10,000;
division into districts; boundaries; voting for legislative body
candidates; recertification of districts; filing with circuit court
clerk; time for filing**

Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted after June 30, 2010, and during a year in which an election of the legislative body will not occur, decide to be governed by this section instead of section 4 of this chapter. The legislative body districts created by an ordinance adopted under this subsection apply to the first election of the legislative body held after the date the ordinance is adopted. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
- (2) are reasonably compact;
- (3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and
- (4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

- (1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and
- (2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

- (1) except when following a precinct boundary line; or
- (2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

- (1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) Except as provided in subsection (o), the division under subsection (b) or (j) shall be made only at times permitted under IC 3-5-10.

(h) This subsection does not apply to a city with an ordinance described by subsection (j).

The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

- (1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;
 - (2) are reasonably compact;
 - (3) do not cross precinct boundary lines, except as provided in subsection (c) or (d);
- and
- (4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts or a recertification under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance or recertification is adopted. The filing must include a map of the district boundaries:

- (1) adopted under subsection (b) or (j); or
- (2) recertified under subsection (o).

(o) If the legislative body determines that a division under subsection (b) or (j) is not required, the legislative body shall adopt an ordinance recertifying that the districts as drawn comply with this section.

(p) The limitations set forth in this section are part of the ordinance, but do not have to be specifically set forth in the ordinance. The ordinance must be construed, if possible, to comply with this chapter. If a provision of the ordinance or an application of the ordinance violates this chapter, the invalidity does not affect the other provisions or applications of the ordinance that can be given effect without the invalid provision or application. The provisions of the ordinance are severable.

(q) IC 3-5-10 applies to a plan established under this section.

[Pre-Local Government Recodification Citation: 18-2-1-8 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.8; Acts 1981, P.L.44, SEC.44; P.L.13-1988, SEC.18; P.L.5-1989, SEC.103; P.L.7-1990, SEC.60; P.L.4-1991, SEC.142; P.L.1-1992, SEC.185; P.L.3-1993, SEC.267; P.L.230-2005, SEC.87; P.L.113-2010, SEC.121; P.L.271-2013, SEC.51; P.L.169-2022, SEC.17.

IC 36-4-6-6 Power to expel member or declare seat vacant; rules

Sec. 6. The legislative body may:

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

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

[Pre-Local Government Recodification Citation: 18-1-3-5.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.127.

IC 36-4-6-7 Meetings

Sec. 7. (a) The legislative body shall hold its first regular meeting in January after its election. In subsequent months, the legislative body shall hold regular meetings at least once a month, unless its rules require more frequent meetings.

(b) A special meeting of the legislative body shall be held when called by the city executive or when called under the rules of the legislative body.

[Pre-Local Government Recodification Citation: 18-1-3-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.169-2006, SEC.52.

IC 36-4-6-8 President; vice president; president pro tempore

Sec. 8. (a) This subsection applies only to second class cities. At its first regular meeting under section 7 of this chapter, and each succeeding January, the legislative body shall choose from its members a president and a vice president.

(b) This subsection applies only to third class cities. The city executive shall preside at all meetings of the legislative body, but may vote only in order to break a tie. At its first regular meeting under section 7 of this chapter and each succeeding January, the legislative body shall choose from its members a president pro tempore to preside whenever the executive is absent.

[Pre-Local Government Recodification Citation: 18-1-3-3.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.23; P.L.349-1983, SEC.3; P.L.169-2006, SEC.53.

IC 36-4-6-9 Clerk; duties; second class cities posting roll call votes on Internet web site

Sec. 9. The city clerk is the clerk of the legislative body. The city clerk shall do the following:

- (1) Preserve the legislative body's records in the clerk's office.
- (2) Keep an accurate record of the legislative body's proceedings.
- (3) Record the ayes and nays on each vote on an ordinance or resolution.
- (4) Record the ayes and nays on other votes when requested to do so by two (2) or more members.
- (5) Present ordinances, orders, or resolutions to the city executive under section 15 of this chapter.
- (6) Record ordinances under section 17 of this chapter.
- (7) This subdivision applies only to a second class city that maintains an Internet web site. The city clerk shall post on the city's Internet web site the roll call votes of the legislative body not later than three (3) business days after the following:
 - (A) The date the roll call vote is taken if the city's software is able to generate a roll call vote.
 - (B) If the city's software is not able to generate a roll call vote, the date the legislative body is first able to approve the minutes of the meeting at which the roll call vote was taken.

The city clerk shall maintain the roll call vote information on the Internet web site for a period of four (4) years.

[Pre-Local Government Recodification Citations: 18-1-3-4; 18-1-6-3 part.]
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.128; P.L.204-2017, SEC.4.

IC 36-4-6-10 Quorum

Sec. 10. A majority of all the elected members of the legislative body constitutes a quorum.

[Pre-Local Government Recodification Citation: 18-1-3-2 part.]
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-11 Majority vote; two-thirds vote

Sec. 11. (a) A requirement that an ordinance, resolution, or other action of the 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, resolution, or other action of the 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.

[Pre-Local Government Recodification Citation: 18-1-3-2 part.]
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-12 Ordinance; majority vote

Sec. 12. A majority vote of the legislative body is required to pass an ordinance, unless a greater vote is required by statute.

[Pre-Local Government Recodification Citation: 18-1-3-2 part.]
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-6-13 Ordinance; two-thirds vote with unanimous consent of members present

Sec. 13. (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 the legislative body on the same day or at the same meeting at which it is introduced.

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

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]
As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.24; P.L.335-1985, SEC.35.

