

CHAPTER 448

PARKS, PARKWAYS; PARK DISTRICTS; PARK BOARDS

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448.01, 448.02 [Repealed, 1949 c 119 s 110]

448.03 ACQUISITION OF LAND FOR PUBLIC PARK AND FAIR GROUND PURPOSES. Any city of the fourth class, operating under a home rule charter, may acquire by purchase or condemnation a tract of land not exceeding 25 acres, lying within the corporate limits of the city, and devote the same to the uses of a public park and incidentally may grant to the county agricultural society of the county in which the city is situated the right to hold the annual county fair in the part of the park as shall not interfere with its general usefulness for park purposes.

[1919 c. 345 s. 1] (1734-1)

448.04 PARKS AND GOLF COURSES. Any city of the fourth class of this state is hereby authorized and empowered, in addition to the other powers conferred upon it by law, to acquire by gift, purchase, devise, condemnation, or lease lands within its corporate limits, or lands adjacent to the city and lying outside of its corporate limits, not exceeding 100 acres in extent of area, for use by the public for a park or a golf course, and for park purposes, and may provide for the improvement thereof by the planting and preservation of trees and shrubs, by enclosing, ornamenting, and protecting the same, and in such other ways as may be necessary to make such lands suitable for the uses of a public park or golf course.

[1905 c. 335 s. 1; 1935 c. 293 s. 1] (1731)

448.05 PARK BOARDS IN CERTAIN CITIES. The council of any city of the fourth class may, by a majority vote, create a park board for the city, to be composed of three members, to be chosen by the council for terms of one, two, and three years, respectively, all of whom shall be freeholders and residents of the city, and who shall serve without compensation. The park board shall be authorized and empowered, for and on behalf of and in the name of the city, to acquire by gift, purchase, devise, condemnation, or lease, the land to be held and used for park purposes, or purposes of a golf course, and shall provide for the improvement thereof as specified in section 448.04. The park board shall have general supervision, management, and control of the park or golf course and may appoint a suitable person to care for and take charge of the same and prescribe his duties and fix his compensation therefor. In any city of the fourth class having a population according to the 1930 federal census in excess of 5,000, which city is located within a county containing not less than 18,000, and not more than 19,000, inhab-

itants according to the 1930 federal census and having an assessed valuation for the year 1935 in excess of \$5,000,000 and less than \$6,000,000 exclusive of money and credits the council may by a majority vote create a park board for the city to be composed of five members to be chosen by the council for terms of one, two, three, four, and five years, respectively, all of whom shall be freeholders and residents of the city, and who shall serve without compensation, and the board shall have the authority and power specified in this section.

[1905 c 335 s 2]

448.06 ANNUAL APPROPRIATION. For the purposes of carrying out the provisions of sections 448.04 to 448.07 the council of any city of the fourth class may appropriate annually, out of any of the revenues of the city received from taxes, saloon or other licenses and fines, a sum of money not exceeding ten per cent of these revenues, the money so received to be disbursed for the purposes mentioned in section 448.04, in such manner and subject to such rules and regulations as the council or the park board shall direct.

[1905 c. 335 s. 3] (1733)

448.07 APPLICATION. Sections 448.04 to 448.07 shall not include or apply to cities now or hereafter governed under a charter adopted under and pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, and Laws 1899, Chapter 351, and acts amendatory thereof.

[1905 c. 335 s. 5] (1734)

448.08 [Repealed, 1945 c 86]

448.09 CITIES OF THE SECOND OR THIRD CLASS MAY ACQUIRE LANDS FOR PARKS AND PARKWAYS. Any city of the second or third class may receive as a gift or donation, in whole or in part, and acquire through its board of park commissioners lands within its corporate limits, and thereafter hold, control, lay out, alter, improve, operate, and maintain these lands for public parks and parkways. This control, improvement, and maintenance shall cover all park lands heretofore acquired by the city.

[1903 c 293 s 1; 1949 c 277 s 1]

448.10 CONDEMNATION PROCEEDINGS. For the purpose of making and perfecting the condemnation of lands lying within the corporate limits of the city for public use for parks and parkways, the board of park commissioners of the city shall proceed in the following manner.

