

## **IC 36-4-2**

### **Chapter 2. Merger of Adjoining Municipalities**

#### **IC 36-4-2-1**

##### **Application of chapter**

Sec. 1. This chapter applies to all municipalities.

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

#### **IC 36-4-2-2**

##### **Resolution; election; notice; ballot; result; certified copies of agreement and result of election**

Sec. 2. (a) If the legislative bodies of two (2) or more adjoining municipalities each agree, by resolution, on:

- (1) the date of an election to consider the merger of the municipalities; and
- (2) the name by which the municipality formed by the merger would be known;

the municipalities shall certify the question to the county election board. The board shall conduct an election to consider the merger. The election shall be held in each of the municipalities.

(b) Notice of an election under this section shall be given in each municipality by publication in the manner prescribed by IC 5-3-1.

(c) An election under this section shall be held in each municipality in the manner prescribed by IC 3-10-8-6. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall \_\_\_\_\_ and \_\_\_\_\_ merge and become the (City or Town) of \_\_\_\_\_?".

(d) The election board shall report the results of the election to each legislative body, and a certified copy of the result of the election in each municipality shall be filed with the legislative body of each of the municipalities involved in the election.

(e) If a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by this section and sections 9 through 17 of this chapter. A certified copy of the agreement, and of the result of the election, shall be filed in the office of the recorder of the county or counties in which the new municipality is located. The agreement must be:

- (1) signed by the municipal executive;
- (2) attested by the clerk; and
- (3) sealed with the seal;

of each of the constituent municipalities. Copies of the record shall be received in all courts and places as conclusive of the merger of the municipality under the name agreed on.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1981, P.L.45, SEC.13; P.L.5-1986, SEC.44; P.L.3-1987, SEC.554.*

#### **IC 36-4-2-3**

##### **Petition; contents; affidavit**

Sec. 3. (a) If each of the clerks of two (2) or more adjoining municipalities receives a written petition:

(1) signed by at least ten percent (10%) of the qualified voters of the municipality, as determined by the vote cast in the municipality for secretary of state at the most recent general election;

(2) requesting that a special election be held to determine whether the municipalities should be merged into one (1) municipality; and

(3) stating the name by which the proposed municipality will be known;

he shall deliver a certified copy of the petition to the clerk of every other municipality involved in the proposed merger, and the respective legislative bodies of the municipalities shall hold an election in each municipality.

(b) An affidavit of one (1) or more freeholders of the municipality, stating that the persons who signed the petition are legal voters of the municipality, must be attached to each petition filed under this section. An affidavit filed under this section is conclusive evidence of the facts stated in the affidavit.

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

#### **IC 36-4-2-4**

##### **Election; date; notice**

Sec. 4. (a) If petitions are filed under section 3 of this chapter, the legislative body of each municipality involved in the proposed merger shall meet and by resolution fix a date for the election. The date must be the same in each of the municipalities, and may not be more than three (3) months after the date of the filing of the petitions.

(b) Notice of an election under section 3 of this chapter must be given by publication in each municipality in the manner prescribed by IC 5-3-1.

*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.4; Acts 1981, P.L.45, SEC.14.*

#### **IC 36-4-2-5**

##### **Petition proposing name of municipality; submission to electorate**

Sec. 5. (a) If, at least thirty (30) days before an election held under section 3 of this chapter, voters of each municipality involved in the election file with each of their municipal clerks a petition signed by at least the number of voters required under IC 3-8-6-3 to place a candidate on the ballot in each of the municipalities and proposing a name for the new municipality, the election board shall place that name on the ballot for the election. The election board shall list names added to the ballot under this subsection in the order in which the petitions proposing them were received, but shall place them after the name included on the ballot under section 2 of this chapter.

