

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

#### **Chapter 3. General Park and Recreation Law**

### **IC 36-10-3-1**

#### **Application of chapter**

Sec. 1. This chapter applies to the following units:

- (1) All counties.
- (2) All municipalities.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.319, SEC.1; P.L.354-1985, SEC.1; P.L.227-1986, SEC.1; P.L.157-1991, SEC.2.*

### **IC 36-10-3-2**

#### **Definitions**

Sec. 2. As used in this chapter:

"Board" refers to a park and recreation board.

"Department" refers to a department of parks and recreation.

"District" means the area within the jurisdiction of a department.

*As added by Acts 1981, P.L.309, SEC.110.*

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

#### **Department of parks and recreation; creation; transfer of property to park and recreation board**

Sec. 3. (a) The fiscal body of a unit may adopt an ordinance creating a department of parks and recreation and repealing in the ordinance or resolution prior ordinances or resolutions creating separate park and recreation authorities. The department consists of a park and recreation board, a superintendent, and other personnel that the board determines.

(b) After a board has been created, all books, papers, documents, and other property of former park and recreation authorities shall be transferred to and become the property of the board.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.354-1985, SEC.2; P.L.11-1987, SEC.34; P.L.157-1991, SEC.3.*

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

#### **Municipal board; membership; ex officio members; additional members**

Sec. 4. (a) A city board consists of four (4) members to be appointed by the city executive. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than two (2) members may be affiliated with the same political party. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member of the governing body of the school corporation selected by that body;
- (2) a member of the governing body of the library district selected by that body; or
- (3) both subdivisions (1) and (2).

(b) A town board consists of four (4) members to be appointed by

the town legislative body. The members shall be appointed on the basis of their interest in and knowledge of parks and recreation. Except as provided in section 4.1 of this chapter, not more than two (2) members may be affiliated with the same political party. Members of the board must be residents of the district. In addition, the creating ordinance may provide for one (1) or two (2) ex officio members, those being:

- (1) a member:
    - (A) of the governing body of the school corporation selected by that body; or
    - (B) designated by the governing body of the school corporation;
  - (2) a member of the governing body of the library district selected by that body; or
  - (3) both subdivisions (1) and (2).
- (c) A county board shall be appointed as follows:
- (1) Two (2) members shall be appointed by the judge of the circuit court.
  - (2) One (1) member shall be appointed by the county executive.
  - (3) Two (2) members shall be appointed by the county fiscal body.

The members appointed under subdivisions (1), (2), and (3) shall be appointed on the basis of their interest in and knowledge of parks and recreation, but no more than one (1) member appointed under subdivisions (1) and (3) may be affiliated with the same political party. In a county having at least one (1) first or second class city, the creating ordinance must provide for one (1) ex officio board member to be appointed by the executive of that city. The member appointed by the city executive must be affiliated with a different political party than the member appointed by the county executive. However, if a county has more than one (1) such city, the executives of those cities shall agree on the member. The member serves for a term coterminous with the term of the appointing executive or executives.

(d) Ex officio members have all the rights of regular members, including the right to vote. A vacancy in an ex officio position shall be filled by the appointing authority.

(e) Neither a municipal executive nor a member of a county fiscal body, county executive, or municipal fiscal body may serve on a board.

- (f) The creating ordinance in any county may provide for:
- (1) the county cooperative extension coordinator;
  - (2) the county extension educator; or
  - (3) a member of the county extension committee selected by the committee;

to serve as an ex officio member of the county board, in addition to the members provided for under subsection (c).

(g) The creating ordinance in a county having no first or second class cities may provide for a member of the county board to be selected by the board of supervisors of a soil and water conservation district in which a facility of the county board is located. The

member selected under this subsection is in addition to the members provided for under subsections (c) and (f).

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.1; P.L.207-1984, SEC.1; P.L.157-1991, SEC.4; P.L.40-1993, SEC.68; P.L.271-1993, SEC.1; P.L.2-1995, SEC.138; P.L.64-1998, SEC.3; P.L.128-2007, SEC.1.*

#### **IC 36-10-3-4.1**

##### **Town board; waiver of requirements**

Sec. 4.1. A town legislative body may, by a majority vote, waive any or all of the following requirements of a town board member under section 4(b) of this chapter:

- (1) The requirement that a member of the town board be affiliated with a political party.
- (2) The requirement that not more than two (2) of the four (4) members of the town board be affiliated with the same political party.

A town legislative body may vote for a waiver only if the waiver is necessary due to the absence of persons who are willing to serve on the town board and who satisfy any or all of the requirements.

*As added by P.L.128-2007, SEC.2.*

#### **IC 36-10-3-5**

##### **Board of park and recreation; initial appointments; vacancy**

Sec. 5. (a) Initial appointments to a municipal board are as follows:

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

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(b) Initial appointments to a county board are as follows:

- (1) The circuit court judge's appointments are for one (1) and three (3) year terms, respectively.
- (2) The county executive's appointment is for a two (2) year term.
- (3) The county fiscal body's appointments are for two (2) and four (4) year terms, respectively.

As a term expires, each new appointment is for a four (4) year term. All terms expire on the first Monday in January, but a member continues in office until his successor is appointed.

(c) An appointing authority shall make initial appointments within ninety (90) days after the creation of the department.

(d) If an appointment for any new term is not made by the first Monday in April, the incumbent shall serve another term.