When they deem it to be for the public interest that any tract or parcel of land within the corporate limits of the city should be taken, appropriated, or condemned for the use of the city as a park or parkway and so determine by resolution duly passed, the board shall cause the same to be surveyed and platted by duplicate plats, one of the duplicate plats to be filed in the office of the city engineer of the city.

The board of park commissioners shall thereupon appoint a board of three appraisers, who shall be disinterested freeholders and qualified voters of the city, in which the lands so to be taken and condemned are situated, to view the premises and appraise the damages which may be occasioned by the taking, appropriation, and condemnation of the property in question, and the appraisers shall be notified as soon as practicable by the secretary of the board of park commissioners to attend, at a time to be fixed by him, for the purpose of qualifying and entering upon their duties. They shall thereupon be sworn to discharge their duties as appraisers in the matter with impartiality and fidelity and to make due return of their acts as such to the board of park commissioners.

They shall, with all reasonable speed, give notice by publication in the official newspaper of the city, once a week for two consecutive weeks, the last of which publications shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated for appropriation by the board of park commissioners, including a separate and distinct description of each and every lot or parcel of land proposed to be taken, together with the owners' names, where known, and that a plat of the same has been filed in the office of the city engineer, and that the appraisers will meet, at a place and time designated, and thence proceed to view the premises and to appraise the damages for the property so to be taken, appropriated, and condemned. At the time named in this notice the appraisers shall meet and view the premises and may hear any evidence adduced or offered by the parties interested, and adjourn, from time to time, for the purpose aforesaid, and when their view and hearing shall be concluded, they

shall determine and appraise the amount of damages to be paid the owner of each piece or parcel of property proposed to be taken, appropriated, or condemned, and having ascertained and appraised the damages they shall make and file with the secretary of the board of park commissioners a written report to the board detailing their action in the premises, embracing a schedule, and the appraisal of the damages in each case, with a description of the land and the names of the owners, if known to them, and also a statement of the cost of the proceedings.

[1903 c. 293 s. 2]

448.11 NOTICE OF FILING OF REPORT OF APPRAISERS. Upon the filing of this report with the secretary of the board of park commissioners, the secretary shall thereupon give notice, by a publication, of the filing of the appraiser's report, in the official newspaper of the city, once a week for two successive weeks, the last publication of which shall be at least ten days before the meeting of the board of park commissioners mentioned in the notice, and that the report of the appraisers will be considered by the board of park commissioners at a meeting thereof named in the notice, and any person interested shall, before the time specified for the meeting in the notice, notify the board of park commissioners, in writing, of any objections which he may have in the premises, and the board of park commissioners, upon the day fixed for the consideration of the report of the appraisers, or at any subsequent meeting to which the same may stand over, or be referred, shall have the power, in their discretion, to confirm, revise, or annul the appraisalment, in whole or in part, giving due consideration to any objections interposed by the parties interested. The board of park commissioners shall have no power to reduce the amount of any of the appraisements but, in case the appraisalment is annulled, in whole or in part, the board may thereupon appoint new appraisers, who shall proceed in like manner as in the case of the first appraisalment, as to any land in which the former appraisalment was annulled.

[1903 c. 293 s. 3]

448.12 CONFIRMING APPRAISEMENT; APPEAL. When the board of park commissioners shall have finally confirmed the appraisalment, in whole or in part, the award shall thereupon stand as a charge against the city, payable out of its park fund, and shall be paid, or deposited and set aside in the treasury of the city to and for the use of the parties entitled thereto within six months after the confirmation of the appraisalment and report, except that in case any appeal shall be taken from the order of confirmation, then the amount of the damages shall not in any case be required to be paid or deposited and set aside until 60 days shall have expired after the determination of the appeal so taken, as provided in section 448.13.

[1903 c. 293 s. 4]

448.13 WHEN APPEAL TO BE TAKEN. Any person whose property is proposed to be taken, appropriated, and condemned under the provisions of sections 448.09 to 448.16, who deems there is any irregularity in the proceedings of the board of park commissioners or in the acts of the appraisers in the premises, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of the damages awarded to him, may, at any time before the time specified for the consideration of the award by the board of park commissioners, file with the secretary of the board, in writing, his objections to such confirmation, setting forth therein, specifically, the particular irregularities complained of, containing a description of the property in which he is interested which would be affected by the proceedings and his interest therein; and if, notwithstanding such objections, the board shall confirm the award, any person so objecting shall have the right to appeal from the order of confirmation to the district court in and for the judicial district in which the city may be located. This appeal must be taken within ten days after the date of the confirmation, by filing with the secretary of the board of park commissioners a notice thereof, in writing, and it shall thereupon be the duty of the secretary to make out and transmit, within ten days next following, to the clerk of the district court a copy of the award of the appraisers, as confirmed by the board of park commissioners, and of the order of the board confirming the same, and of the objections filed by the appellant. The case may thereupon be brought on for hearing upon eight days' notice at any general or special term and shall have precedence of all other civil cases and the judgment of the court shall be to either affirm or annul the proceedings so far as they affect the property of the appellant described in the written objections.

