

IC 36-10-5

Chapter 5. Miscellaneous Municipal Park Provisions

IC 36-10-5-1

Application of chapter

Sec. 1. This chapter applies to the municipalities indicated in each section.

As added by Acts 1981, P.L.309, SEC.112.

IC 36-10-5-2

Designation and powers and duties of park authority in certain municipalities; powers of municipality; tax levy; borrowing and issuance of bonds; deposit of funds

Sec. 2. (a) This section applies to:

- (1) third class cities and towns, unless otherwise provided by law; and
- (2) each second class city that:
 - (A) adopted second class city status by ordinance under IC 36-4-1-1.1, as a result of the 2010 federal decennial census; and
 - (B) has adopted all or part of this section by ordinance or resolution.

(b) As used in this section, "park authority" means:

- (1) the municipal legislative body; or
- (2) any of the following designated by the legislative body as the park authority:
 - (A) The governing body of the school corporation.
 - (B) A recreation board.
 - (C) The municipal works board.
 - (D) Any other appropriate board or commission.

(c) If a recreation board is established under subsection (b)(2)(B), it must consist of five (5) resident freeholders appointed by the city executive or the town legislative body. At least one (1) member must be a member of the governing body of the school corporation and no members may serve on the municipal legislative body. All members must be qualified by an interest in and knowledge of the social and educational value of recreation. The members serve without compensation. The members shall be appointed for four (4) year terms from January 1 of the year of their appointment or until their successors are appointed. The initial terms of board members, however, are as follows:

- (1) One (1) for a term of one (1) year.
- (2) One (1) for a term of two (2) years.
- (3) One (1) for a term of three (3) years.
- (4) Two (2) for terms of four (4) years.

A vacancy shall be filled by the appointing authority for the remainder of the unexpired term.

(d) The park authority shall manage all public parks, including approaches, that belong to the municipality.

(e) If a municipality decides, by ordinance, to establish, lay out, or improve a public park or grounds, or to make an extension of a park or grounds, it may locate the park or grounds, including appurtenances, and it may lay out and open the public ways necessary for the improvement. If it is necessary to acquire land, water rights, or easements, or a pool, lake, or natural stream of water, the park authority may condemn that property and take possession of it if it is located within five (5) miles of the municipality. Before the park authority condemns the property, it shall assess the damages to the owners of the property at a meeting of the authority. Additional condemnation proceedings are the same as those provided for the taking of property to open streets.

(f) The park authority may adopt rules concerning the laying out, improvement, preservation, ornamentation, and management of parks. The park authority shall allow monuments or buildings for libraries, works of art, or historical collections to be erected in a park, as long as they are under the control of the persons in charge of the park and no inclosure separates them from the rest of the park.

(g) The legislative body of the municipality may also levy a tax on all taxable property in the municipality to pay for park property and for its improvement. The legislative body may also borrow money and issue the bonds of the municipality at any rate of interest payable annually or semiannually and may sell them for at least par value. The money derived from the sale of bonds may be used only for the purchase or improvement of parks. The legislative body shall annually levy a tax sufficient to pay the interest on the debt on all taxable property in the municipality to create a sinking fund for the liquidation of the principal of the debt.

(h) If the park authority of a city decides to lease any buildings or grounds belonging to the city and located in a public park when they are not required for public use, the proceeds shall be deposited with the city fiscal officer to the credit of park funds and devoted to the improvement of public parks.

(i) Any nonreverting fund that was created under IC 19-7-6 (before its repeal on September 1, 1981) continues until abolished by ordinance of the municipal legislative body. The legislative body may include in the park authority's annual budget an item and an appropriation for the specific purposes of a nonreverting capital fund. Money put in the fund may not be withdrawn except for the purposes for which the fund was created, unless the legislative body repeals the ordinance creating the fund. The repeal may not be made under suspension of the rules. Money procured from fees shall be deposited at least once each month with the municipal fiscal officer. The fiscal officer shall deposit the money either in a special nonreverting operating fund or in the nonreverting capital fund as directed by the park authority. The legislative body may provide by ordinance that expenditures may be made from the special nonreverting operating fund without appropriation. Money from fees procured from golf courses, swimming pools, skating rinks, or other similar facilities

requiring major expenditures for management and maintenance may not be deposited in this fund. Money from either fund shall be disbursed only on approved claims that are allowed and signed in the same manner as other claims of the municipality are allowed and signed.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.320, SEC.19; P.L.3-1990, SEC.142; P.L.119-2012, SEC.238.

IC 36-10-5-3

Municipalities except consolidated cities; recreational facilities and programs; issuance of bonds or appropriations; revenue bonds

Sec. 3. (a) This section applies to all municipalities except consolidated cities.