IC 36-4-6-14 Ordinance, order, or resolution adoption; requirements

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

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

If required by statute, an adopted ordinance, order, or resolution must be promulgated or published before it takes effect.

(b) 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 (c); or
- (2) there is an urgent necessity requiring its immediate effectiveness, the city executive proclaims the urgent necessity, and copies of the ordinance are posted in three (3) public places in each of the districts from which members are elected to the legislative body.

(c) Except as provided in subsection (e), if a city 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.

(d) This section (other than subsection (f)) 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.

(e) 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).

(f) Subject to subsection (j), the legislative body shall:

- (1) subject to subsection (g), 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.

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

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

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

(j) The notice requirements of subsection (f) 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 (f) 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.

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.335-1985, SEC.36; P.L.100-2003, SEC.2; P.L.78-2009, SEC.25; P.L.159-2011, SEC.46.

IC 36-4-6-15 Ordinance, order, or resolution; presentation to city executive

Sec. 15. After an ordinance, order, or resolution passed by the legislative body has been signed by the presiding officer, the clerk shall present it to the city executive, and record the time of the presentation.

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]

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

IC 36-4-6-16 Ordinance, order, or resolution; power of city executive to approve or veto

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

- (1) approve the ordinance, order, or resolution, by entering the executive's approval on it, signing it, and sending the legislative body a message announcing the executive's approval; or

(2) veto the ordinance, order, or resolution, by returning it to the legislative body with a message announcing the executive's veto and stating the executive's 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 the executive's duty under subsection (a), the ordinance, order, or resolution is considered vetoed.

(c) Whenever an ordinance, order, 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, order, or resolution over the executive's veto by a two-thirds (2/3) vote.

[Pre-Local Government Recodification Citations: 18-1-3-6 part; 18-1-6-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.129.

IC 36-4-6-17 Ordinance adoption; recording; contents of record; effect as evidence

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.

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]

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

IC 36-4-6-18 Purposes of ordinance, order, resolution, or motion

Sec. 18. The legislative body may pass ordinances, orders, resolutions, and motions for the government of the city, the control of the city's property and finances, and the appropriation of money.

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]

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

IC 36-4-6-19 Loans and issuance of bonds; requirements

Sec. 19. (a) The legislative body may, by ordinance, make loans of money and, subject to IC 5-1-11.5 and IC 5-11-1-4(c), 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 or 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 a 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 city fiscal officer 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) certify the amount the purchaser is to pay, together with the name and address of the purchaser;
- (3) receive the amount of payment certified;
- (4) deliver the bonds to the purchaser;
- (5) take a receipt for the securities delivered;
- (6) pay the purchaser's payment into the city treasury; and
- (7) report the proceedings in the sale to the legislative body.

The actions of the fiscal officer under this subsection are ministerial.

[Pre-Local Government Recodification Citation: 18-1-4-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.173-2003, SEC.26; P.L.184-2015, SEC.16; P.L.244-2017, SEC.127.

IC 36-4-6-20 Temporary or short term loans in anticipation of current revenues

Sec. 20. (a) The 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 city, and the total amount of outstanding loans under this subsection may not exceed five percent (5%) of the 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 19 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 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.

(b) The legislative body may, by ordinance, make loans and issue notes for the purpose of refunding those loans in anticipation of revenues of the city that are anticipated to be levied and collected during the term of the loans. The term of a loan made under this subsection may not be more than five (5) years. Loans under this subsection shall be made in the same manner as loans made under section 19 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.

(c) An action to contest the validity of a loan made under this section must be brought within fifteen (15) days from the day on which the ordinance is adopted.

[Pre-Local Government Recodification Citation: 18-1-4-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.209, SEC.1; P.L.37-1988, SEC.23; P.L.35-1990, SEC.44; P.L.40-1996, SEC.9.

IC 36-4-6-21 Investigative powers of legislative body

Sec. 21. (a) The legislative body may investigate:

- (1) the departments, officers, and employees of the city;
- (2) any charges against a department, officer, or employee of the city; and
- (3) the affairs of a person with whom the city has entered or is about to enter into a contract.

(b) When conducting an investigation under this section, the legislative body:

- (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 in which the city is located.

(c) 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, superior court, or probate 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 the evidence, or both.

[Pre-Local Government Recodification Citation: 18-1-4-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.9; Acts 1981, P.L.11, SEC.163; P.L.84-2016, SEC.174.

IC 36-4-6-22 Repealed

[Pre-Local Government Recodification Citation: 18-1-4-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1980, P.L.73, SEC.23.

IC 36-4-6-23 Repealed

[Pre-Local Government Recodification Citation: 18-1-4-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1980, P.L.73, SEC.23.

IC 36-4-6-24 Attorneys and legal research assistants

Sec. 24. (a) The legislative body may hire or contract with competent attorneys and legal research assistants on terms it considers appropriate.

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

(c) Appropriations for salaries of attorneys and legal research assistants employed under this section may not exceed the appropriations for similar salaries in the budget of the city department of law.

[Pre-Local Government Recodification Citation: 18-2-3.5-1.]

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

IC 36-4-7 Chapter 7. City Budget Procedures and Compensation of Officers and Employees

36-4-7-1	Application of chapter
36-4-7-2	Elected city officers; fixing of annual compensation; determining increases or decreases in compensation
36-4-7-3	Appointive officers, deputies, and other employees; compensation
36-4-7-4	City officers and employees connected with operation of municipally owned utility or function; additional compensation
36-4-7-5	Salary schedule
36-4-7-6	Budget estimates; formulation procedure
36-4-7-7	Report of estimates; ordinance fixing taxation rate; appropriation
36-4-7-8	Ordinances; additional appropriations or decrease
36-4-7-9	Appropriation ordinance; items
36-4-7-10	Preparation of budgets; contents; submission to legislative body
36-4-7-11	Failure to pass tax rate and appropriation ordinances; continuation

IC 36-4-7-1 Application of chapter

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

[Local Government Recodification Citation: New.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.45.