[1903 c. 293 s. 5]

448.14 JURY TRIAL; VERDICT FINAL, EXCEPTIONS. In case the amount of damages awarded is complained of by appellant, if the proceedings shall be confirmed in other respects, the party appealing shall have the right to a jury trial upon the proofs and evidence pertaining to the question of the amount of the damages which may be adduced by either of the parties to the appeal. The verdict of the jury upon the question of damages shall be final unless set aside by the court for good cause shown and the amount of the verdict shall thereupon become a charge against the city to be paid in the same manner as the award and appraisalment of the appraisers appointed by the board of park commissioners would have been paid had no appeal been taken. Costs and disbursements shall be taxed and allowed to the appellant if the verdict is for more than the amount appealed from, and to the respondent, if for less, and to neither of them if of the same amount as appealed from.

[1903 c. 293 s. 6]

448.15 FILING OF CERTIFIED LIST OF LANDS ACQUIRED, AWARDS, AND PLATS. As soon as the proceedings for acquiring the title to any of these tracts, pieces, or parcels of land have been completed pursuant to the terms of sections 448.09 to 448.16, it shall be the duty of the board of park commissioners to make or cause to be made an accurate description of all the lands so acquired, with a statement of the amount of damages awarded and paid therefor, and it shall be certified by the president and secretary of the board under the official seal of the board and, together with one of the plats, shall be filed for record in the office of the register of deeds of the county in which the land so taken may be situated and after this record shall have been accomplished the same shall be filed in the office of the secretary of the board of park commissioners as a part of the permanent records of the board, and the other plat shall be filed with the city engineer of the city and become a part of the permanent records of his office.

[1903 c. 293 s. 7]

448.16 ANNUAL ESTIMATES; LIMITATION OF EXPENDITURES; TAX LEVY; CITY PARK FUND. The board of park commissioners shall, on or before the first day of September each year, transmit to the recorder of the city an estimate in writing of the amount of money necessary for the payment of interest on bonds issued by the board and also of the amount of money that will be required for the improvement, maintenance, and government of these parks and parkways during the succeeding year; and the city recorder shall certify the same to the auditor of the county. No more than \$5,000 shall be expended in any one year for the improvement, maintenance, and government of these parks, unless authority therefor be first obtained by the board of park commissioners from the council. The county auditor shall proceed to determine what per cent on the taxable property of the city the sum, thus certified by the city recorder, is and extend the same on the next general tax list in a separate column, and the same shall be collected in the same manner as other city taxes, and all the provisions of law in respect to the collection of state and county taxes, and proceedings to enforce the same, shall apply to this assessment and taxes. The money collected from these taxes and proceeds from all park bonds issued, together with all other moneys provided or received for the benefit of sections 448.09 to 448.16, shall be placed by the treasurer of the city to the credit of the board of park commissioners and drawn from the city treasury by warrant, signed by the president and secretary of the board and in no other way, and constitute a fund to be known and established as the city park fund.

[1903 c. 293 s. 8]

89 (28) 31 **448.17 PUBLIC PARKS, PARKWAYS, AND PLAYGROUNDS.** Any city of the first class in this state is hereby authorized and empowered, upon request of its board of park commissioners or of any other governing body as may have charge and supervision of the parks, parkways, and playgrounds of the city, by ordinance duly enacted by an affirmative vote of not less than two-thirds of all the members elect of the governing body, to issue and sell at such times and in such amount as is deemed expedient bonds of the city, not exceeding \$125,000 par value, for the purpose of acquiring and improving lands for public parks, parkways, and playgrounds, provided that sections 448.17 to 448.20 shall not supersede the provisions of the charter of any city providing for the referendum of ordinances passed by the governing body to a vote of the electors of the city, nor with the provisions of

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the charter of any city making the action of its council subject to approval by a board of estimate and taxation, nor with the provisions of any such charter prescribing a particular method of authorization of such bonds.