(b) The names proposed under this section shall be submitted as

public questions in the form prescribed by IC 3-10-9-4 and must state "Shall the merged municipality be named \_\_\_\_\_?".  
*As added by Acts 1980, P.L.212, SEC.3. Amended by Acts 1980, P.L.73, SEC.5; P.L.3-1987, SEC.555; P.L.12-1995, SEC.128.*

#### **IC 36-4-2-6**

##### **Place of election; manner; expense; voting**

Sec. 6. (a) An election held under section 3 of this chapter shall be held in each municipality in the manner prescribed by IC 3-10-8-6. Each municipality is responsible for the expense of the election within its own corporate boundaries.

(b) A voter in an election held under section 3 of this chapter may:

- (1) vote "Yes" or "No" on the proposed merger; and
- (2) vote in favor of one (1) proposed name listed on the ballot under section 5 of this chapter.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.45.*

#### **IC 36-4-2-7**

##### **Filing of returns of election; effect**

Sec. 7. (a) After an election held under section 3 of this chapter, the election board shall file with the clerk of each municipality the returns of the election in each voting precinct in the manner prescribed by IC 3-12-4.

(b) Within ten (10) days after an election held under section 3 of this chapter, the election board shall certify and file with:

- (1) the legislative bodies of the municipalities; and
- (2) the county auditor;

a copy of the result of the election in each municipality. The county auditor shall enter the copy he receives in the records of the county executive.

(c) If, in an election held under section 3 of this chapter, a majority of the votes cast in each of the municipalities is in favor of the merger, the municipalities are merged under the terms prescribed by sections 9 through 17 of this chapter. After the merger becomes effective, the name of the new municipality is the name receiving the highest number of votes at the election.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1986, SEC.46.*

#### **IC 36-4-2-8**

##### **Election year under this chapter**

Sec. 8. An election held under section 2 or 3 of this chapter may not be held in a calendar year in which a general municipal election is to be held.

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

#### **IC 36-4-2-9**

**Effective date of merger; effect of merger**

Sec. 9. (a) Except as provided in subsection (c), a merger approved under this chapter takes effect when:

- (1) the officers of the new municipality are elected and qualified, as prescribed by section 13 of this chapter; and
- (2) a copy of the agreement under section 2 of this chapter or the certified election results under section 7 of this chapter are filed with:
  - (A) the office of the secretary of state; and
  - (B) the circuit court clerk of each county in which the municipality is located.

(b) On the effective date of the merger, the merging municipalities cease to exist and are merged into a single municipality of the class created by the combined population of the merging municipalities. The new municipality shall be governed by the laws applicable to that class.

(c) A merger approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A merger that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(d) Notwithstanding subsection (c) as that subsection existed on December 31, 2009, a merger that took effect January 2, 2010, because of the application of subsection (c), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.5-1989, SEC.90; P.L.3-1997, SEC.454; P.L.123-2000, SEC.4; P.L.113-2010, SEC.115.*

**IC 36-4-2-10****Election of officers at large and by district**

Sec. 10. At the next general municipal election after a vote in favor of a merger at an election held under section 2 or 3 of this chapter, one (1) set of officers for a municipality having the combined population of the merging municipalities shall be elected by the voters of the merging municipalities as prescribed by statute, except that:

- (1) one (1) member of the municipal legislative body shall be elected from each district established under section 12 of this chapter; and
- (2) the total number of at large members prescribed by statute for the municipal legislative body shall be elected.

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

**IC 36-4-2-11****Joint election board; members; powers and duties**

Sec. 11. (a) The election prescribed by section 10 of this chapter shall be conducted in the manner prescribed by the applicable election statutes, except that there must be a joint election board for the new municipality in place of separate boards for each of the merging municipalities. The joint election board consists of:

- (1) the clerks of each of the merging municipalities; and
- (2) three (3) persons appointed by the executive of the county in which the merging municipalities are located, not more than two (2) of whom are resident voters of one (1) of the merging municipalities.