IC 36-4-7-2 Elected city officers; fixing of annual compensation; determining increases or decreases in compensation

Sec. 2. (a) As used in this section, "compensation" means the total of all money paid to an elected city officer for performing duties as a city officer, regardless of the source of funds from which the money is paid. The term includes all employee benefits paid to an elected city officer, including life insurance, health insurance, disability insurance, retirement benefits, and pension benefits. For purposes of determining an increase or decrease in compensation of an elected city officer, the term does not include any of the following:

- (1) Payment of an insurance premium.
- (2) Payments in recognition of:
 - (A) longevity;
 - (B) professional certifications; or
 - (C) educational advancements;that are separately identified on a salary ordinance or resolution.
- (3) Payment of a stipend or per diem allowed by statute.
- (4) A payment authorized under section 4 of this chapter.

(b) The city legislative body shall, by ordinance, fix the annual compensation of all elected city officers. An ordinance adopted under this subsection that fixes the annual compensation of an elected city officer shall provide for an annual, monthly, or biweekly salary schedule. An elected city officer is not required to report hours worked and may not be compensated based on the number of hours worked.

(c) The compensation of an elected city officer may not be changed in the year for which it is fixed nor may it be reduced below the amount fixed for the previous year.

[Pre-Local Government Recodification Citations: Part new; 18-1-6-3 part; 18-2-1-2 part; 18-2-1-9 part; 18-2-1-10 part; 18-2-1-17; 18-2-10-1 part; 18-3-3-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.21; P.L.15-1993, SEC.3; P.L.141-2009, SEC.9; P.L.209-2019, SEC.13.

IC 36-4-7-3 Appointive officers, deputies, and other employees; compensation

Sec. 3. (a) This section does not apply to compensation paid by a city to members of its police and fire departments.

(b) Subject to the approval of the city legislative body, the city executive shall fix the

compensation of each appointive officer, deputy, and other employee of the city. The legislative body may reduce but may not increase any compensation fixed by the executive. Compensation must be fixed under this section not later than November 1 of each year for the ensuing budget year.

(c) Compensation fixed under this section may be increased or decreased by the executive during the budget year for which it is fixed.

(d) Notwithstanding subsection (b), the city clerk may, with the approval of the legislative body, fix the salaries of deputies and employees appointed under IC 36-4-11-4.

[Pre-Local Government Recodification Citations: 18-1-6-4 part; 18-1-6-13 part; 18-1-6-14 part; 18-2-1-2 part; 18-2-1-9 part; 18-2-1-10 part; 18-2-5-1 part; 18-2-6-1 part; 18-2-7-1 part; 18-3-3-3 part.]
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.44-1991, SEC.5; P.L.35-1999, SEC.5; P.L.89-2001, SEC.7; P.L.169-2006, SEC.54; P.L.118-2012, SEC.1.

IC 36-4-7-4 City officers and employees connected with operation of municipally owned utility or function; additional compensation

Sec. 4. (a) Subject to the approval of the city legislative body, the city executive may provide that city officers (including elected city officers) and employees receive additional compensation for services that:

- (1) are performed for the city;
- (2) are not governmental in nature; and
- (3) are connected with the operation of a municipally owned utility or function.

(b) Subject to the approval of the executive and legislative body, the administrative agency operating the utility or function shall fix the amount of the additional compensation, which shall be paid from the revenues of the utility or function.

[Pre-Local Government Recodification Citations: 18-2-1-12; 19-3-28-1; 19-3-30-1; 19-3-30-2.]
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.209-2019, SEC.14.

IC 36-4-7-5 Salary schedule

Sec. 5. Salaries of city officers and employees shall be scheduled as provided in the budget classification prescribed by the state board of accounts.

[Pre-Local Government Recodification Citation: 18-2-1-13 part.]
As added by Acts 1980, P.L.212, SEC.3.

IC 36-4-7-6 Budget estimates; formulation procedure

Sec. 6. Before the publication (before January 1, 2015) and before the submission of notice of budget estimates required by IC 6-1.1-17-3, each city shall formulate a budget estimate for the ensuing budget year in the following manner:

- (1) Each department head shall prepare for the department head's department an estimate of the amount of money required for the ensuing budget year, stating in detail each category and item of expenditure the department head anticipates.
- (2) The city fiscal officer shall prepare an itemized estimate of revenues available for the ensuing budget year, and shall prepare an itemized estimate of expenditures for other purposes above the money proposed to be used by the departments.
- (3) The city executive shall meet with the department heads and the fiscal officer to review and revise their various estimates.
- (4) After the executive's review and revision, the fiscal officer shall prepare for the executive a report of the estimated department budgets, miscellaneous expenses, and revenues necessary or available to finance the estimates.

[Pre-Local Government Recodification Citation: 18-1-6-6.5 part.]
As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.183-2014, SEC.25.

IC 36-4-7-7 Report of estimates; ordinance fixing taxation rate; appropriation

Sec. 7. (a) The fiscal officer shall present the report of budget estimates to the city legislative body under IC 6-1.1-17. After reviewing the report, the legislative body shall prepare an ordinance fixing the rate of taxation for the ensuing budget year and an ordinance making appropriations for the estimated department budgets and other city purposes during the ensuing budget year. The legislative body, in the appropriation ordinance, may reduce any estimated item from the figure submitted in the report of the fiscal officer, but it may increase an item only if the executive recommends an increase. The legislative body shall promptly act on the appropriation ordinance.