[1925 c. 257 s. 1] (1566-1)

7 C 251 51 **448.18 TAX LEVY.** The bonds authorized by section 448.17, or any portion thereof, may be issued and sold by the city, but the full faith and credit of the city shall at all times be pledged for the payment of any bonds issued under sections 448.17 to 448.20 and for the current interest thereon and the council shall each year include in the tax levy for the city a sufficient amount to provide for the payment of interest and for the accumulation of a sinking fund for the redemption of the bonds at their maturity.

[1925 c. 257 s. 2] (1566-2)

7 C 251 51 **448.19 ISSUE AND SALE OF BONDS.** No bonds shall be issued by the city for these purposes to run for a longer term than 30 years or bearing interest at a higher rate than six percent per annum, but the place of payment of the principal and interest thereon, and the denominations in which the same shall be issued shall be as determined by the council and may be in the form of coupon bonds or registered certificates. All these bonds shall be signed by the mayor, attested by the city clerk, countersigned by the comptroller or auditor of the city, and sealed with the seal of the city, except that the signature to the coupons attached to these bonds, if any, may be lithographed thereon, and none of these bonds shall be sold at less than 95 percent of their par value and accrued interest and then only to the highest responsible bidder therefor.

[1925 c. 257 s. 3] (1566-3)

7 C 251 51 **448.20 POWERS ADDITIONAL.** The powers granted in sections 448.17 to 448.20 are in addition to all existing powers of these cities.

[1925 c. 257 s. 4] (1566-4)

448.21 EXCHANGE LANDS FOR PARKS OR PLAYGROUNDS. Any city of the first class in this state, is hereby empowered to exchange for other lands to be used for parks or playgrounds, any lands acquired by the city for parks or playgrounds; provided that at least two-thirds of all the members of its council shall approve such exchange and the board of park commissioners, or other body having jurisdiction and control of parks and playgrounds in the city, shall, by a two-thirds vote thereof, request the council so to do.

[1911 c. 26 s. 1] (1551)

448.22 PURCHASE OF LAND FROM FEDERAL GOVERNMENT FOR CIVIC CENTER OR PUBLIC PARK. Any city of the first class in the state, or any such city and the county in which it is located, acting jointly, are hereby authorized to buy from the federal government, upon such terms as may be agreed upon between the proper officials of the city or of the city and the county acting together, and the federal government, by written contract, any property owned by the federal government which is needed for a civic center or public park purposes, in the municipality.

[Ex. 1933 c. 6 s. 1] (1630-2½h)

448.23 COMPENSATION FOR LAND CONDEMNED FOR PARKS. When any city of the first class in this state, shall cause to be condemned any land for public parks or parkway purposes, it shall thereupon cause to be paid to the owner of this property the amount of damages, over and above all benefits, which may have been awarded therefor, within one year after confirmation of the award or assessment, or the final determination of any appeals therefor, with interest at the rate of five percent per annum, but nothing in sections 448.23 to 448.25 shall take away any existing right to annul and abandon the proceedings.

[1905 c. 103 s. 1] (1539)

448.24 PAYMENT FROM PARK FUND. Any city of the first class is hereby authorized to pay the whole, or any part, of any award or judgment for land condemned for park or parkway purposes out of the park fund, in case the city has on hand in the park fund, or can obtain by donation, bequest, or otherwise under lawful authority, moneys available therefor.

[1905 c. 103 s. 2] (1540)

448.25 ABANDONMENT OF PROCEEDINGS. Nothing contained in sections 448.23 to 448.25 shall deprive the city of the power to abandon proceedings as now provided by law.

[1905 c. 103 s. 3] (1541)

448.26 ONE MILL TAX FOR PARKS AND PARKWAYS. Any city of the first class in this state is hereby empowered to levy annually upon all the taxable property of the city a tax not exceeding one mill upon the dollar of the assessed valuation thereof for the acquisition, maintenance, and improvement of parks, parkways, and other grounds under the control of the board of park commissioners or other body having jurisdiction and control of parks and parkways in the city.