(e) In making initial appointments under subsections (a) or (b), an appointing authority, in order to provide continuity of experience and programs, shall give special consideration to the appointment of

members from previous park or recreation boards.

(f) If a vacancy on the board occurs, the appointing authority shall appoint a person to serve for the remainder of the unexpired term.  
*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.2.*

### **IC 36-10-3-6**

#### **Board of park and recreation; removal; procedure**

Sec. 6. A member may be removed only for cause, upon specific written charges filed against him. The charges shall be filed with and heard by the appointing authority, unless the appointing authority is bringing the charges. If the appointing authority is bringing the charges, the unit's fiscal body shall appoint a hearing officer. The person to hear the charges shall fix a date for a public hearing and give public notice at least ten (10) days in advance of the hearing. At the hearing the member is entitled to present evidence and argument and to be represented by counsel.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.3.*

### **IC 36-10-3-7**

#### **Board of park and recreation; advisory member**

Sec. 7. If a municipality is located in a county having a county board, the municipal and county boards may each designate a member to sit with the other board in an advisory capacity.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.4.*

### **IC 36-10-3-8**

#### **Board of park and recreation; regular and special meetings; election of officers; quorum**

Sec. 8. (a) All meetings of the board are open to the public. The board shall fix the time and place of its regular meetings, but it shall meet at least quarterly.

(b) Special meetings of the board may be called by the president or by any two (2) members by written request to the secretary. The secretary shall send to each member, at least two (2) days before a special meeting, a written notice fixing the time, place, and purpose of the meeting. Written notice of a special meeting is not required if the time of the special meeting is fixed at a regular meeting or if all members are present at the special meeting.

(c) At its first regular meeting each year the board shall elect a president and a vice president. The vice president may act as president during the absence or disability of the president. The board may select a secretary either from within or outside its membership.

(d) A majority of the members constitutes a quorum. Action of the board is not official unless it is authorized by at least three (3) members present and acting.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-9**

#### **Board of park and recreation; compensation**

Sec. 9. (a) The members of the board may receive a salary in an amount fixed by the fiscal body.

(b) If the board determines that members or employees should attend a state, regional, or national conference dealing with park and recreation problems, the board may authorize the payment of the actual expenses involved in attending the conference. However, the amount must be available as part of the board's appropriation.

(c) A fiscal body may appropriate and approve a per diem allowance to a member of a board for attending a meeting of the board.

(d) The unit shall provide suitable quarters for holding meetings and conducting the work of the board.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.5; P.L.238-1997, SEC.1.*

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

#### **Board of park and recreation; duties**

Sec. 10. (a) The board shall:

- (1) exercise general supervision of and make rules for the department;
- (2) establish rules governing the use of the park and recreation facilities by the public;
- (3) provide police protection for its property and activities, either by requesting assistance from state, municipal, or county police authorities, or by having specified employees deputized as police officers; the deputized employees, however, are not eligible for police pension benefits or other emoluments of police officers;
- (4) appoint the necessary administrative officers of the department and fix their duties;
- (5) establish standards and qualifications for the appointment of all personnel and approve their appointments without regard to politics;
- (6) make recommendations and an annual report to the executive and fiscal body of the unit concerning the operation of the board and the status of park and recreation programs in the district;
- (7) prepare and submit an annual budget in the same manner as other executive departments of the unit; and
- (8) appoint a member of the board to serve on another kind of board or commission, whenever a statute allows a park or recreation board to do this.

(b) In a municipality, the board shall fix the compensation of officers and personnel appointed under subsections (a)(4) and (a)(5), subject to IC 36-4-7-5 and IC 36-4-7-6.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-11**

### **Board of park and recreation; powers**

Sec. 11. (a) The board may:

- (1) enter into contracts and leases for facilities and services;
- (2) contract with persons for joint use of facilities for the operation of park and recreation programs and related services;
- (3) contract with another board, a unit, or a school corporation for the use of park and recreation facilities or services, and a township or school corporation may contract with the board for the use of park and recreation facilities or services;
- (4) acquire and dispose of real and personal property, either within or outside Indiana;
- (5) exercise the power of eminent domain under statutes available to municipalities;
- (6) sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns, the money received to be deposited in a nonreverting capital fund of the board;
- (7) engage in self-supporting activities as prescribed by section 22 of this chapter;
- (8) contract for special and temporary services and for professional assistance;
- (9) delegate authority to perform ministerial acts in all cases except where final action of the board is necessary;
- (10) prepare, publish, and distribute reports and other materials relating to activities authorized by this chapter;
- (11) sue and be sued collectively by its legal name, as the " \_\_\_\_\_ (unit's name) Park and Recreation Board", with service of process being had upon the president of the board, but costs may not be taxed against the board or its members in any action;
- (12) invoke any legal, equitable, or special remedy for the enforcement of this chapter, a park or recreation ordinance, or the board's own action taken under either; and
- (13) release and transfer, by resolution, a part of the area over which it has jurisdiction for park and recreational purposes to park authorities of another unit for park and recreational purposes upon petition of the park or recreation board of the acquiring unit.

(b) The board may also lease any buildings or grounds belonging to the unit and located within a park to a person for a period not to exceed fifty (50) years. The lease may authorize the lessee to provide upon the premises educational, research, veterinary, or other proper facilities for the exhibition of wild or domestic animals in wildlife parks, dining facilities, swimming facilities, golf courses, skating facilities, dancing facilities, amusement rides generally found in amusement parks, or other recreational facilities. A lease may be made for more than one (1) year only to the highest and best bidder, after notice that the lease will be made has been given by publication in accordance with IC 5-3-1.

