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Establishing a City/Town Park and Recreation Department under Indiana's Park and Recreation Law

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In Indiana there are 229 city and town park and recreation boards providing services to local residents with annual operating budgets in excess of 61 million dollars. In addition another 10 million dollars is being spent annually for capital improvements. The vast majority of these departments (97%) use “The Park and Recreation Law,” (IC 36-10-3) for authority to operate. This statute was originally adopted in 1955 and has been revised and updated several times in the ensuing years. In 1981, the Indiana General Assembly recodified all park and recreation statutes and placed them under Title 36 of the Indiana Code. This publication is a summary of IC 36-10-3; please refer to the complete text for details.

I. Procedures for Establishment

A. The Common Council* passes an ordinance adopting The Park and Recreation Law. (IC 36-10-3).

B. Membership on the board—The board shall be composed of four members. The Mayor, or Town Board President, shall select the members on the basis of their interest in and knowledge of parks and recreation; but no more than two members shall be of the same political party. Initially, these members are appointed for staggered terms of 1, 2, 3, and 4 years, then as terms expire, each new appointment shall be for four years.

In addition, the creating ordinance may provide for one or two ex-officio† members, those being:

1. A member of the governing body of the school corporation selected by the body;

2. A member of the governing body of the library district selected by that body; or

3. Both 1 and 2.

The ordinance shall fix the number of ex-officio members and shall provide that the particular ex-officio members shall be selected by their board or committee as the case may be. The board or committee shall also fill any vacancy that may occur. Ex-officio members shall have all rights of a member including the right to vote. Neither a municipal executive nor a member of the municipal fiscal body may serve on a board.

Four Alternatives for Board Structure

1. Four members appointed by mayor or town board president. Total number 4.

2. Four members appointed by mayor or town board president. One ex-officio member from the board of school trustees. Total number 5.

3. Four members appointed by major or town board president. One ex-officio member from the library board. Total number 5.

4. Four members appointed by mayor or town board president. One ex-officio member from the board of school trustees. One ex-officio member from the library board. Total number 6.

* "Common Council" means the legislative body of a city or incorporated town.

† "Ex-officio" member means a member of a park and recreation board who holds his membership by virtue of some other office or appointment in a city or county government.
C. A member of the board may be removed only for cause, upon written charges filed against him. A public hearing shall be held. (IC 36-10-3-6)

D. In case a city is situated in a county having a county board, the city and county board each may designate a member to sit with the other board as an advisory member. (IC 36-10-3-7)

E. The meetings of the board shall be public. A majority of the members shall constitute a quorum and no action is official unless authorized by at least three members present and acting. (IC 36-10-3-8-d)

F. The members of the board may receive a salary not to exceed $300.00 per annum. (IC 36-10-3-a)

II. Duties and Powers of the Board (IC 36-10-3-10 and 11)

1. General powers to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions.

2. Make regulations and establish rules governing the use of park and recreation facilities by the public.

3. Provide police protection for its property and activities by requesting assistance from state, city, or county police authorities, or by having specified employees deputized as police officers.

4. Make contracts and leases for facilities and services.

5. Acquire and dispose of real and personal property, either within or without the state.

6. Exercise the power of eminent domain under authority of any laws generally made available for this purpose.

7. In a town, the board may appoint a superintendent of parks and recreation. The board may not consider political affiliation in the selection of the superintendent. (IC 36-10-3-13-a)

In a city, if a superintendent of parks and recreation is appointed, he/she shall be appointed under IC 36-4-9-2 without considering political affiliation. This statute calls for the executive (mayor) in a city to appoint the department head with approval of the park and recreation board. (IC 36-10-3-13-b)

In both instances above, the superintendent must:

(a) be qualified by training or experience in the field of parks and recreation; or

(b) have a certification or an advanced degree in the field of parks and recreation.

8. Establish standards and qualifications for the appointment of all personnel. Personnel to be recommended by the superintendent.


10. Prepare and submit an annual budget in the same manner as other departments of city government as prescribed by the State Board of Accounts.

III. Finance

1. All territory included within the corporate limits of the city/town shall constitute a taxing district for the purpose of levying special benefit taxes. The common council as they might determine shall provide the revenues necessary for the operation of the department or for capital expenditures not provided by the issuance of bonds, or both, by a special levy or special appropriation, or both. (IC 36-10-3-19)

2. 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.
3. The unit's fiscal body may establish by ordinance, upon request of the board:

(a) 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

(b) 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.