[1909 c. 359 s. 1] (1542)

448.27 [Repealed, 1949 c 119 s 110]

448.28 PROVISIONS, HOW AVOIDED OF. Any city of the fourth class in the state may, by a two-thirds vote of its council by yeas and nays at a regular meeting thereof, take advantage of the provisions of sections 448.28 to 448.35.

[1909 c. 486 s. 1] (1738)

448.29 ORDINANCE; SUBMISSION TO VOTERS; BALLOTS. Any city desiring to take advantage of sections 448.28 to 448.35 shall do so by an ordinance expressing its intent and desire so to do, whereupon the territory embraced in the city shall be a park district of the state. Before the resolution or ordinance shall take effect the same shall be submitted to the electors of the city at a regular city or special election and approved by a majority of those voting thereon. The ballots may be substantially as follows:

"For the creation of a park district to be known as 'Park District of the State of Minnesota' and creating a board of park commissioners, and providing for the government thereof;"

Or "Against the creation of a park district to be known as 'Park District of the State of Minnesota' and creating a board of park commissioners, and providing for the government thereof."

[1909 c. 486 s. 2] (1739)

448.30 PARK DISTRICTS, HOW KNOWN; POWERS. Each park district so created shall be known as "Park District of the City of" and shall have a seal and perpetual succession, with power to sue and be sued, contract and be contracted with, acquire by purchase, gift, devise, or otherwise, hold, own, possess, and maintain real and personal property in trust for the purpose of parks, boulevards, and ways, and to exercise all the powers designated in sections 448.31 to 448.35 or which may hereafter be conferred upon it.

[1909 c. 486 s. 3] (1740)

448.31 BOARD OF PARK COMMISSIONERS; MEMBERSHIP, TENURE. The powers of a park district shall be exercised by a board of park commissioners consisting of five members who shall hold office for the period of five years from and after the date of their election and qualification and until their successors are duly elected and qualified except the members of the first board, who shall hold office as follows: One member, until one year from the last mentioned date; one member, until two years from the last mentioned date; one member, until three years from the last mentioned date; and one member, until four years from the last mentioned date. The members of the park commission shall qualify by taking and filing with the clerk or recorder of the city the oath prescribed by law. The city treasurer shall be ex officio treasurer of the park district, he shall take the oath prescribed by law and shall furnish such bond as may be required by the commission. The members of the commission shall be elected by qualified electors of the park district at the annual city election, shall qualify within ten days of this election, and shall, within 20 days after the annual city election, organize by the selection of a president, vice-president, and secretary. The first board may be elected at a regular annual city election or at a special election called for that purpose by the council. The members of the board shall receive no compensation for their services as such and shall have the qualifications of electors of the district. They shall not be interested in any contract entered into by the commission. Vacancies on the board shall be filled by the board until the next regular election of members of the board, when such vacancies shall be filled by election. Removal of residence from the park district by any member of the commission shall create a vacancy.

In any city of the third class having a population of less than 10,100 according to the 1950 federal census and operating under a home rule charter and holding a city election biennially, the board of park commissioners shall consist of six members who shall hold office for the period of six years from and after the date of their election and qualification and until their successors are duly elected and qualify, and in such cities changing from annual to biennial elections a sufficient

number of members shall be elected at the first biennial election hereafter or following such change and for such terms to provide a full board of six members, with terms of two members expiring on the date of the first following election, the term of two members expiring on the date of the second following election and the term of two members expiring on the date of the third following election.

[1909 c 486 s 4; 1955 c 382 s 1] (1741)

448.32 COMMISSION, POWERS. The park commission shall have power:

(1) To acquire by purchase, gift, devise, condemnation, or otherwise, land within its territorial limits or within two miles therefrom, for parks, boulevards, and ways and shall have sole and exclusive authority to maintain, govern, erect, and improve the same; and in any city of the third class in any county having a population of not less than 20,000 nor more than 30,000 inhabitants and not less than 80 nor more than 90 full and fractional congressional townships, the park commission may dispose of such land; and may sell, lease and convey the same;

(2) To lay out, open, grade, curb, pave, and otherwise improve any path, way, or street in, through or around the parks and to construct, erect, build, maintain, manage, govern, and erect any and all buildings, pavilions, playgrounds, pleasure grounds, or fields and such other improvements of a like character as may be deemed necessary;

