

IC 36-4-6

Chapter 6. City Legislative Body

IC 36-4-6-1

Application of chapter

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

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

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 six districts; boundaries; legislative body candidates; territory not included in any district or in more than one district

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) The division under subsection (b) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(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 any territory in the city is not included in one (1) of the districts established under this section, 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.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts 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 is adopted.

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.

IC 36-4-6-4

Third class cities; division into five districts; boundaries; alternative division into four districts; alternative division into three districts and two at-large candidates; voting

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) The division under subsection (b), (j), or (m) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(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 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 is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, 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.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

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.

IC 36-4-6-5

Third class cities having populations of less than 10,000; division into four districts; boundaries; alternative division into three districts; voting for legislative body candidates; territory not included in any district or included in more than one district

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 before September 1, 1982, decide to be governed by this section instead of section 4 of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. 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) The division under subsection (b) or (j) shall be made:

- (1) during the second year after a year in which a federal decennial census is conducted; and
- (2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(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 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 is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, 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.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

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.

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 he is unable to perform the duties of his 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 his seat.

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

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.

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.

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

Sec. 9. The city clerk is the clerk of the legislative body. He shall:

- (1) preserve the legislative body's records in his 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; and
- (6) record ordinances under section 17 of this chapter.

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

IC 36-4-6-10

Quorum

Sec. 10. A majority of all the elected members of the legislative body constitutes a quorum.

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.

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.

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.

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; requirements for adoption

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 his 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 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).

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.335-1985, SEC.36; P.L.100-2003, SEC.2.

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.

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 him, the city executive shall:

(1) approve the ordinance, order, or resolution, by entering his approval on it, signing it, and sending the legislative body a message announcing his approval; or

(2) veto the ordinance, order, or resolution, by returning it to the legislative body with a message announcing his veto and stating his 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 his duty under subsection (a), the ordinance, order, or resolution is considered vetoed.

(c) Whenever an ordinance, order, or resolution is vetoed by the city 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 his veto by a two-thirds (2/3) vote.

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

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.

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.

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

IC 36-4-6-19

Loans and issuance of bonds

Sec. 19. (a) The legislative body may, by ordinance, make loans of money and 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.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.173-2003, SEC.26.

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.

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 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.

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.

IC 36-4-6-22

Repealed

(Repealed by Acts 1980, P.L.73, SEC.23.)

IC 36-4-6-23

Repealed

(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.

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

CHAPTER 32. LEGISLATIVE

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DIVISION 1. GENERAL PROVISIONS

Sec. 32.01. Legislative authority.

The legislative power and authority of the city shall be vested in a common council. Unless otherwise provided by law, all powers and duties of the city which are legislative in nature shall be exercised and performed by the common council.

The common council of the city shall not elect or appoint any person to any office or employment whatever, except as expressly provided by statute.

State law reference—Similar provisions, IC 18-1-1.5-26.

Sec. 32.02. Council members; councilmanic districts.

In the city there shall be nine members of the common council: six district councilmen elected from such districts as the council may from time to time establish, and three councilmen-at-large elected at large from the entire city.

(Ord. No. 620-80, 10-10-80)

State law reference—Similar provisions, IC 18-2-1-8.

Sec. 32.03. Council meetings.

The council shall meet at least once a month, and as much oftener as the rules may require. Special meetings shall be held on the call of the mayor, or on such other call as may be provided for by the rules. A majority of all the members shall constitute a quorum. It shall require a majority vote of all the members to pass an ordinance. Whenever it is required that any ordinance or resolution shall be passed or other action of the council taken by a $\frac{2}{3}$ vote, such requirement shall be construed to mean a $\frac{2}{3}$ vote of all the members. All meetings of the common council shall be public.

Cross reference—Time and place of regular meetings, see § 32.33

State law reference—Similar provisions, IC 18-1-3-2.

Sec. 32.04. Officers of the common council.

The officers of the common council shall be a president, president pro tempore, and reading clerk, all of whom shall be elected from the membership of the common council by the common council. The city clerk shall be the clerk of the common council. The duties of such officers shall be as follows.

- (A) The President of the common council shall preside at all council meetings, carry out such other duties as presiding officers generally perform, and shall carry out such duties as shall from time to time be directed by ordinance or resolution of the council.

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- (B) The president pro tempore shall preside in the absence of the president, or at the request of the president, and shall perform such other duties as may from time to time be directed by the president or the council.
- (C) The reading clerk shall, upon the call of the presiding officer, read aloud by number and title each matter to be considered by the council. Upon the vote of a majority of the members present and voting the reading clerk shall read aloud in its entirety any particular matter.
- (D) The clerk of the common council shall accurately record and prepare the minutes of all meetings of the common council. The minutes shall include the record of the vote taken on each matter considered, as well as sufficient other material to accurately reflect the transaction of all business at such meetings and public hearings. The clerk shall also be custodian of all official records of the council and shall perform such other duties as may be directed by the council or prescribed by law.