(c) Notwithstanding subsection (b), the board may lease buildings or grounds belonging to the unit for a period of more than one (1)

year without soliciting the highest and best bidder or providing notice under IC 5-3-1 if:

- (1) the buildings or grounds are leased to an Indiana nonprofit corporation;
- (2) the buildings or grounds are operated as a public golf course; and
- (3) the golf course remains subject to rules and regulations promulgated by the board.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.6; P.L.228-1986, SEC.1; P.L.35-1990, SEC.72; P.L.328-1995, SEC.1.*

### **IC 36-10-3-11.5**

#### **Legalization of operation of City of New Albany property by nonprofit corporation without a lease before July 1, 1995**

Sec. 11.5. (a) This section applies to the city of New Albany.

(b) The operation of city owned buildings or grounds operated as a golf course by a nonprofit corporation before July 1, 1995, without a lease from the city, or under a lease that was not open to public bid to lease the buildings or grounds, is legalized and validated.

*As added by P.L.220-2011, SEC.684. Amended by P.L.119-2012, SEC.235.*

### **IC 36-10-3-12**

#### **Board of park and recreation; public or private sale of personal property declared to be surplus**

Sec. 12. The board may sell, or order sold through a designated representative, by public or private sale, any personal property that the board has declared to be surplus at a regular or special meeting and has declared to have an aggregate appraised value of five thousand dollars (\$5,000) or less. Whenever the board decides to sell at a private sale, the board must employ a qualified appraiser to determine a reasonable selling price for each kind of surplus item and must publish, in the manner provided in IC 5-3-1:

- (1) the fact that a private sale will be held;
- (2) the location of the sale;
- (3) the dates of the beginning and end of the sale;
- (4) the time of day during which the sale will take place;
- (5) the kinds of items to be sold at the sale; and
- (6) the price of each kind of item, which may not be less than the reasonable selling price determined by the qualified appraiser.

If the board decides to sell at a public sale, the board shall conduct the sale in the manner provided by law for the unit.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-13**

#### **Superintendent of parks and recreation; appointment; qualifications; incumbents**

Sec. 13. (a) This subsection applies to counties and towns. The

board may appoint a superintendent of parks and recreation. The board may not consider political affiliation in the selection of the superintendent.

(b) This subsection applies to cities. If a superintendent of parks and recreation is appointed, the superintendent shall be appointed under IC 36-4-9-2 without considering political affiliation.

(c) If there is more than one (1) superintendent of any park or recreation department involved at the time the creating ordinance is adopted, the board may appoint only one (1) superintendent for the new department.

(d) The superintendent must:

- (1) be qualified by training or experience in the field of parks and recreation; or
- (2) have a certification or an advanced degree in the field of parks and recreation.

(e) An incumbent performing park and recreation functions in a supervisory capacity at the time a unit adopts a creating ordinance under this chapter is eligible for appointment as superintendent or as an assistant, but he must have the required training, experience, or certification.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.7; P.L.157-1991, SEC.5.*

#### **IC 36-10-3-14**

##### **Superintendent of parks and recreation; duties**

Sec. 14. Under the direction of the board, the superintendent shall:

- (1) propose annually a plan for the operation of the department;
- (2) administer the plan as approved by the board;
- (3) supervise the general administration of the department;
- (4) keep the records of the department and preserve all papers and documents of the department;
- (5) recommend persons for appointment as assistants if the board determines there is a need;
- (6) appoint the employees of the department, subject to the approval of the board, according to the standards and qualifications fixed by the board and without regard to political affiliation;
- (7) prepare and present to the board an annual report; and
- (8) perform other duties that the board directs.

*As added by Acts 1981, P.L.309, SEC.110.*

#### **IC 36-10-3-15**

##### **Assistant superintendent of parks and recreation; appointment; qualifications; duties**

Sec. 15. (a) If the board determines that the size of the department's operation requires assistants for the superintendent, the board may appoint, upon the recommendation of the superintendent, one (1) or more assistants. The board shall determine their qualifications on a basis similar to that prescribed for the superintendent.



(b) Assistants are directly responsible to the superintendent and shall perform the duties specified by the superintendent.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-16**

#### **Officers' and employees' bonds and crime policies**

Sec. 16. (a) Every officer and employee who handles money in the performance of duties as prescribed by this chapter shall execute an official bond for the term of office or employment before entering upon the duties of the office or employment.

(b) The fiscal body of the unit may under IC 5-4-1-18 authorize the purchase of a blanket bond or crime insurance policy endorsed to include faithful performance to cover all officers' and employees' faithful performance of duties. The amount of the bond or crime insurance policy shall be fixed by the fiscal body and, in the case of a municipality, must be approved by the executive.

(c) All official bonds shall be filed and recorded in the office of the county recorder of the county in which the department is located.

(d) The commissioner of insurance shall prescribe the form of the bonds or crime policies required by this section.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.201-1988, SEC.1; P.L.49-1995, SEC.12.*

### **IC 36-10-3-17**

#### **Advisory council and special committees; composition; selection; duties; reports**

Sec. 17. (a) The board may create an advisory council and special committees composed of citizens interested in parks and recreation.