(3) To pass all ordinances necessary, requisite and needful for the regulation and government thereof, and to make, change, and enforce any order with reference thereto;

(4) To levy special assessments on all property especially benefited by the purchase, opening, establishment, and improvement of the parks, boulevards, and ways or streets or ways about the same;

(5) To appoint such engineers, surveyors, clerks and other officers and employees, including such police force as may be necessary and to define and prescribe their respective duties and authority and to fix their compensation;

(6) To issue the negotiable bonds of the park district in a sum not to exceed two percent of the value of the taxable property therein situated, for the sole and exclusive purposes of purchasing and acquiring lands for parks, boulevards, and ways, and for the permanent improvement thereof, including the erection and construction of buildings, pavilions, playgrounds, and pleasure fields; provided the bonds shall not bear a rate of interest to exceed six percent and that upon the affirmative vote of the electors of the district, as by law provided, the commission may be authorized to issue such bonds in an amount in the aggregate not to exceed five percent of the assessed value;

(7) To levy taxes upon all the property within the district for the purpose of maintaining and improving said parks, boulevards and ways and to defray the expenses of the board; provided, that such tax so levied shall in no year exceed the sum of five mills on each dollar of the taxable property within the district;

(8) To establish building lines for all property fronting on any park, boulevard or way under the direction and control of the commission, and to control the subdivision and platting of property within 400 feet thereof;

(9) To borrow money in anticipation of taxes already levied to defray the expenses of the year and to issue therefor the notes of obligation of the district; and

(10) To connect any park or parks owned or controlled by it with any other park or parks, and for that purpose to select and take charge of any connecting street or streets or parts thereof, and the park commission shall have sole and exclusive charge and control of the streets so taken.

[1909 c 486 s 5; 1951 c 338 s 1; 1953 c 13 s 1] (1742)

448.33 MEETINGS; ORDINANCES; CONTRACTS; CLAIMS. The park commission shall hold a regular meeting on the first Tuesday of each month at such hour as it may by rule designate, and such special meetings as it may deem necessary. Special meetings may be called by the president and must be called by him upon the written request of two members of the board. The commission shall have power to adopt necessary rules of procedure. The powers of the commission shall be exercised by ordinance unless otherwise provided. All ordinances shall be read twice and at least eight days shall intervene between the readings. They shall be adopted by ye and nay vote and shall be approved by the president and published in the official newspapers of the city and shall go into effect upon such publication. The enacting clause of all ordinances shall be as follows: "Be it enacted by the park

commissioners of the park district of the city of State of Minnesota;" the ye and nay vote shall be taken on all propositions involving the expenditure of money, the levying of taxes, or the issuance of certificates of indebtedness. All contracts shall be let to the lowest responsible bidder after advertisement in the official newspaper of the city for three successive weeks, once in each week; provided, that the commission shall have the power to reject all bids. All contracts shall be in writing and signed by the president and clerk of the board and unless so executed shall be void. At no time shall the debt of the park district exceed five per cent of the taxable property within the district, according to the last preceding assessment. No bill, claim, account, or demand against the district shall be audited, allowed, or paid until a full itemized written statement, properly verified, shall be filed with the park commission. All claims against the park district arising out of negligence shall be in writing and verified by the claimant, and shall contain a full, clear, and concise statement of the transaction out of which it is alleged to arise, giving the time, the place, the extent of injury or damage, and shall be filed within 30 days from the date thereof with the clerk of the board. No action shall be maintained unless begun after 30 days and within six months from the date of the filing of the claim.

[1909 c. 486 s. 6] (1743)

448.34 JURISDICTION OF MUNICIPAL COURT. The municipal court of the city shall have exclusive jurisdiction to try and determine all causes of action for violation of the rules or ordinances enacted by the board and the procedure therein with the right of appeal, shall be as prescribed by general law.

[1909 c. 486 s. 7] (1744)

448.35 GENERAL LAWS, WHEN APPLICABLE. In the issuing of bonds, warrants, certificates of indebtedness and in levying any tax or special assessment and in otherwise carrying out, enforcing, or making effective any of the powers granted in sections 448.28 to 448.34, the board of park commissioners and its officers and the park district shall be governed by and shall follow the laws enacted for the government of cities, except as specially provided in sections 448.28 to 448.34.

