

IC 36-4-5

Chapter 5. City Executive

IC 36-4-5-1

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.41.

IC 36-4-5-2

Mayor; election; eligibility; term of office

Sec. 2. (a) A mayor, who is the city executive, shall be elected under IC 3-10-6 by the voters of each city.

(b) A person is eligible to be a city executive only if the person meets the qualifications prescribed by IC 3-8-1-26.

(c) Residency in territory that is annexed by the city before the election is considered residency for the purposes of subsection (b), even if the annexation takes effect less than one (1) year before the election.

(d) The city executive must reside within the city as provided in Article 6, Section 6 of the Constitution of the State of Indiana. The executive forfeits office if the executive ceases to be a resident of the city.

(e) The term of office of a city executive is four (4) years, beginning at noon on January 1 after election and continuing until a successor is elected and qualified.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.48; P.L.3-1987, SEC.556.

IC 36-4-5-3

Powers and duties

Sec. 3. The executive shall:

- (1) enforce the ordinances of the city and the statutes of the state;
- (2) provide a statement of the finances and general condition of the city to the city legislative body at least once a year;
- (3) provide any information regarding city affairs that the legislative body requests;
- (4) recommend, in writing, to the legislative body actions that the executive considers proper;
- (5) call special meetings of the legislative body when necessary;
- (6) supervise subordinate officers;
- (7) insure efficient government of the city;
- (8) fill vacancies in city offices when required by IC 3-13-8;
- (9) sign all bonds, deeds, and contracts of the city and all licenses issued by the city; and
- (10) approve or veto ordinances, orders, and resolutions of the legislative body under IC 36-4-6-15.

As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.49.

IC 36-4-5-4

Appointments

Sec. 4. The executive shall make the appointments prescribed by IC 36-4-9 and IC 36-4-11-2.

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

IC 36-4-5-5

Power to hear complaints against person issued license; proceedings; findings and determination; violation, revocation, or suspension

Sec. 5. On reasonable notice of at least three (3) days to the person complained of, the executive shall hear any complaint against a person to whom the city has issued a license, and may issue subpoenas to compel the attendance of witnesses, administer oaths to those witnesses, and require them to testify. To the extent they can be applied, the Indiana rules of procedure, including the right to appear by counsel and to compel the attendance of witnesses for or against persons complained of, apply to proceedings under this section. If the executive finds that the person complained of has wilfully violated a term or condition of his license, or has wilfully done or permitted to be done an act in violation of a statute or city ordinance relating to the business licensed, the executive shall revoke or suspend the license. He shall file a copy of his findings and determination with the city fiscal officer within twenty-four (24) hours after it is made.

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

IC 36-4-5-6

Meetings with officers in charge of city departments; record

Sec. 6. At least once a month, the executive shall meet with the officers in charge of the city departments:

- (1) for consultation on the affairs of the city;
- (2) to adopt rules and regulations for the administration of the affairs of city departments; and
- (3) to adopt rules and regulations prescribing a merit system for selecting, appointing, or promoting city officers and employees.

A record of meetings under this section shall be kept.

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

IC 36-4-5-7

Appointment of persons to examine or investigate city accounts and property

Sec. 7. The executive may appoint three (3) competent persons to examine, without notice, the city accounts and property in the possession or custody of a city department, officer, or employee, and to report the results of their investigation.

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

IC 36-4-5-8

Absence or inability of executive; designation and service of acting executive

Sec. 8. (a) Whenever the executive is absent or going to be absent from the city, ill, or injured, he may designate:

(1) the deputy mayor, if that position has been established under IC 36-4-9-7; or

(2) a member of the city legislative body;

as acting executive, with all the powers of the office. The executive may exercise this power for a maximum of fifteen (15) days in any sixty (60) day period.

(b) A designation under subsection (a) shall be certified to the president or president pro tempore and clerk of the city legislative body. In addition, when the executive resumes his duties, he shall certify to those officers the expiration of the designation.

(c) Whenever the president or president pro tempore of the city legislative body files with the circuit court of the county in which the city is located a written statement suggesting that the executive is unable to discharge the powers and duties of his office, the circuit court shall convene within forty-eight (48) hours to decide that question. After that, when the executive files with the circuit court his written declaration that no inability exists, the circuit court shall convene within forty-eight (48) hours to decide whether that is the case. Upon a decision that no inability exists, the executive shall resume the powers and duties of his office.

(d) If the circuit court decides under subsection (c) that the executive is unable to discharge the powers and duties of his office, then:

(1) the deputy mayor, if that position has been established under IC 36-4-9-7; or

(2) the president of the legislative body in a second class city, or the president pro tempore of the legislative body in a third class city, if there is no deputy mayor;

shall serve as acting executive, with all the powers of the office. A person may serve as acting executive for a maximum of six (6) months under this subsection. The city legislative body may appropriate funds to compensate a person acting as executive under subsection (d).

As added by P.L.349-1983, SEC.1.

IC 36-4-5-9

Vacancy in office of executive

Sec. 9. (a) The office of executive becomes vacant whenever the executive:

(1) dies, resigns, or is removed from office;

(2) ceases to be a resident of the city;

(3) is convicted of a felony, as provided in IC 5-8-1-38; or

(4) is unable to discharge the powers and duties of his office for more than six (6) months.

(b) The vacancy shall be filled under IC 3-13-8.

As added by P.L.349-1983, SEC.2. Amended by P.L.5-1986, SEC.50; P.L.37-2008, SEC.3.