(b) In order to conduct the election prescribed by section 10 of this chapter, the joint election board shall meet and organize in the manner prescribed by IC 3-6 for election boards and has the same powers and duties as those boards. All subsequent primary and general elections in the new municipality shall be held in the manner prescribed by statute.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.7-1983, SEC.36; P.L.5-1986, SEC.47.*

#### **IC 36-4-2-12**

#### **Joint session of legislative bodies of merging municipalities; resolution to fix boundaries of districts; exclusion of territory in any territory or inclusion of territory in more than one district; certification, attestation, and filing of resolution**

Sec. 12. (a) The legislative bodies of municipalities that vote to merge under this chapter shall meet in joint session at the hall of the municipality having the largest population at 8 p.m. on the second Monday of January of the next year in which a general municipal election is to be held. At the joint meeting, the legislative bodies shall:

- (1) elect a presiding officer and clerk; and
- (2) fix, by joint resolution, the boundaries of the districts from which members will be elected to the legislative body of the new municipality.

The legislative bodies shall fix the district boundaries so that, as nearly as is possible, all parts of the merging municipalities have equal representation in the legislative body of the new municipality. The district boundaries fixed under this subsection constitute the district boundaries for the new municipality until they are altered by the legislative body of the new municipality.

(b) If any territory in the municipality is not included in one (1) of the districts established under subsection (a), 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.

(c) If any territory in the municipality is included in more than one (1) of the districts established under subsection (a), the territory is

included in the district that:

- (1) is one (1) of the districts in which the territory is described in the joint resolution adopted under subsection (a);
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(d) A copy of the joint resolution passed under subsection (a) shall be:

- (1) certified by the presiding officer;
- (2) attested by the clerk; and
- (3) filed with the legislative body of each of the merging municipalities and the circuit court clerk of each county in which the municipalities are located.

*As added by Acts 1980, P.L.212, SEC.3. Amended by P.L.3-1993, SEC.261.*

#### **IC 36-4-2-13**

##### **Elected officers; date of taking office**

Sec. 13. Officers elected under section 10 of this chapter shall qualify and take office at noon on the first Monday of January after their election.

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

#### **IC 36-4-2-14**

##### **Elected officers; delivery of money, property, and records by officers of merging municipalities to successors**

Sec. 14. Officers elected under section 10 of this chapter are the successors in office of the officers of municipalities merging under this chapter. When the officers elected under section 10 take office, each officer of the merging municipalities shall deliver to his successor in office all money, property, and records pertaining to his office.

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

#### **IC 36-4-2-15**

##### **Terms of office of elective and appointed officers of merging municipalities**

Sec. 15. The terms of office of elective and appointive officers of municipalities merging under this chapter are not shortened by the merger. The officers shall serve out the respective terms of office to which they have been elected or appointed at the time of the election on the proposed merger.

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

#### **IC 36-4-2-16**

##### **Effect of merger; rights, powers, and liabilities; pending actions**

Sec. 16. (a) After a merger under this chapter takes effect, the new municipality:

- (1) has all the rights, powers, privileges, immunities, and obligations of the merging municipalities;
- (2) is liable for all the debts, contracts, and liabilities of the merging municipalities;
- (3) is entitled to all the rights, credits, monies, and properties of the merging municipalities; and
- (4) may, in the name adopted in the merger, sue and be sued in relation to the debts, contracts, liabilities, rights, credits, monies, and properties of the merging municipality.

(b) After a merger under this chapter takes effect, pending actions that involve municipalities taking part in the merger shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new municipality without any change of the name of the plaintiff or defendant.

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

#### **IC 36-4-2-17**

##### **Effect of merger; ordinances, rules, and resolutions; continuation**

Sec. 17. After a merger under this chapter takes effect, the ordinances, rules, resolutions, bylaws, and regulations of each of the merging municipalities remain in force within the territory to which they applied before the merger, and continue in force until amended or repealed by the legislative body or an administrative body of the new municipality.

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