[1909 c. 486 s. 8] (1745)

448.36-448.42 [Repealed, 1949 c 119 s 110]

448.43 PARK BOARDS. There may be created, in the discretion of the governing board thereof, in every city in the state, having a population of less than 20,000, and more than 1,000, a park board with the powers and duties provided in sections 448.43 to 448.48.

[1909 c 441 s 1; 1923 c 26 s 1; 1949 c 119 s 111] (1868)

448.44 POPULATION, HOW DETERMINED. In determining the population of any city mentioned in section 448.43, the last census taken thereby by authority of the State of Minnesota or of the United States government shall be conclusive as to the population thereof for the purposes of section 448.43 to 448.48.

[1909 c 441 s 2; 1949 c 119 s 111] (1869)

448.45 BOARD, HOW CONSTITUTED AND APPOINTED, TERM. The park board shall consist of three members and shall be appointed by the mayor of the city and confirmed by the council of the city; and when first created one shall be appointed for the term of one year, one for the term of two years, and one for the term of three years, and these members shall hold their offices for the term of three years and until their successors are appointed and qualified; and each member so appointed shall qualify within ten days after notification of his appointment by subscribing an oath that he will faithfully and impartially perform the duties of his office, and shall file his oath in the office of the clerk. There shall be appointed each year thereafter by the council one member of the board whose term of office shall be three years, and each member of the board shall be president thereof during the last year of the term for which he is appointed.

[1909 c 441 s 3; 1949 c 119 s 111] (1870)

448.46 POWERS AND DUTIES OF PARK BOARD. The park board shall have full, absolute, and exclusive control of, and power over, all real estate now or hereafter acquired by the city and set apart for park or boulevard purposes therein or in adjoining territory, and all public property used therein or therefor. The board shall have power and authority to maintain the same, and to beautify and improve any and all such lands and the approaches thereto for the benefit of the general public; to erect and construct therein such roadways, paths, buildings, fountains, toilet rooms, and other improvements necessary to meet the requirements

of the visiting public; to buy all necessary material and fuel required to carry out the provisions of sections 448.43 to 448.48, to make reasonable rules and regulations for the government of the same as are necessary and proper; to employ such help in and about the conduct of the parks and boulevards as may be necessary; to provide musical and other free entertainment for the general public; to employ a secretary, at a salary not exceeding \$500 per annum, whose duty it shall be to keep a full and complete record of all transactions of the board, attend its meetings, and do and perform any other duties as may from time to time be required of him by the board; to employ an attorney if found necessary to assist the board at a salary of not exceeding \$500 per annum; to fix the compensation of any and all persons employed by the board; to audit and allow all just claims for labor, services, or material furnished by order of the board, and endorse its approval of such claims thereon when allowed, which claims when so audited and allowed and endorsed shall be presented to the council of the municipality for payment and paid by the city as other claims are paid; provided, the board shall not have the right to sell, rent, lease, or in any other way dispose of or encumber, or suffer or permit the property, or any part thereof, to come under the control of any other person or corporation whatever. Where the park shall contain a pond or lake or other body of water which can be used for the purpose of taking therefrom ice, the park board shall have the power to lease the pond or lake or other body of water which the park may contain for the purpose of taking therefrom ice. The board shall also have power and authority to receive on behalf of the city any proper donations of statuary, shrubbery, trees, material, or other personal property for use in and about the parks and boulevards. The board shall make detailed report of all its doings and proceedings to the council at least once in three months.

[1909 c 441 s 4; 1923 c 26 s 2; 1931 c 299; 1949 c 119 s 111] (1871)

448.47 COMPENSATION OF MEMBERS. The members of the board shall serve without compensation except as may be provided by the council of the city, which shall in no case fix any greater compensation for service of each member than \$100 per annum, which salary, if any be allowed, shall be paid by the city as other claims are paid by it; and nothing in sections 448.43 to 448.48 shall be construed so as to prevent any person from holding membership in the board, and also in the light, water, and power commission.

[1909 c 441 s 5; 1949 c 119 s 111] (1872)

448.48 PROVISIONS, HOW AVOIDED OF. Any city which may wish to avail itself of the provisions of sections 448.43 to 448.47, shall do so by resolution of its council expressly accepting the provisions thereof, which resolution shall be adopted by a majority of all the members of the council and approved by its presiding officer, and those sections shall not apply to any city until the adoption of that resolution, and shall not be construed as in any manner superseding, repealing, amending, or qualifying the provisions of any home rule charter heretofore adopted by any city under the laws of this state, and shall not in any manner apply thereto.