(Ord. No. 620-80, 10-10-80)

Statutory reference—Presiding officer in second-class cities, see IC 18-1-3-3.

Sec. 32.05. Records of meetings.

The city clerk shall be the clerk of the common council. It shall be the clerk's duty, as such clerk of the council, to keep the files and papers thereof, to make and keep accurate minutes and a journal of the proceedings, to enter the yeas and nays on the passage of every ordinance and resolution and on all other votes, whenever requested by two members, and to perform all other duties required by such office.

(Ord. No. 620-80, 10-10-80)

State law reference—Similar provisions, IC 18-1-3-4.

Sec. 32.06. Expulsion of members.

The council shall have the power to expel any of its own members for violation of official duty, and to declare the seat of any member vacant by reason of his disability to perform the duties of his office. The council may adopt its own rules to

govern in such cases; but a $\frac{2}{3}$ vote shall be required to expel a member or vacate his seat under this section.

State law reference—Similar provisions, IC 18-1-3-5.

Sec. 32.07. Powers of council concerning ordinances.

(A) The common council of the city shall have power to pass all ordinances, orders, resolutions, and motions for the government of the city, for the control of its property and finances, and for the appropriation of money. No appropriation shall be made for the payment of money other than by ordinance, specifying by items the amount thereof and the department for which the appropriation is made. The council may prescribe by ordinance its own rules.

(B) No ordinance, order, or resolution of the council shall become a law, or operative until it has been signed by the presiding officer and approved in writing by the mayor, or passed over his veto, as hereinafter provided, and, whenever necessary, promulgated according to law. No ordinance shall be passed on the same day, or at the same meeting that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all the members of the council. Every ordinance imposing a penalty or forfeiture for the violation thereof shall, before the same shall take effect, be published, once each week for two consecutive weeks, in a newspaper of general circulation printed in such city, provided that in case of insurrection, riot, pestilence, conflagration, or in other case of urgent necessity requiring the immediate operation of any such ordinance, it shall take effect as soon as proclamation is made thereof by the mayor, and copies are posted in three public places in each of the wards of the city.

(C) When the city shall publish any of its ordinances in book or pamphlet form, such publication shall be of itself sufficient, and such ordinance or ordinances shall be in force in two weeks from the date of publication of such book or pamphlet. Any such publication of the ordinances of a city in book or pamphlet form, if the same shall purport to be printed under the authority of the common council of such city, shall be presumptive evidence, in all courts and places, of the

ordinances therein contained and of the date of their passage, and that the same are properly signed, attested, recorded, and approved.

(D) Every ordinance, order, or resolution of the common council shall, immediately upon its passage, enrollment, attestation and signature by the clerk and presiding officer, be presented by the city clerk to the mayor, and a record of the time of such presentation make by the clerk. If the mayor approves the ordinance, order, or resolution, he shall enter his approval thereon and sign the same, and the ordinance, order, or resolution shall become a law. If he does not approve the ordinance, order, or resolution, he shall return it to the clerk, with his objections in writing within ten days after receiving it, and the clerk shall present the same to the common council at its next meeting. If the mayor fails to discharge his duty by approving or disapproving such ordinance, order, or resolution within the time named, such failure shall be deemed a disapproval. In all cases of disapproval by the mayor, such ordinance, order, or resolution shall not become a law unless, at its next regular or special meeting after the time named for the mayor's action, the council shall again pass the same by a $\frac{2}{3}$ vote of all the members.

(E) All ordinances shall, within a reasonable time after their approval by the mayor or their passage over his veto, be recorded in a book kept for that purpose by the city clerk. Such record shall include the signature of the presiding officer, the attestation of the clerk and the mayor's written approval or disapproval, and, in the latter case, a memorandum of the passage record, or a certified copy thereof, shall be presumptive evidence of the passage and going into effect of such ordinance.

State law reference—Similar provisions, IC 18-1-3-6.

Sec. 32.08. Investigative powers; removal of officers, employees.

(A) The common council of the city shall have the power to supervise and investigate all departments, officers, and employees of the government of the city and to examine into any charge preferred against them and into the affairs of any corporation, firm, or person in which the city may be interested or with which it may enter or may

have entered into a contract. The common council shall have power of access to all records pertaining to any such investigation and power to compel the attendance of witnesses and the production of books, papers, and other evidence at any meeting of the council or of any committee thereof. For that purpose, the council or committee may issue subpoenas and attachments in any case of inquiry, investigation, or impeachment and cause the same to be served and executed in any part of the county.