(b) In preparing the ordinances described in subsection (a) the legislative body shall make an allowance for the cost of fire protection to annexed territory described in IC 36-4-3-7(c), for the year fire protection is first offered to that territory.

[Pre-Local Government Recodification Citation: 18-1-6-6.5 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.341-1987, SEC.2; P.L.5-1989, SEC.104; P.L.104-2022, SEC.162.

IC 36-4-7-8 Ordinances; additional appropriations or decrease

Sec. 8. After the passage of the appropriation ordinance, the city legislative body may, on the recommendation of the city executive, make further or additional appropriations by ordinance, unless their result is to increase the tax levy set under IC 6-1.1-17. The legislative body may, by ordinance, decrease any appropriation. The executive may, by executive order, decrease the appropriation made for any executive department.

[Pre-Local Government Recodification Citation: 18-1-6-6.5 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.10.

IC 36-4-7-9 Appropriation ordinance; items

Sec. 9. An appropriation ordinance must specify, by items, the amount of each appropriation and the department for which it is made.

[Pre-Local Government Recodification Citation: 18-1-3-6 part.]

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

IC 36-4-7-10 Preparation of budgets; contents; submission to legislative body

Sec. 10. The department budgets prepared under section 6 of this chapter must include the compensation of department heads and must be submitted to the city legislative body under section 7 of this chapter.

[Pre-Local Government Recodification Citation: 18-1-6.5-6.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.25.

IC 36-4-7-11 Failure to pass tax rate and appropriation ordinances; continuation

Sec. 11. If the city legislative body does not pass the ordinance required by section 7 of this chapter before November 2 of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

[Pre-Local Government Recodification Citation: 18-1-4-5.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.176-2002, SEC.9; P.L.169-2006, SEC.55; P.L.113-2010, SEC.122.

IC 36-4-8 Chapter 8. Miscellaneous City Fiscal and Administrative Provisions

36-4-8-1	Application of chapter
36-4-8-2	Warrants; conditions and purposes of issuance
36-4-8-3	Warrants; issuance; order
36-4-8-4	Claims against city; audit; refusal to pay
36-4-8-5	Claims against city; allowance; violation
36-4-8-6	Repealed
36-4-8-7	Claims against city; issuance of warrant; requirements; certification
36-4-8-8	Compensation for city officers and employees; restrictions
36-4-8-8.1	Repealed
36-4-8-9	Vacation leave; compensation
36-4-8-10	Repealed
36-4-8-11	Repealed
36-4-8-12	City works board; long term contracts; bond issuance by a department; void obligations
36-4-8-13	Violations by city official; offense; liability
36-4-8-14	Preapproved payments of claims
36-4-8-15	Filing copies of agency financial records
36-4-8-15.5	City or county agreement for school construction or renovation

IC 36-4-8-1 Application of chapter

Sec. 1. This chapter applies to all cities.

[Local Government Recodification Citation: New.]

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

IC 36-4-8-2 Warrants; conditions and purposes of issuance

Sec. 2. Money may be paid out of the city treasury only on warrant of the city fiscal officer. Unless a statute provides otherwise, the fiscal officer may draw a warrant against a fund of the city only if:

- (1) an appropriation has been made for that purpose and the appropriation is not exhausted;
- (2) the warrant is for a salary fixed by statute or ordinance;
- (3) the warrant is for a claim allowed under section 5 of this chapter;
- (4) the fiscal officer is ordered to issue the warrant under section 3 of this chapter;
- (5) the warrant is for payment of a judgment that the city must pay; or
- (6) the warrant is for interest due on city bonds.

[Pre-Local Government Recodification Citations: 18-1-4-4; 18-1-6-11 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.33, SEC.26; P.L.127-2017, SEC.130.

IC 36-4-8-3 Warrants; issuance; order

Sec. 3. (a) A city board or legislative body may order the issuance of warrants for payment of money by the city only at a meeting of the board or legislative body.

(b) A city officer who violates this section forfeits the officer's office.

[Pre-Local Government Recodification Citation: 18-1-20-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.131.

IC 36-4-8-4 Claims against city; audit; refusal to pay

Sec. 4. (a) The city fiscal officer may audit a claim against the city by examining under oath any officer, agent, or employee of the city or any other person. When acting under this section, the fiscal officer has the same powers as the city legislative body in summoning and examining witnesses.

(b) If the fiscal officer finds that:

- (1) the claim includes an item for which no appropriation has been made;
- (2) there is not a sufficient balance for payment of the claim in the proper fund; or
- (3) the claim should not be approved for any reason;

the fiscal officer may not issue warrants to pay the claim and the fiscal officer shall notify the proper department of the reasons for the fiscal officer's refusal to pay the claim.

[Pre-Local Government Recodification Citation: 18-1-6-11 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.132.

IC 36-4-8-5 Claims against city; allowance; violation

Sec. 5. (a) Except as provided in section 14 of this chapter, a city board or legislative body may allow a claim:

- (1) only at a meeting of the board or legislative body; and
- (2) only if the claim was filed in the manner prescribed by IC 5-11-10-2 at least five (5) days before the meeting.

(b) A city officer who violates this section forfeits the city officer's office.

[Pre-Local Government Recodification Citation: 18-1-20-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.32-1992, SEC.2; P.L.127-2017, SEC.133.