(b) In selecting an advisory council or special committees, the board shall give consideration to the groups in the community particularly interested in parks and recreation. In a resolution creating an advisory council or a special committee, the board shall specify the terms of its members and the purposes for which it is created.

(c) The advisory council or a special committee shall:

- (1) study the subjects and problems specified by the board and recommend to the board additional problems in need of study;
- (2) advise the board concerning these subjects, particularly as they relate to different areas and groups in the community; and
- (3) upon the invitation of the board, sit with and participate in the deliberations of the board, but without the right to vote.

(d) The advisory council or a special committee shall report only to the board and shall make inquiries and reports only in those areas specified by the board's resolution creating the council or committee.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-18**

#### **Gifts, donations, and subsidies; approval; disposition**

Sec. 18. (a) The board may accept gifts, donations, and subsidies for park and recreational purposes. However, a gift or transfer of

property to the board may not be made without its approval.

(b) A gift or grant of money shall be deposited in a special nonreverting fund to be available for expenditure by the board for purposes specified by the grantor. The disbursing officer of the unit may draw warrants against the fund only upon vouchers signed by the president and secretary of the board.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.8.*

### **IC 36-10-3-19**

#### **Special taxing district for purposes of levying special benefit taxes; determination of revenues necessary for expenditures not covered by issuance of bonds**

Sec. 19. (a) The territory within the boundaries of the unit comprises a special taxing district for the purpose of levying special benefit taxes for park and recreational purposes as provided in this chapter.

(b) The fiscal body of the unit shall determine and provide the revenues necessary for the operation of the department or for capital expenditures not covered by the issuance of bonds by:

- (1) a specific levy to be used exclusively for these purposes;
- (2) a special appropriation; or
- (3) both of these methods.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-20**

#### **Special nonreverting capital fund; purposes; withdrawals**

Sec. 20. (a) Upon the request of the board, the fiscal body of the unit may establish, by ordinance, a special nonreverting capital fund for the purposes of acquiring land or making specific capital improvements. The fiscal body may include in the board's annual budget an item and an appropriation for these specific purposes.

(b) Money placed in the nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance. The fiscal body may not repeal the ordinance under suspension of the rules.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.358-1987, SEC.1.*

### **IC 36-10-3-21**

#### **Cumulative building fund; establishment; levy of tax; collection of tax**

Sec. 21. (a) The board may establish a cumulative building fund under IC 6-1.1-41 to provide money for:

- (1) building, remodeling, and repair of park and recreation facilities; or
- (2) purchase of land for park and recreation purposes.

In addition to the requirements of IC 6-1.1-41, before a fund may be established, the proposed action must be approved by the fiscal body of the unit.

(b) To provide for the cumulative building fund, the unit's fiscal body may levy a tax in compliance with IC 6-1.1-41 not to exceed one and sixty-seven hundredths cents (\$0.0167) on each one hundred dollars (\$100) of assessed valuation of taxable property within the unit.

(c) The tax shall be collected and held in a special fund known as the unit's park and recreation cumulative building fund.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.93; P.L.358-1987, SEC.2; P.L.17-1995, SEC.42; P.L.6-1997, SEC.231.*

### **IC 36-10-3-22**

#### **Fees for particular activities; special funds; deposits; withdrawals**

Sec. 22. (a) Park and recreation facilities and programs shall be made available to the public free of charge as far as possible. However, if it is necessary in order to provide a particular activity, the board may charge a reasonable fee.

(b) The unit's fiscal body may establish by ordinance, upon request of the board:

(1) a special nonreverting operating fund for park purposes from which expenditures may be made as provided by ordinance, either by appropriation by the board or by the unit's fiscal body; or

(2) a special nonreverting capital fund for the purpose of acquiring land or making specific capital improvements from which expenditures may be made by appropriation by the unit's fiscal body.

The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer (or county treasurer) shall deposit fees from golf courses, swimming pools, skating rinks, or other major facilities requiring major expenditures for management and maintenance. Money received from fees other than from major facilities or received from the sale of surplus property shall be deposited by the unit's fiscal officer (or county treasurer) either in the special nonreverting operating fund or in the nonreverting capital fund, as directed by the board. However, if neither fund has been established, money received from fees or from the sale of surplus property shall be deposited in the unit's general fund. Money from either special fund may be disbursed only on approved claims allowed and signed by the president and secretary of the board.

(c) Money placed in the special nonreverting capital fund may not be withdrawn except for the purposes for which the fund was created, unless the fiscal body repeals the ordinance establishing the fund. The fiscal body may not repeal the ordinance under suspension of the rules.

(d) Money procured from fees or received from the sale of surplus property under section 12 of this chapter shall be deposited at least once each month with the fiscal officer of the unit.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.372-1983, SEC.1.*

**IC 36-10-3-23**

**Acquisition of real property; resolution; improvements; notice; option or contract; appraisal; hearing**

Sec. 23. (a) This section applies only to:

- (1) the acquisition of real property; or
- (2) a work of improvement;

that will be financed by the issuance of bonds.

(b) If the board decides to:

- (1) acquire land for any of the purposes prescribed in this chapter, either by purchase or by appropriation, and in conjunction with the acquisition to proceed with a work of improvement authorized by this chapter;
- (2) acquire real property without proceeding at the time with a work of improvement; or
- (3) proceed with a work of improvement where the real property has been already secured;

it shall adopt a resolution stating the purpose, describing the land to be acquired, the manner of acquisition, and, in the case of an appropriation, the other land that may be injuriously affected, or describing the lands already acquired and intended to be used in connection with the proposed work of improvement.