(b) If a municipality decides to acquire, construct, develop, improve, and operate recreational facilities and programs for park purposes, it may issue the bonds of the municipality to pay the cost of acquisition, development, and improvement, subject to statutes concerning the issuance of bonds and the making of appropriations by municipalities.

(c) As an alternative method of financing the cost of acquisition, development, and improvement, the municipality may issue revenue bonds. The revenue bonds are not obligations of the municipality within the meaning of constitutional limitations, but are payable solely from the income and revenues of the recreational facilities and programs for park purposes for which they are issued. If the proceeds of the bonds are used to acquire land, the payment of the bonds may be secured by a pledge of the land. Statutes concerning the issuance of revenue bonds by municipalities to construct, acquire, extend, or improve waterworks apply, as far as applicable, to revenue bonds issued under this section regarding the authorization, issuance, sale, character, and immunities of the bonds and the rights, privileges, and powers of the bondholders. However, neither a petition nor an election is required in these proceedings. If statutes authorizing the issuance of waterworks revenue bonds contain different provisions regarding procedure or the rights and remedies of bondholders, the ordinance authorizing the issuance of revenue bonds under this section must set out the particular procedure that the municipal legislative body has adopted and the rights and remedies given to the bondholders.

As added by Acts 1981, P.L.309, SEC.112. Amended by P.L.157-1991, SEC.6.

IC 36-10-5-4

Municipalities having populations less than 20,000; sale of parkland and minerals and mineral rights; disposition of sale proceeds; transfer of sale proceeds to school corporation; notice; hearing

Sec. 4. (a) This section applies to municipalities having a population of less than twenty thousand (20,000).

(b) If the legislative body of a municipality decides to sell the parkland, a part of it, the minerals, mineral rights, or royalties for minerals under the parkland, or part of them, the legislative body may do so upon passing an ordinance for that purpose providing for the manner and terms of the sale. The legislative body may plat the land by laying it off into lots and public ways, and then selling the lots, after passing an ordinance to that effect or including it in the original ordinance. However, the land may not be sold until it is appraised as required in cities for the conveyance of property. If there is a board of park commissioners in a city, the legislative body shall proceed only upon a resolution of the board filed with the legislative body.

(c) The proceeds derived from the sale of parkland or from minerals, mineral rights, or royalties for minerals under parkland shall be expended for:

- (1) the improvement of the remaining parkland of the municipality;
- (2) the purchase of other land for park purposes;
- (3) the purchase, improvement, equipment, or maintenance of playgrounds, swimming pools, comfort stations, or recreation stations in the municipality; or
- (4) a combination of these purposes.

In addition, money may be used for these purposes if it is derived in part from another source or under another statute.

(d) The legislative body of the municipality may transfer the proceeds or a part of them derived from the sale of parkland or minerals, mineral rights, or royalties for minerals under parkland to the school corporation of the municipality. The proceeds shall be used by the school corporation for providing, equipping, and maintaining playgrounds, swimming pools, comfort stations, or recreation stations, whether they are on school grounds, used in connection with school grounds or school buildings, or on separate grounds. Before proceeds may be transferred to the school corporation for any of these purposes, the legislative body must pass an ordinance providing for the transfer of the proceeds and for what purposes they may be used.

(e) Before final passage of the ordinance for the platting or sale of land by a town, notice of a hearing on the ordinance shall be given in accordance with IC 5-3-1. At the hearing any citizen of the town may appear and present objections to the ordinance and the sale of the land. If a remonstrance signed by twenty-five percent (25%) of the legal voters in the town is filed in the office of the town clerk within the time limits prescribed in the ordinance, the ordinance may not be passed or the land sold.

As added by Acts 1981, P.L.309, SEC.112. Amended by Acts 1981, P.L.45, SEC.101.

IC 36-10-5-5

Municipal boards in certain municipalities

Sec. 5. (a) This section applies to a municipality that:

(1) has a population of more than twenty-five thousand (25,000); and

(2) is located in a county having a population of more than two hundred seventy thousand (270,000) but less than three hundred thousand (300,000).

(b) A municipal board consists of four (4) members appointed by the executive of the municipality. A member shall be appointed on the basis of the member's interest in and knowledge of parks and recreation. The members may include the executive of the municipality and one (1) or more members of the municipal fiscal body. The ordinance creating a municipal board governed by this section may provide for one (1) or two (2) ex officio members.

As added by P.L.157-1991, SEC.7. Amended by P.L.12-1992, SEC.193; P.L.170-2002, SEC.174; P.L.119-2012, SEC.239.