(B) If any witness shall refuse to testify as to any fact within his knowledge or to produce any books or papers within his possession or under his control that are required to be used in evidence in any such case, the clerk of the body by whose authority such witness was subpoenaed, if so directed by the body or committee holding the investigation, shall forthwith report in writing to the circuit court of the county or the judge thereof in vacation the facts relating to such refusal. All questions arising upon such refusal and also upon any new evidence not included in such first report, which new evidence may be offered in behalf of or against such witness, shall be heard by such court or the judge thereof in vacation. If the court determines that the testimony or evidence required of such witness is competent, relevant, and material and to be given or produced by the witness, the court or the judge thereof in vacation shall make an order requiring the witness to testify or to produce books and papers or both. In case of a refusal to comply with such order, the court or the judge thereof in vacation shall have the power to commit the witness or otherwise punish him for contempt as provided by law in case of contempt of court.

(C) No witness shall be excused from testifying in any criminal proceedings or any investigation or inquiry before the common council, any committee thereof, or any department or office of the city having the right to conduct the investigation, touching his knowledge of any offense committed against the provisions of this chapter or of any ordinance passed in pursuance thereof or continued in force by this act. However, such testimony shall not be used against such witness in any criminal prosecution.

(D) Whenever any written charges have been adopted by the common council or by any committee thereof, against any officer, employee, or department of the corporation, except members of the council, such charge shall be heard by the council under such regulations as may be prescribed by ordinance. Should such charge be sustained, the common council shall take action thereon and may remove any officer or employee against whom such charges are sustained, subject to the right of appeal hereinafter provided for. It shall take a $\frac{2}{3}$ vote to impeach or remove an officer or employee, and such vote or order of removal shall become effective after three days; provided that any city official or employee against whom the common council has made or voted an order of impeachment or removal may, by a petition filed within three days thereafter, appeal from such order to the circuit or superior court in the county.

(E) The appeal shall be granted on filing cost-bond to the approval of such court or the judge thereof in vacation. While such appeal is pending, the order of impeachment or removal shall be suspended. Upon the filing of such bond, the clerk of the court shall immediately issue notice of the appeal to the city clerk and to all members of the common council. Thereupon the city clerk shall file in court a certified copy of the written charges against the officer and the proceedings thereunder including the vote and order of impeachment or removal. The court, or the judge thereof in vacation, shall, within ten days after the granting of such appeal, rehear the matter of the charges against such officer de novo, and the finding and judgment of the court in sustaining or overruling the charges shall be final and conclusive upon all parties. In case the charges are sustained upon the appeal, the order of impeachment or removal shall at once be in full force and effect.

State law reference—Similar provisions, IC 18-1-4-2.

Sec. 32.09. Financial management powers.

(A) The common council of the city shall have power to manage the finances of the city subject, however, to the powers and duties vested in the several executive departments of cities.

(B) The common council, on passage of an ordinance for that purpose, shall have power to make permanent loans of money to an amount not exceeding two percent of the taxable property of the city, to be determined by the last assessment for state and county taxes. The common council shall also have the power to issue bonds for the purpose of refunding such loans. Such loans may be made only for the purpose of procuring money to be used in the legitimate exercise of the corporate powers of the city and for the payment of corporate debts. Such ordinance for loans shall provide for the terms and tenor of the bonds or other form of security which shall be issued in evidence thereof, and for the time and character of notice and the mode of making sale of such securities. A total amount of any issue may be authorized in such ordinance and such issue sold in such parcels and at such times as the proceeds thereof may be required by the city.

(C) The common council may also make temporary loans in anticipation of current revenues of the city actually levied. The ordinance authorizing the issue of such temporary loans shall appropriate and pledge sufficient of the current revenues in anticipation of which they are issued, and out of which the same are payable to the payment thereof.

(D) All bonds and other securities issued and sold by the city shall be negotiable with or without registration, as may be provided in the ordinance authorizing the same, may bear interest not exceeding six percent per annum, payable annually or semiannually, may run not longer than 30 years, may contain an option allowing the city to redeem the same in whole or in part at specified times prior to maturity, and may be sold for any price not less than par value.

State law reference—Similar provisions, IC 18-1-4-3.

Secs. 32.10—32.19. Reserved.

DIVISION 2. RULES OF COUNCIL

Sec. 32.20. Rules of council established.

The rules set out in §§ 32.20 through 32.41 are established for the government of the deliberations of the common council.