(c) If a work of improvement is provided for in the resolution, the board shall have preliminary plans and specifications and an estimate of the cost of the proposed work prepared by the engineer selected to do the work. The resolution must be open to inspection by all persons interested in or affected by the appropriation of land or the construction of the work. The board shall have notice of the resolution and its contents published in accordance with IC 5-3-1. The notice must state a date on which the board will receive or hear remonstrances from persons interested in or affected by the proceedings and on which it will determine the public utility and benefit.

(d) Notice shall be sent by certified mail to each owner of land to be appropriated under the resolution, using the owner's address as shown on the tax duplicates. In addition, notice of the land to be appropriated shall be published in accordance with IC 5-3-1. All persons affected in any manner by the proceedings, including all taxpayers in the district, are considered notified of the pendency of the proceedings and of all subsequent acts, hearings, adjournments, and orders of the board by the original notice by publication.

(e) In the resolution and notice, separate descriptions of each piece or parcel of land are not required, but it is a sufficient description of the property purchased, to be purchased, or to be appropriated or damaged to give a description of the entire tract by a platted description or by metes and bounds, whether the land is composed of one (1) or more lots or parcels and whether it is owned by one (1) or more persons. If the land or a part of it is to be acquired by purchase, the resolution must also state the maximum proposed cost.

(f) The board may, at any time before the adoption of the

resolution:

- (1) obtain from the owner or owners of the land an option for its purchase; or
- (2) enter into a contract for its purchase upon the terms and conditions that the board considers best.

The option or contract is subject to the final action of the board confirming, modifying, or rescinding the resolution and to the condition that the land may be paid for only out of the special fund resulting from the sale of bonds as provided by this chapter.

(g) If the board decides to acquire any lots or parcels of land by purchase, the board shall appoint two (2) qualified appraisers to appraise the fair market value of the land. Each appraiser must be professionally engaged in making appraisals or be trained as an appraiser and licensed as a broker under IC 25-34.1. The appraisers may not be interested directly or indirectly in any land that is to be acquired under the resolution or that may be injured or incur local benefits. The appraisers shall take an oath that they have no interest in the matter and that they will honestly and impartially make the valuation. The appraisers shall return the appraisers' separate appraisals to the board not more than thirty (30) days after the date of their appointment. The appraisals shall be filed with and become a part of the record of the proceeding.

(h) The board may not take an option on the land or enter into a contract to purchase it at a price greater than the average of the two (2) appraisals received under subsection (g). The title to land to be acquired under the resolution, whether by purchase or appropriation, does not vest until the land is paid for out of the special fund established by the sale of bonds as provided in this chapter. Any indebtedness or obligation of any kind incurred by the board due to the acquisition of land or to construction work shall be paid out of the funds under the control of the board and is not an indebtedness or obligation of the unit.

(i) At the time fixed for the hearing, or at any time before the hearing, an owner of land to be appropriated under the resolution or injuriously affected or a person owning real or personal property located in the district may file a written remonstrance with the secretary of the board.

(j) At the hearing, which may be adjourned from time to time, the board shall hear all persons interested in the proceedings and all remonstrances that have been filed. After considering the evidence, the board shall take final action determining the public utility and benefit of the proposed project by confirming, modifying, or rescinding the resolution. The final action shall be recorded and is final and conclusive upon all persons.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.320, SEC.9; P.L.170-2003, SEC.18.*

#### **IC 36-10-3-24**

**Bonds; purpose; denominations; interest exempt from taxation; limitations**

Sec. 24. (a) In order to raise money to pay for land to be acquired for any of the purposes named in this chapter, to pay for an improvement authorized by this chapter, or both, and in anticipation of the special benefit tax to be levied as provided in this chapter, the board shall cause to be issued, in the name of the unit, the bonds of the district. The bonds may not exceed in amount the total cost of all land to be acquired and all improvements described in the resolution, including all expenses necessarily incurred in connection with the proceedings, together with a sum sufficient to pay the costs of supervision and inspection during the period of construction of a work. The expenses to be covered in the bond issue include all expenses of every kind actually incurred preliminary to acquiring the land and the construction of the work, such as the cost of the necessary record, engineering expenses, publication of notices, preparation of bonds, and other necessary expenses. If more than one (1) resolution or proceeding of the board under section 23 of this chapter is confirmed whereby different parcels of land are to be acquired, or more than one (1) contract for work is let by the board at approximately the same time, the cost involved under all of the resolutions and proceedings may be included in one (1) issue of bonds.

(b) The bonds may be issued in any denomination not less than one thousand dollars (\$1,000) each, in not less than five (5) nor more than forty (40) annual series. The bonds are payable one (1) series each year, beginning at a date after the receipt of taxes from a levy made for that purpose. The bonds are negotiable. The bonds may bear interest at any rate, payable semiannually. After adopting a resolution ordering bonds, the board shall certify a copy of the resolution to the unit's fiscal officer. The fiscal officer shall prepare the bonds, and the unit's executive shall execute them, attested by the fiscal officer.