IC 36-4-8-6 Repealed

[Pre-Local Government Recodification Citation: 18-1-20-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1980, P.L.73, SEC.23.

IC 36-4-8-7 Claims against city; issuance of warrant; requirements; certification

Sec. 7. (a) As used in this section, "claim" means a bill or an invoice submitted for goods or services.

(b) Except as provided in section 14 of this chapter, a warrant for payment of a claim against a city may be issued only if the claim is:

- (1) supported by a fully itemized invoice or bill under IC 5-11-10-1.6;
- (2) approved by the officer or person receiving the goods or services;
- (3) filed with the city fiscal officer;
- (4) audited and certified by the fiscal officer before payment that each invoice is true and correct; and
- (5) allowed by the city legislative body or the city board having jurisdiction over allowance of the claim.

(c) The certification by the fiscal officer under subsection (b)(4) must be on a form prescribed by the state board of accounts.

[Pre-Local Government Recodification Citations: 5-11-10-2 part; 18-1-6-11 part; 18-1-20-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.32-1992, SEC.3; P.L.71-1995, SEC.4; P.L.69-1995, SEC.6.

IC 36-4-8-8 Compensation for city officers and employees; restrictions

Sec. 8. (a) The compensation fixed for city officers and employees under this title is in full for all governmental services and in lieu of all:

- (1) fees;
- (2) penalties;
- (3) fines;
- (4) interest;
- (5) costs;
- (6) forfeitures;
- (7) commissions; and
- (8) percentages;

which shall be paid into the city treasury each week.

(b) An officer or employee is entitled to receive a salary payment only after the officer or employee presents the city fiscal officer with:

- (1) a detailed, verified statement of the monies the officer or employee has received since the officer's or employee's most recent statement; and
- (2) a receipt showing payment of those monies to the fiscal officer.

The fiscal officer may prescribe the form of the statement, require officers and employees to submit the statement, and examine persons in regard to the statement.

[Pre-Local Government Recodification Citations: 18-1-6-5 part; 18-2-1-11 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.134.

IC 36-4-8-8.1 Repealed

As added by P.L.316-1995, SEC.1. Repealed by P.L.2-1997, SEC.92.

IC 36-4-8-9 Vacation leave; compensation

Sec. 9. (a) One (1) to three (3) days before the vacation leave period of a city officer or employee begins, the city may pay the officer or employee the amount of compensation the officer or employee will earn while on vacation leave.

(b) Compensation for services paid to a salaried city officer or employee pursuant to a fixed schedule set forth in a written contract or salary ordinance shall not be construed as having been paid in advance. Under such an arrangement, the city shall maintain records to verify that actual work is performed for all salary paid.

[Pre-Local Government Recodification Citation: 5-7-3-2 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.37-1986, SEC.2; P.L.127-2017, SEC.135.

IC 36-4-8-10 Repealed

[Pre-Local Government Recodification Citations: 18-6-11-5 part; 18-6-11-6 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.11. Repealed by Acts 1981, P.L.57, SEC.45.

IC 36-4-8-11 Repealed

[Pre-Local Government Recodification Citation: 18-1-20-2.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1980, P.L.73, SEC.23.

IC 36-4-8-12 City works board; long term contracts; bond issuance by a department; void obligations

Sec. 12. (a) This section does not prohibit:

- (1) the city works board from making long term contracts for utility services under IC 36-9; or
- (2) a department from issuing bonds or other obligations authorized by law.

(b) Except as provided in subsection (c), a city department, officer, or employee may not obligate the city to any extent beyond the amount of money appropriated for that department, officer, or employee. An obligation made in violation of this section is void.

(c) A city department, officer, or employee may obligate the city beyond the amount of money appropriated for that department, officer, or employee if:

- (1) the obligation is made under a multi-year interlocal cooperation agreement entered into by the city and one (1) or more political subdivisions or governmental entities under IC 36-1-7; and
- (2) the agreement described in subdivision (1) is approved by the fiscal body of the city.

(d) An obligation described in subsection (c) may be terminated:

- (1) if the city provides notice of the termination of the obligation at least one (1) year

before the termination of the obligation; or
(2) the city and the political subdivisions or governmental entities that have entered into the interlocal cooperation agreement otherwise agree to the termination.

[Pre-Local Government Recodification Citation: 18-1-6-8.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.30-2012, SEC.2.

IC 36-4-8-13 Violations by city official; offense; liability

Sec. 13. A city official who recklessly:

- (1) issues a bond, certificate, or warrant for the payment of money in excess of an appropriation; or
- (2) enters into an obligation prohibited by section 12 of this chapter;

commits a Class B misdemeanor and is liable on the city official's official bond to any person injured by the city official's actions.

[Pre-Local Government Recodification Citation: 18-1-6-9.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.136.

IC 36-4-8-14 Preapproved payments of claims

Sec. 14. (a) A city legislative body may adopt an ordinance allowing money to be disbursed for lawful city purposes under this section.

(b) Notwithstanding IC 5-11-10, with the prior written approval of the board having jurisdiction over the allowance of claims, the city fiscal officer may make claim payments in advance of board allowance for the following kinds of expenses if the city legislative body has adopted an ordinance under subsection (a):

- (1) Property or services purchased or leased from the United States government, its agencies, or its political subdivisions.
- (2) License or permit fees.
- (3) Insurance premiums.
- (4) Utility payments or utility connection charges.
- (5) General grant programs where advance funding is not prohibited and the contracting party posts sufficient security to cover the amount advanced.
- (6) Grants of state funds authorized by statute.
- (7) Maintenance or service agreements.
- (8) Leases or rental agreements.
- (9) Bond or coupon payments.
- (10) Payroll.
- (11) State, federal, or county taxes.
- (12) Expenses that must be paid because of emergency circumstances.
- (13) Expenses described in an ordinance.