4. The unit's fiscal body shall designate the fund or funds into which the unit's fiscal officer 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 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.

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.

5. The board shall have separate bonding power not in excess of 2 percent of the assessed valuation of the taxing district. Hearings shall be held. Approval of the common council is required. (IC 36-10-3-24 through 28)

6. The board may establish a cumulative building fund to provide money for: building, remodeling, and repair of park and recreation facilities; or to purchase land for park and recreation purposes. The board shall give notice and hold a public hearing for the taxpayers affected and before the proposed action is presented to the State Board of Tax Commissioners for approval.

7. Gifts, donations, and subsidies for park and recreation purposes may be accepted by the board. However, a gift or transfer of property to the board may not be made without its approval. Grantors may specify the purposes for which expenditures are made.

IV. Advisory Council

The board may create an advisory council and special committees composed of citizens interested in the problems of parks and recreation. (IC 36-10-3-17)

V. Cooperative Arrangements

1. A board may contract with another board, with a township, or a school board for the use of park and recreation facilities or for services. A township or a school board may contract with the board for the use of park and recreation facilities or for services. (IC 36-10-3-11-3)

2. Two boards operating under this act may establish a joint board. The boards desiring to establish a joint board shall informally agree upon the use of facilities, personnel, and the distribution of financial support. After informal agreement has been reached, the respective councils shall pass an ordinance embodying the terms of the agreement. (IC 36-10-3-29)

3. A joint board shall be organized and function in the same manner as a board. It shall be composed of all the members of the two boards. A joint board may create an executive committee composed of an equal number of members from each board. It shall exercise all the authority of the joint board, except a member may demand an issue to be submitted to the joint board. (IC 36-10-3-30)
VI. SAMPLE ORDINANCE

ORDINANCE NO. ________________, 19____

AN ORDINANCE ESTABLISHING A DEPARTMENT OF PARKS AND RECREATION AND REPEAL
OF ALL ORDINANCES IN CONFLICT THEREWITH

Be it ordained by the Common Council of the City/Town of ____________, Indiana:

Section I
Under the provisions of IC 36-10-3 there is hereby created a municipal Department of Parks and Recreation.

Section II
A Park and Recreation Board shall be created composed of:
1. Four (4) members appointed by the mayor on the basis of their interest in and knowledge of parks and recreation. No more than two (2) members shall be of the same political party.

The creating ordinance in any city/town may provide for:

See alternatives for appointment of ex-officio members and insert those to be included here ...

Section III
Upon establishment of the board, the terms of the members initially appointed shall be:
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, and
4. One (1) member for a term of four (4) years.
As a term expires, each new appointment shall be made by the mayor for a term of four (4) years. All terms expire on the first Monday in January, but a member shall continue in office until his successor is appointed. If an appointment for a new term is not made by the mayor by the first Monday in April, the incumbent shall serve another term. If a vacancy occurs, the mayor shall appoint a new member for the remainder of the unexpired term.

Section IV
At its first regular meeting in each year, the Board shall elect a president and vice-president. The vice-president shall have authority to act as the president of the Board during the absence or disability of the president. The Board may select a secretary either from within or without its own membership.

Section V
The Board shall have the power to perform all acts necessary to acquire and develop sites and facilities and to conduct such programs as are generally understood to be park and recreation functions. In addition the Board shall have all the powers and duties listed in IC 36-10-3.

Section VI
The Board shall prepare and submit an annual budget in the same manner as other departments of city government as prescribed by the State Board of Accounts. The Board may accept gifts, donations, and subsidies for park and recreation purposes.

Section VII
All other ordinances, resolutions, or parts thereof in conflict with the provisions and intent of this ordinance are hereby repealed.

Section VIII
This ordinance shall be in full force and effect from and after its passage, and approval, according to the laws of the State of Indiana.

Passed by the Common Council of ________________, Indiana this _____ day of ______ 19____.

_________________________ Mayor

Presiding Officer of the Common Council of the City/Town of ________________, Indiana.

Attest:

_________________________ Clerk Treasurer

Common Council of the City/Town of ________________, Indiana.

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