(Code 1968, § 31.01)

Sec. 32.21. Presiding officer to decide questions of order; appeal.

The presiding officer shall decide all questions of order, subject to an appeal to the council by any member whose appeal shall be seconded.
(Code 1968, § 31.02)

Sec. 32.22. Presiding officer to decide whether or not question carried; division of council.

The presiding officer shall decide whether any question is carried by affirmative or negative vote, but if in doubt, or a division be called for, the council shall divide.
(Code 1968, § 31.03)

Sec. 32.23. Debate prohibited on questions relating to order of business.

All questions relating to the order of business shall be decided without debate.
(Code 1968, § 31.04)

Sec. 32.24. Manner of obtaining the floor.

Before a member of the council may make a motion or address the council, he shall raise his hand, address the chair as "Mr. President", or "Madam President", and obtain recognition from the presiding officer. No member may be recognized while another member is speaking. No member shall speak more than twice on the same question, except by unanimous consent of the council members present at the time, nor more than once, until every member wishing to speak shall have spoken.
(Code 1968, § 31.05; Ord. No. 620-80, 10-10-80)

Sec. 32.25. Motion to be reduced to writing when requested; withdrawal of motion.

Every motion shall be reduced to writing, if the presiding officer or any member desires it, and after being stated or read shall be considered in the possession of the council, but may be withdrawn at any time before decision or amendment.
(Code 1968, § 31.06)

Sec. 32.26. Motion not to be received while question is under debate; exception.

When any question is under debate, no motion shall be received but to adjourn, to fix the day to which the council may adjourn, to lie on the table, for the previous question, to postpone to a certain day, to commit or amend or to postpone indefinitely, which several motions shall have precedence in the order in which they are here arranged.
(Code 1968, § 31.07)

Sec. 32.27. Moving the previous question.

Debate upon any pending matter may be closed upon motion of any member, a second thereto, and an affirmative vote of a majority of the council members present. Such a motion takes precedence over all debatable questions and all subsidiary motions except motions to table, and is itself undebatable and not subject to amendment. The effect of such a motion is confined to the immediately pending motion unless specified otherwise.
(Code 1968, § 31.08; Ord. No. 620-80, 10-10-80)

Sec. 32.28. Commission and recommission of ordinances, resolutions, and reports.

Ordinances, resolutions, and reports may be committed and recommitted at the pleasure of the council.
(Code 1968, § 31.09)

Sec. 32.29. Reconsideration of question.

When any question has been once decided in the affirmative or negative, any member voting with the prevailing side may move a reconsideration thereof at the same or the next subsequent regular meeting; provided, that a vote passing any general ordinance shall not be reconsidered at any subsequent meeting.
(Code 1968, § 31.10; Ord. No. 703-81, 8-3-81)

Sec. 32.30. Order of propounding questions; filling blanks.

All questions shall be propounded in order in which they are moved, except that in filling blanks

the largest sum and the longest time shall be put first, and then the next largest sum and the next longest time, and so on until the blank be filled. (Code 1968, § 31.11)

Sec. 32.31. Roll call required, when.

The vote on the passage of every ordinance and resolution shall be decided by the call of the roll. The vote on all other matters, including the introduction and amendment of pending ordinances and resolutions, may be decided by a voice vote, unless a division of the house is requested by a member of the common council. (Code 1968, § 32.12; Ord. No. 620-80, 10-10-80)

Sec. 32.32. Certain motions not debatable.

A motion to lie on the table or to fix the time to which the council shall adjourn shall not be debatable. (Code 1968, § 31.13)

Sec. 32.33. Time and place for regular meetings.

The first regular meeting of the council shall be held on the first Monday in January after the general election of the members-elect of the council, at 7:30 p.m. as provided by IC 18-1-3-2. All regular meetings shall be held on the first Monday evening of each month at 7:30 p.m. and may be adjourned at the pleasure of the council. Adjourned meetings shall have all the force and effect of regular meetings. Meetings shall be held in the council chamber, unless otherwise determined by the president and designated on the agenda. (Code 1968, § 31.14; Ord. No. 620-80, 10-10-80)

Sec. 32.34. Special meetings.

Special meetings of the council shall be held on the call of the mayor or the presiding officer of the council, or, in the event of the absence from the city of the presiding officer of the council, on the call of the presiding officer pro tempore, or, upon the written request of seven members of the council. All members of the council must be notified by the city clerk. (Code 1968, § 31.15)

Sec. 32.35. Committees, appointment.

The presiding officer shall appoint all standing and other committees of the council as he shall deem necessary from time to time and designate the duties of each committee and members thereof; unless the council shall, by resolution, prescribe another mode of such designation and appointment. (Code 1968, § 31.16)

Sec. 32.36. Duties of committees.