(c) Each payment of expenses under this section must be supported by a fully itemized invoice or bill and certification by the fiscal officer.

(d) The city legislative body or the city board having jurisdiction over the allowance of the claim shall review and allow the claim at its next regular or special meeting following the preapproved payment of the expense.

As added by P.L.32-1992, SEC.4. Amended by P.L.69-1995, SEC.7; P.L.40-1996, SEC.10.

IC 36-4-8-15 Filing copies of agency financial records

Sec. 15. Each city agency, board, commission, district, or other city entity shall file one (1) copy of that agency's, board's, commission's, district's, or entity's financial records with the city fiscal officer.

As added by P.L.98-2000, SEC.22.

IC 36-4-8-15.5 City or county agreement for school construction or renovation

Sec. 15.5. (a) This section applies to:

(1) a city or county in which a riverboat (as defined in IC 4-33-2-17) is docked or located or gambling games (as defined in IC 4-35-2-5) are located; and

(2) a school corporation that is located in any part in a county described in subdivision (1) or in a county in which a city described in subdivision (1) is located.

(b) A city or county may do any of the following:

(1) Enter into one (1) or more agreements or leases with the school corporation or another public or private entity to provide for the construction or renovation of a school building that will be used by the school corporation. The agreements and leases may provide for the financing of the construction or renovation of the school building.

(2) A school building constructed or renovated as provided in subdivision (1) may be donated, sold, or leased to the school corporation under the conditions determined by the school corporation and the city or county.

(3) The city or county may use any revenues (including any gaming revenues) to pay for the construction or renovation of the school building or to finance the construction or renovation of the school building.

As added by P.L.182-2009(ss), SEC.403.

IC 36-4-9 Chapter 9. City Departments, Boards, and Appointed Officers

36-4-9-1	Application of chapter
36-4-9-2	Appointment of department heads; approval by certain boards and commissions; eligibility
36-4-9-3	Repealed
36-4-9-4	Executive departments; establishment by city legislative body; administrative functions; termination; transfer of powers, duties, functions, or obligations
36-4-9-5	Board of public works and safety; establishment
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
36-4-9-7	Ordinance establishing position of deputy mayor
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
36-4-9-9	Repealed
36-4-9-10	Repealed
36-4-9-11	Head of department of law; city attorney and assistant city attorney; eligibility for appointment
36-4-9-12	Head of department of law; powers and duties; employment of other attorneys

IC 36-4-9-1 Application of chapter

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

[Local Government Recodification Citation: New.]

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.

[Pre-Local Government Recodification Citations: Part new; 18-1-6-4 part; 18-1-6-5 part; 18-5-13-1.]

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

[Pre-Local Government Recodification Citation: 18-1-6-4 part.]

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

[Pre-Local Government Recodification Citations: Part new; 18-1-6.5-1; 18-1-6.5-2; 18-1-6.5-3; 18-1-6.5-4; 18-1-6.5-5.]

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.

[Pre-Local Government Recodification Citations: 18-2-1-4.2 part; 18-2-1-4.4 part; 18-2-1-5 part; 18-2-1-6 part.]

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.

[Pre-Local Government Recodification Citations: 18-1-6-14 part; 18-2-1-4.2 part.]

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.

[Pre-Local Government Recodification Citation: 18-2-1-4.2 part.]

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.

[Pre-Local Government Recodification Citations: 18-1-6-14 part; 18-2-1-4.4 part.]

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

[Pre-Local Government Recodification Citations: 18-1-6-14 part; 18-2-1-5 part.]

As added by Acts 1980, P.L.212, SEC.3. Repealed by Acts 1981, P.L.44, SEC.61.

IC 36-4-9-10 Repealed

[Pre-Local Government Recodification Citation: 18-2-1-6 part.]

As added by Acts 1980, P.L.212, SEC.3. 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. The corporation counsel's first deputy is the city attorney, and the corporation counsel's 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 seven thousand (7,000), be a resident of Indiana.

[Pre-Local Government Recodification Citations: 18-1-6-13 part; 18-2-3-1 part; 18-5-13-2.]

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; P.L.119-2012, SEC.190.

IC 36-4-9-12 Head of department of law; powers and duties; employment of other attorneys

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 the department head's office and turn them over to the department head's 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 the

department head's duties;

(9) report, in writing, to the city executive all matters that the department head 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.

[Pre-Local Government Recodification Citations: Part new; 18-1-6-13 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.17, SEC.25; P.L.127-2017, SEC.137.

IC 36-4-10 Chapter 10. City Clerk and Fiscal Officer

36-4-10-1	Application of chapter
36-4-10-2	City clerk or city clerk-treasurer; election; fiscal officer; term of office; immunity
36-4-10-2.5	Office space provided
36-4-10-3	Clerk; eligibility; residence
36-4-10-4	Clerk; duties
36-4-10-4.5	Third class cities; fiscal officer; duties
36-4-10-5	Second class cities; fiscal officer; duties
36-4-10-5.5	Employment of attorneys or legal research assistants
36-4-10-6	Repealed
36-4-10-7	Third class cities; clerk's deputies and employees
36-4-10-8	Training requirements

IC 36-4-10-1 Application of chapter

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

[Local Government Recodification Citation: New.]

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.

[Pre-Local Government Recodification Citations: 18-1-2-1 part; 18-2-1-4.2 part; 18-2-1-4.4 part; 18-2-1-5 part; 18-2-1-6 part; 18-2-6-3 part.]