(c) The bonds and the interest on them are exempt from taxation as prescribed by IC 6-8-5-1. Bonds issued under this section are subject to the provisions of IC 5-1 and IC 6-1.1-20 relating to:

- (1) the filing of a petition requesting the issuance of bonds;
- (2) the right of:
  - (A) taxpayers and voters to remonstrate against the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.1(a); or
  - (B) voters to vote on the issuance of bonds in the case of a proposed bond issue described by IC 6-1.1-20-3.5(a);
- (3) the appropriation of the proceeds of the bonds and approval by the department of local government finance; and
- (4) the sale of bonds at public sale for not less than their par value.

(d) The board may not have bonds of the district issued under this section that are payable by special taxation when the total issue for that purpose, including the bonds already issued or to be issued, exceeds two percent (2%) of the adjusted value of the taxable property in the district as determined under IC 36-1-15. All bonds or

obligations issued in violation of this subsection are void. The bonds are not obligations or indebtedness of the unit, but constitute an indebtedness of the district as a special taxing district. The bonds and interest are payable only out of a special tax levied upon all the property of the district as prescribed by this chapter. The bonds must recite the terms upon their face, together with the purposes for which they are issued.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.6-1997, SEC.232; P.L.90-2002, SEC.517; P.L.219-2007, SEC.144; P.L.146-2008, SEC.793.*

### **IC 36-10-3-25**

#### **Bonds; notice; hearing; ordinance approving issue**

Sec. 25. (a) Before bonds may be issued under section 23 of this chapter, the board shall give notice of a public hearing to disclose the purposes for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data.

(b) The board shall have published in accordance with IC 5-3-1 a notice of the time, place, and purposes of the hearing.

(c) After the public hearing and before additional proceedings on the bond issues, the board must obtain an ordinance approving the bond issue from the unit's fiscal body.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.94.*

### **IC 36-10-3-26**

#### **Bonds; disposition of proceeds**

Sec. 26. All proceeds from the sale of bonds issued under section 24 of this chapter shall be kept in a separate fund. The fund shall be used to pay for land and other property acquired and for the construction of a work under the resolution, including all costs and expenses incurred in connection with the project. The fund may not be used for any other purpose. The fund shall be deposited as provided in this chapter. A surplus remaining from the proceeds of the bonds after all costs and expenses are paid shall be paid into and becomes a part of the park district bond fund.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-27**

#### **Levy of special tax on real and personal property; park district bond fund**

Sec. 27. (a) In order to raise money to pay all bonds issued under section 24 of this chapter, the board shall levy annually a special tax upon all of the real and personal property located in the district sufficient to pay the principal of the bonds as they mature, including accrued interest. The board shall have the tax to be levied each year certified to the auditor of the county in which the district is located at the time for certification of tax levies. The tax shall be collected and enforced by the county treasurer in the same manner as other taxes are collected and enforced.

(b) As the tax is collected, it shall be accumulated and kept in a separate fund to be known as the park district bond fund. The tax shall be applied to the payment of the district bonds and interest as they mature and may not be used for another purpose.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-28**

#### **Primary obligation on bond**

Sec. 28. If a board or district is discontinued under section 3 of this chapter, the primary obligation on its bonds is not affected, and the unit assumes liability for the payment of the bonds according to their terms.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-29**

#### **Joint department of parks and recreation; creation; eligibility; agreement; amendments**

Sec. 29. (a) Two (2) or more units may create a joint department of parks and recreation.

(b) Only a unit that has by ordinance created a department under this chapter is eligible to participate in the creation of a joint department.

(c) The boards of the units that desire to create a joint department must agree upon the use of facilities, personnel, the distribution and raising of financial support, and other matters. The agreement may provide:

(1) for a joint district and joint board to supersede the separate districts and boards; or

(2) that the separate districts and boards be maintained.

After agreement has been reached, the fiscal body of each unit must adopt an ordinance approving the terms of the agreement before the agreement becomes final. The ordinances may not be passed under suspension of the rules.

(d) Failure of one (1) of the units to adopt the ordinance within ninety (90) days after the agreement has been reached voids the arrangement for all parties. However, the remaining parties may proceed with a new agreement.

(e) Amendments to an agreement may be made by adoption of an ordinance by the fiscal body of each unit.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-30**

#### **Joint board of parks and recreation; organization and function; powers and duties; executive committee, membership, authority, and limitations**

Sec. 30. (a) A joint board shall be organized and shall function in the same manner as a separate board. The joint board consists of all the members of the separate boards. Two-thirds (2/3) of the members constitute a quorum, and official action must be authorized by two-thirds (2/3) of the members. The joint board has all of the



powers and duties of a separate board under this chapter, including the authority to issue bonds of the joint district.

(b) The joint board may create an executive committee composed of an equal number of members from each participating unit. The executive committee has all of the authority and limitations of the joint board, except that official action by the executive committee must be authorized by each member of the committee. In addition, an executive committee member may demand that an issue be submitted to the joint board.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-31**

#### **Joint board of parks and recreation; budget request; disposition of money appropriated**

Sec. 31. (a) The joint board shall determine its total budget request. The members of each participating unit shall present to their fiscal body the total budget and shall state the amount chargeable to their unit by the terms of the agreement and ordinance. If their fiscal body does not appropriate an amount sufficient to meet the unit's proportionate share, the joint board may:

- (1) reduce the expenditures attributable to that unit; or
- (2) treat the reduced appropriation as a repudiation of the agreement and terminate the relationship according to section 32 of this chapter.