The duties of the several committees designated by the presiding officer shall be enumerated by the presiding officer and the persons appointed to the committees shall be and take cognizance of and consider all matters concerning the city which are indicated by the title of the committee so designated and all other matters which may be referred to them by the council or by the presiding officer. (Code 1968, § 31.17)

Sec. 32.37. Order of business.

The order of business at every meeting of the council shall be as follows:

- (A) Calling the roll.
 - (B) Reading the journal of the preceding meeting.
 - (C) Hearing of petitions, memorials and remonstrances.
 - (D) Reports of standing committees.
 - (E) Reports of select committees.
 - (F) Reports of city officers.
 - (G) Ordinances on a second or third reading.
 - (H) Introduction of ordinances.
 - (I) Introduction of resolutions.
 - (J) Unfinished and miscellaneous business.
- (Code 1968, § 31.18)

Sec. 32.38. General rules.

The general rules of parliamentary law shall be considered the rules of the council, so far as applicable, unless in conflict with this chapter. (Code 1968, § 31.19)

Sec. 32.39. Prerequisites to action on ordinance, resolution.

(A) The city clerk shall not accept for filing any ordinance or resolution to be considered by the common council unless it has been approved by written signature thereon of a member of the council, and further, unless it has been approved for form by the city attorney or the attorney for the common council. Each ordinance and resolution shall bear at the top of the first page thereof a caption which shall briefly and fairly describe the nature, purpose, and content of the document. Any ordinance or resolution submitted which conforms to the requirements of this division shall be given an identifying number and placed on the agenda of the first regular council meeting occurring at least 15 days from the date of filing. The city clerk shall distribute the ordinance or resolution to council members for their study no later than ten days prior to the meeting.

- (1) Any matter filed with the clerk in conformity with subsection (A) above shall be eligible for consideration by the council 15 days after filing. No ordinance shall be passed on the same day, or at the same meeting, that it is introduced, except by unanimous consent, and then only in case there are present and voting at least two-thirds of all of the members-elect of the council. The consent of a simple majority of those present and voting shall be required in order to suspend the rules for any other purpose.
- (2) Any matter may be amended at any point in the proceedings by appropriate vote, and the amendment shall not need to comply with any time or filing provisions in this section. Any matter except ordinances to amend the comprehensive zoning ordinance may be withdrawn from consideration by the council upon the oral request of the sponsoring council member without a vote upon the request. Ordinances to amend the comprehensive zoning ordinance may only be withdrawn by the applicant with the consent of a majority of the members of the council present.

(B) The date the ordinance is officially brought before or certified to the council is the date the ordinance is introduced by the council at a regular meeting or special meeting, as provided by sections 32.33 and 32.34 and in compliance with the provisions of this section.

(C) No ordinance or resolution affecting a specific department of city government shall be passed unless and until the department head of the affected department or his designee appears before the council to answer any inquiries the council may have regarding the ordinance. (Code 1968, § 31.20; Ord. No. 44-74, 11-12-74; Ord. No. 183-76, 5-10-76; Ord. No. 376-78, 5-8-78; Ord. No. 620-80, 10-10-80; Ord. No. 19-93, 6-7-93)

Sec. 32.40. Reintroduction of defeated ordinance.

No ordinance that has been defeated by council action shall be reintroduced in the same year, unless by unanimous consent of the council. (Code 1968, § 31.21)

Sec. 32.41. Motions to recess or adjourn.

Motions to recess or adjourn must be by roll call vote. (Code 1968, § 31.22)

Sec. 32.42. Expenditures from council budget.

(A) All expenditures of money from the appropriated budget of the common council must be approved by the president of the common council or, in the absence of the president, the president pro tempore prior to payment by the controller, subject to subsection (D), below.

(B) No expenditure of appropriated money from the budget of the common council shall be approved which is not reasonably related to the carrying out of the duties of the members of the common council.

(C) All expenditures from the budget of the common council, except for salaries of elected officials, shall be in the nature of reimbursement for expenditures incurred by the council members. Each expenditure shall be supported by a

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sworn claim signed by the council member seeing reimbursement and shall be supported by appropriate and reasonable documentation thereof.

(D) The decision of the president or president pro tempore under subsection (A) may be appealed to the full council by any member of the council whose motion shall be seconded. Such motion shall be debatable, and shall require the affirmative vote of at least the majority of the members present, for passage, provided a quorum is present.

(E) The controller shall prepare and file with the city clerk for distribution to the council a monthly statement of expenditures under the provisions of this section.

(Ord. No. 713-81, 9-14-81)