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.

[Pre-Local Government Recodification Citation: 18-1-2-1.5 part.]

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.

[Pre-Local Government Recodification Citation: 18-1-6-3 part.]

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.

[Pre-Local Government Recodification Citations: 18-1-6-10 part; 18-1-6-11 part; 18-1-6-12 part; 18-2-1-11 part.]

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

[Pre-Local Government Recodification Citations: 18-2-6-1 part; 18-2-6-3 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1982, P.L.1, SEC.57; P.L.57-1986, SEC.4; P.L.12-1992, SEC.160. 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.

IC 36-4-10-8 Training requirements

Sec. 8. (a) As used in this section, "training courses" refers to training courses, workshops, training institutes authorized by IC 5-11-14, formal academies, special seminars, and other in-service training related to an office described in section 2 of this chapter that are developed or offered under the rubric of a generally accepted professional association, association of governments or a state agency or department, or public university or affiliated center.

(b) An individual elected or appointed to an office described in section 2 of this chapter on or after November 5, 2019, shall complete at least:

- (1) fourteen (14) hours of training courses within one (1) year; and
- (2) thirty-six (36) hours of training courses within three (3) years;

after the individual is elected or appointed to an office described in section 2 of this chapter.

(c) A training course that an individual completes:

- (1) after being elected or appointed to an office described in section 2 of this chapter; and
- (2) before the individual begins serving in an office described in section 2 of this chapter;

shall be counted toward the requirements under subsection (b).

(d) An individual shall fulfill the training requirements established by subsection (b) for each term to which the individual is elected or appointed to an office described in section 2 of this chapter.

(e) This subsection applies only to an individual appointed to fill a vacancy in an office described in section 2 of this chapter. An individual described in this subsection may, but is not required to, take training courses required by subsection (b). If an individual described in this subsection takes a training course required by subsection (b) for an office described in section 2 of this chapter, the city shall pay for the training course as if the individual had been elected or appointed to an office described in section 2 of this chapter.

(f) The:

- (1) city executive;
- (2) city legislative body; and
- (3) individual who holds the office described in section 2 of this chapter;

shall use all reasonable means to ensure that the individual who holds the office described in section 2 of this chapter complies with the training requirements established by this section.

(g) The individual who holds the office described in section 2 of this chapter shall maintain written documentation of the training courses that the individual completes toward the requirements of this section.

(h) If a city reorganizes under IC 36-1.5, the individual who performs the functions of an office described in section 2 of this chapter for the city shall comply with the training requirements established by this section for the reorganized political subdivision.

As added by P.L.257-2019, SEC.113.

IC 36-4-11 Chapter 11. City Deputies and Employees

36-4-11-1	Application of chapter
36-4-11-2	Appointments by city executive; exceptions; suspension or removal; appointees serving remainder of unexpired term
36-4-11-3	Departments; appointment of deputies and other employees; dismissal
36-4-11-4	City clerk; appointment of deputies and employees
36-4-11-5	Second class cities; city fiscal officer; appointment of deputy

IC 36-4-11-1 Application of chapter

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

[Local Government Recodification Citation: New.]

As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.44, SEC.52.

IC 36-4-11-2 Appointments by city executive; exceptions; suspension or removal; appointees serving remainder of unexpired term

Sec. 2. (a) The city executive shall make the appointments prescribed by law. If an emergency requires additional employees for a city office, board, commission, department, institution, or utility, the executive may also appoint those employees.

(b) This subsection does not apply to appointments made under IC 20. An executive may not make an appointment between midnight December 31 and noon January 1 of the last year of the executive's final term of office.

(c) This subsection does not apply to appointments made under IC 20. The executive may remove from office a board or commission member appointed by a prior executive if the appointment was made on or after the date of the general election and:

(1) the prior executive was a candidate for nomination as a party's candidate for election to the office of executive at the primary election held during the last year of the prior executive's term of office and the prior executive was not nominated at that election; or

(2) the prior executive was a candidate for another term of office as executive at the general election held during the last year of the prior executive's term of office and the prior executive was not elected to another term of office at that election;

and if the executive notifies the appointee of the removal and sends a written statement of the reasons for the removal to the city legislative body.

(d) The executive may suspend or remove from office any officers, deputies, or other employees of the city appointed by the executive or a prior executive, by notifying them to that effect and sending a written statement of the reasons for the suspension or removal to the city legislative body.

(e) A person appointed by the executive to fill a vacancy caused by a removal under subsection (c) serves the remainder of the unexpired term of the appointee removed from office under subsection (c).

(f) Notwithstanding any other law, if the term of a member of a board who was appointed by the executive expires and the executive does not make an appointment to fill the vacancy, the member may continue to serve on the board for only sixty (60) days after the expiration date of the member's term.

[Pre-Local Government Recodification Citations: 18-1-6-2 part; 18-2-1-9 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.185-1988, SEC.3; P.L.68-1996, SEC.7.

IC 36-4-11-3 Departments; appointment of deputies and other employees; dismissal

Sec. 3. A department may appoint deputies and other employees at its pleasure, unless a statute provides otherwise. A department may dismiss deputies and other employees, but if

thirty (30) days have passed since the department head was appointed, the department head must file with the city clerk a written statement of the reasons for dismissing any employee other than:

- (1) a deputy; or
- (2) a foreman, inspector, or laborer temporarily employed by the department of public works.

[Pre-Local Government Recodification Citation: 18-1-6-4 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.138.