(b) Money appropriated by the participating units shall be deposited in a joint park and recreation board fund in the custody of the fiscal officer of the participating unit making the largest appropriation to the fund. Money may be withdrawn from the fund only upon vouchers signed by the president and secretary of the joint board.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-32**

#### **Joint board of parks and recreation; withdrawal of participating unit; termination; distribution of money remaining in fund; continuation of obligation**

Sec. 32. (a) A participating unit may withdraw from a joint department at the end of a fiscal year by repealing its adopting ordinance and filing a copy of the repealing ordinance with the other participating units.

(b) The joint board may by resolution terminate the participation of a unit when the unit does not contribute its proportion of the total budget agreed upon in the original agreement and ordinance. The termination occurs at the end of the fiscal year in which the joint board makes its finding.

(c) At the conclusion of the fiscal year in which a withdrawal or termination occurs, the joint board shall equitably distribute to participating units all money remaining in the fund.

(d) A withdrawal does not alter the obligation of the units and the joint board to continue to levy and collect special benefit taxes to

provide debt service on all outstanding bonds of the joint district.

(e) If a unit has appropriated money for payment to a joint board that has been discontinued, the money shall be placed in the fund of the board of that unit. If the separate board no longer exists, the money shall be deposited in the general fund of the unit.

*As added by Acts 1981, P.L.309, SEC.110.*

### **IC 36-10-3-33**

#### **Extension of service to unincorporated area; request; petition**

Sec. 33. (a) A request to a municipality to extend park and recreation service to the unincorporated area of a township in which the municipality is located or in a township adjacent to the township in which the municipality is located may be made by at least the number of registered voters required under IC 3-8-6-3 to place a candidate on the ballot in that area or township and who reside in that area or township, unless the area is already located within another park district.

(b) The request must be made by petition to the board of the municipality and must:

- (1) state the reasons for the need of service;
  - (2) specify the unincorporated area or township to be served;
- and
- (3) include the signatures and addresses of the petitioners.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.12-1995, SEC.132.*

### **IC 36-10-3-34**

#### **Extension of service to unincorporated area; public hearing; notice; approval or rejection; joint board**

Sec. 34. (a) The board shall fix a date for a public hearing on each petition filed under section 33 of this chapter. The board shall publish in accordance with IC 5-3-1 a notice of the time, place, and purpose of the hearing. The cost of the notice shall be paid by the petitioners.

(b) After the public hearing has been held, the board may by resolution approve the petition and recommend an ordinance accomplishing its objectives to the municipal fiscal body. The secretary or a member of the board shall present the petition and ordinance to the fiscal body at its first meeting after approval of the petition. However, if the board rejects the petition, it may not be presented to the fiscal body.

(c) If the board involved is a joint board, the petition must also be approved by the members from the municipality involved, and then the petition and ordinance shall be presented to the fiscal body of the municipality involved.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.95.*

### **IC 36-10-3-35**

#### **Extension of service to unincorporated area; approval of petition**

**and adoption of ordinance; election; notice; ballot; cost and expense of election**

Sec. 35. (a) If the fiscal body approves the petition and adopts the ordinance presented under section 34 of this chapter, the ordinance takes effect.

(b) After the adoption of the ordinance, the fiscal body shall certify the question under IC 3-10-9-3 to the county election board of the county containing the greatest percentage of population of the municipality and fix a date for a special election to be held not later than ninety (90) days after adoption. However, if a primary, general, or municipal election will be conducted in each precinct in the affected area not later than six (6) months after the ordinance is adopted, the special election shall be conducted on the same day as the primary, general, or special election. The election shall be held by the county election board in the area described in the petition. IC 3-10-8-6 applies to the special election. Any voter residing in the affected area may vote in the election.

(c) The county election board shall give public notice of the special election in accordance with IC 3-10-2-2.

(d) The ballot must be in the form prescribed by IC 3-10-9-4 and must state "Shall park and recreation services be extended?"

(e) If the special election is not conducted at a general election, municipal election, or primary election, the fiscal body shall appropriate a sum sufficient to defray the cost of the ballots and to pay the expense of the election as prescribed by IC 3. The appropriation may be from the general fund or by transfer from the operating budget of the department.

*As added by Acts 1981, P.L.309, SEC.110. Amended by Acts 1981, P.L.45, SEC.96; P.L.3-1987, SEC.568; P.L.3-1993, SEC.280; P.L.3-1997, SEC.471.*

**IC 36-10-3-36**

**Extension of service to unincorporated area; area to become part of district; appointment of member to board; application of chapter**

Sec. 36. (a) If a majority of those voting in a special election vote under section 35 of this chapter for the extension of park and recreation services, then at the beginning of the next fiscal year the area becomes part of the district of the department.

(b) At the time the area becomes part of the district, the circuit judge of the county shall appoint a member from the area to the board. The member shall be appointed with the same qualifications and for the same term as other members and has the same powers and duties. If the petition of more than one (1) area is approved, the circuit judge shall make the selection of members so as to maintain the bipartisan character of the board as far as possible. As each additional member is appointed, the quorum of the board is increased by one (1).

(c) The board has the same powers and duties to provide park and recreation service to the area as it has for the municipality, and this

chapter applies as fully to the area to which service is extended as it applies to a municipality. However, the board need not provide service to the area before revenues from the area are available.