IC 36-4-11-4 City clerk; appointment of deputies and employees

Sec. 4. The city clerk may appoint the number of deputies and employees authorized by the city legislative body. The clerk's deputies and employees serve at the clerk's pleasure.

[Pre-Local Government Recodification Citations: 18-2-5-1 part; 18-2-7-1 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.139.

IC 36-4-11-5 Second class cities; city fiscal officer; appointment of deputy

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

(b) The city legislative body may, by ordinance, authorize the city fiscal officer to appoint a deputy. The fiscal officer is responsible for the official acts of the fiscal officer's deputy.

[Pre-Local Government Recodification Citation: 18-1-6-12 part.]

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.127-2017, SEC.140.

IC 36-4-12 Chapter 12. City Managers for Third Class Cities

36-4-12-1	Application of chapter
36-4-12-2	Creation of city manager position
36-4-12-3	Terms of employment and compensation
36-4-12-4	Legislative body members barred from position
36-4-12-5	Qualifications
36-4-12-6	Political activity
36-4-12-7	Joint employment by cities
36-4-12-8	Performance bond
36-4-12-9	Acting manager
36-4-12-10	Powers and duties
36-4-12-11	Police and fire disciplinary body membership barred
36-4-12-12	Bonds, notes, or warrants; prohibition

IC 36-4-12-1 Application of chapter

Sec. 1. This chapter applies only to third class cities.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-2 Creation of city manager position

Sec. 2. (a) A third class city may employ a nonpartisan city manager to be the administrative head of the city government. To employ a city manager, the executive must initiate an ordinance and the city legislative body must adopt an ordinance creating the city manager position. An ordinance creating the city manager position must state the powers and duties to be assumed by the city manager.

(b) If the city legislative body adopts an ordinance under this chapter to employ a city manager, the city legislative body may adopt an ordinance to permit the executive to perform the duties of the executive on a part-time basis.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-3 Terms of employment and compensation

Sec. 3. The city manager may be employed to serve at the pleasure of the executive who may submit to the city legislative body for approval under IC 36-4-7-3 the city manager's compensation and terms of employment.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-4 Legislative body members barred from position

Sec. 4. The city legislative body may not employ a member of the legislative body as the city manager. A former member of the city legislative body may not be employed as the city manager for a period of two (2) years after leaving office.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-5 Qualifications

Sec. 5. A city may hire a city manager solely on the basis of the applicant's administrative and educational qualifications. The city shall give special deference to actual experience in or knowledge of accepted practices in the field of municipal management.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-6 Political activity

Sec. 6. A city manager may not campaign for or against a candidate for the city legislative body and may not participate in partisan political activities that would impair the city manager's performance as a professional administrator.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-7 Joint employment by cities

Sec. 7. Two (2) or more cities may employ the same person as the city manager of their respective cities.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-8 Performance bond

Sec. 8. The city manager shall execute a bond for the faithful performance of the city manager's duties in the manner prescribed by IC 5-4-1.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-9 Acting manager

Sec. 9. The executive may appoint a qualified person to perform the duties of the city manager whenever the city manager is absent or unable to perform the city manager's duties.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-10 Powers and duties

Sec. 10. The city manager, under the direction of the executive, is responsible for the administrative duties of the city. The powers and duties of the city manager must be stated in the ordinance creating the city manager position. The city manager's powers and duties may include:

- (1) attending the meetings of the legislative body and recommending actions the city manager considers advisable;
- (2) hiring city employees according to the pay schedules and standards fixed by the legislative body or by statute;
- (3) suspending, discharging, removing, or transferring city employees;
- (4) delegating any of the city manager's powers to an employee responsible to the city manager;
- (5) administering and enforcing all ordinances, orders, and resolutions of the legislative body;
- (6) ensuring that all statutes that are required to be administered by the legislative body or a city employee subject to the control of the legislative body are faithfully administered;
- (7) preparing budget estimates and submitting them to the legislative body when required;
- (8) executing contracts on behalf of the city for materials, supplies, services, or improvements after the completion of the appropriations, notice, and competitive bidding required by statute;
- (9) receiving service of summons on behalf of the city;
- (10) administering the city's economic development plans and projects;
- (11) advising the executive, city legislative body, and public on the conduct of city affairs;
- (12) making recommendations on policy formulation;
- (13) recommending and executing city improvements;
- (14) serving on the board of public works and safety; and
- (15) other powers and duties determined to be advisable by the executive and legislative body.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-11 Police and fire disciplinary body membership barred

Sec. 11. The city manager may not serve as a member of any body that hears disciplinary charges against:

- (1) the city police chief;
- (2) a member of the city police department;

- (3) the city fire chief; or
- (4) a member of the city fire department.

As added by P.L.10-1997, SEC.32.

IC 36-4-12-12 Bonds, notes, or warrants; prohibition

Sec. 12. The city legislative body may not authorize the city manager to issue or execute bonds, notes, or warrants of the city.

As added by P.L.10-1997, SEC.32.

IC 36-4-13 **Chapter 13. Legislative Body Youth Adviser**

36-4-13-1 Appointment of youth adviser
36-4-13-2 Youth adviser not a member

IC 36-4-13-1 **Appointment of youth adviser**

Sec. 1. The presiding officer of the legislative body of a municipality may appoint an individual who is not more than eighteen (18) years of age to serve as an adviser to the legislative body on matters affecting youth in the community.

As added by P.L. 69-2008, SEC.2.

IC 36-4-13-2 **Youth adviser not a member**

Sec. 2. An individual appointed under section 1 of this chapter is not a member of the legislative body.

As added by P.L. 69-2008, SEC.2.