*As added by Acts 1981, P.L.309, SEC.110.*

#### **IC 36-10-3-37**

##### **Extension of service to unincorporated area; property subject to levy; certification of rate; review; issuance of bond**

Sec. 37. (a) After a favorable special election under section 35 of this chapter, all property in the area to which service is extended is subject to the same levy for park and recreational purposes as other property within the district. After determining the levy for park and recreational purposes, the fiscal body of the municipality shall certify the rate to be applied to the area in the same manner as all other municipal levies are certified. In reviewing the park and recreation levy, all reviewing authorities shall treat the levy on the district property as a single levy so that the ultimate rate of tax for park and recreation purposes on all property in the district is identical.

(b) The authority of the board to issue bonds under sections 23 through 28 of this chapter includes all property in the area to which service is extended, but bonds may not be issued upon property in the area to which service is extended that do not obligate other property in the district to the same degree. After determining the levy for the park district bond fund, the board shall certify the rate to be applied to the area in the same manner as the rate to be applied to property in the municipality.

*As added by Acts 1981, P.L.309, SEC.110.*

#### **IC 36-10-3-38**

##### **Application of section; annexed territory; levy for park and recreational purposes**

Sec. 38. (a) This section applies in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(b) This section applies only if a municipality annexes territory that is part of a district under this chapter.

(c) Any annexed territory that is in the district before the effective date of the annexation ordinance remains a part of the district, and the property in the annexed territory is subject to the same levy for park and recreational purposes as other property within the district. The annexing municipality may not impose an additional levy on the property in the annexed territory for park and recreational purposes.

*As added by Acts 1981, P.L.309, SEC.110. Amended by P.L.56-1988, SEC.15; P.L.12-1992, SEC.190.*

#### **IC 36-10-3-39**

##### **Application of section; discharge of firearm or shooting of arrow with bow, Class B misdemeanor; hunting, firearm sport, or archery area**

Sec. 39. (a) This section applies only to parks within the

jurisdiction of a county board.

(b) A person who knowingly discharges a firearm or shoots an arrow with a bow into or inside a park commits a Class B misdemeanor.

(c) This section does not apply to an area that the board designates as a hunting, firearm sport, or archery area.

*As added by Acts 1981, P.L.309, SEC.110.*

#### **IC 36-10-3-40**

##### **Issuance of bonds payable from county innkeeper's tax**

Sec. 40. As an alternative to issuing bonds under section 24 of this chapter, the board may issue bonds payable from the county innkeeper's tax. The issuance of the bonds must be initiated by a resolution of the commission established by IC 6-9-7-2, recommending the issuance of the bonds and their purpose. Bonds that are payable from the innkeeper's tax imposed under IC 6-9-7 must be retired before August 1, 1999.

*As added by P.L.74-1986, SEC.7. Amended by P.L.85-1993, SEC.5.*

#### **IC 36-10-3-41**

##### **Approval of bond issuance by county council; reduction of innkeeper's tax rate**

Sec. 41. The bonds may not be issued until they have been approved by the county council. After the county council has approved the issuance of the bonds, the county council may not reduce the innkeeper's tax rate below a rate that would produce one and twenty-five hundredths (1.25) times the highest annual debt service on the bonds to their final maturity, based on an average of the immediately preceding three (3) years tax collections, if the tax has been levied for the last preceding three (3) years. If the tax has not been levied for the last preceding three (3) years, the county council may not reduce the rate below a rate which would produce one and twenty-five hundredths (1.25) times the highest debt service, based upon a study by a qualified public accountant or financial advisor.

*As added by P.L.74-1986, SEC.8.*

#### **IC 36-10-3-42**

##### **Hearing; appropriation of proceeds; sale**

Sec. 42. (a) The board shall hold a hearing as required by section 25 of this chapter. The board shall appropriate the proceeds of the bonds as required by law for special taxing district bonds.

(b) IC 6-1.1-20-1, IC 6-1.1-20-2, and IC 6-1.1-20-5 apply to the issuance of the bonds.

(c) The bonds may be sold at public sale in accordance with IC 5-1-11 or may be sold at a negotiated sale.

*As added by P.L.74-1986, SEC.9. Amended by P.L.25-1995, SEC.92.*

#### **IC 36-10-3-43**

##### **Certification of debt service schedule; time for retirement of bonds**

Sec. 43. After the sale of the bonds the secretary of the board shall certify to the county auditor a debt service schedule for the bonds. The schedule must provide that bonds that are payable from the innkeeper's tax imposed under IC 6-9-7 are retired before August 1, 1999.

*As added by P.L. 74-1986, SEC.10. Amended by P.L.85-1993, SEC.6.*

#### **IC 36-10-3-44**

##### **Lease or contracts for performance of historical pageants and admissions and maintenance of facilities**

Sec. 44. The board may enter into a lease or contracts with not-for-profit corporations providing detailed terms and conditions for:

- (1) the performance of historical pageants and entertainments;  
and
- (2) the charging of admissions and maintenance of the facilities.

The contract must not extend for a longer term than the term of the bonds.

*As added by P.L. 74-1986, SEC.11.*

#### **IC 36-10-3-45**

##### **Sections not to be repealed during period of outstanding bonds**

Sec. 45. The general assembly covenants that it will not repeal or amend:

- (1) IC 6-9-7-6;
- (2) IC 6-9-7-7;
- (3) IC 36-10-3-40;
- (4) IC 36-10-3-41;
- (5) IC 36-10-3-42; and
- (6) IC 36-10-3-43;

in a manner that would adversely affect owners of the bonds as long as the bonds are outstanding.

*As added by P.L. 74-1986, SEC.12.*