[1909 c 441 s 6; 1949 c 119 s 111] (1873)

448.49 BOARDS OF PARK COMMISSIONERS IN CITIES OF THE FOURTH CLASS. Subdivision 1. **Creation of board.** The council of any city of the fourth class in this state shall have authority to provide for a board of park commissioners, which shall consist of as many members as there are wards in the city, one of whom shall be elected from each ward in the city, who shall hold office for a term of two years, except that at first election after the board is authorized the members elected from the odd-numbered wards of the city shall hold office for the term of one year.

Subd. 2. **Powers of board.** The board of park commissioners shall have the charge, management, care, and control of all public parks in the city and shall perform such duties in relation thereto as the council of the city may, from time to time, prescribe.

Subd. 3. **Council may acquire land.** The council of the city shall have power, upon the application of the board of park commissioners, to acquire all necessary lands for park purposes either by purchase or condemnation, and in case it shall be deemed necessary to take private property for any of the purposes herein stated and the council is unable to agree with the owners of the private property as to the value thereof the council may proceed to condemn this private property in the same manner as is now provided by law for the condemnation of

property in the laying out, opening, and widening of public streets, highways, and alleys. No city council, or other governing municipal body, shall have power to acquire by condemnation for park purposes, under the provisions of this section, any portion of any public or private cemetery.

[1901 c. 303 ss. 1, 2, 3]

448.50 MEMBERS OF PARK BOARD MAY RESIGN. In each city of the first class in this state, the board of park commissioners of the city, if any such there be, shall have full power and authority to accept the resignation of any member of the board, anything in the charter of the city to the contrary notwithstanding.

[1929 c. 153 s. 1] (1442-47)

448.51 MAY FILL VACANCIES IN BOARD OF PARK COMMISSIONERS. In each city of the first class in this state, if the board of park commissioners of the city, if any such there be, shall fail to fill any elective vacancy on the board ten days prior to the last day for filing for nomination to an elective city office, in advance of a general primary election held in the city, for the unexpired term of the person causing the vacancy, then the voters of the district wherein the vacancy exists in the city shall fill the elective vacancy by nomination at the primary election and election at the general city election thereafter in the manner prescribed by law for nomination and election of elective members of the board, anything in the charter of the city to the contrary notwithstanding. The president or vice-president and the secretary of the board shall certify to the city clerk ten days before the last day to file as a candidate for an elective city office the fact of an elective vacancy on the board, and thereupon the clerk shall list and receive filings of candidates to fill the elective vacancy, for the unexpired term.

[1937 c. 323 s. 1] (1442-47a)

448.52 PARK FUNDS. The board of park commissioners of any city of the first class may receive and accumulate all moneys arising from the operation and control of parks, and may use the same in the improvement and maintenance of parks.

[R. L. s. 762] (1533)

448.53 PARKS OR PARKWAYS OUTSIDE CITY LIMITS. The board of park commissioners of any city of the first class may acquire by gift, devise, purchase, or condemnation, for parks or parkways, lands lying outside the city limits, and adjacent to lands devoted to parks and parkways within the city limits; and the board may so acquire lands for parkways along the shores of a lake or stream lying partly or wholly without the city limits, if the lake or stream be near or connected with a lake lying wholly or partly within the city limits, on the shores of which a park or parkway has been acquired or projected. No tract so acquired by purchase or condemnation shall exceed 40 acres.

[R. L. s. 763] (1534)

448.54 REGULATING TRAVEL ON PARKWAYS. The board of park commissioners, or other governing body having control of parks and parkways of any city of the first class, shall have power to enact ordinances and to prescribe penalties for the violation thereof for the purpose of regulating, controlling, and limiting the use of, and travel upon and over, all parkways established by the city in or adjacent to the city, whether the parkways were originally established as parkways or were streets or highways before being taken as parkways and, among other things, to exclude from these parkways all vehicles in use for any purpose except carrying passengers. For the purpose of sections 448.54 and 448.55, the term "parkway" shall include the roadways and carriage-ways of parks as well as parkways.

[1907 c. 440 s. 1] (1543)

448.55 POWER OF COUNCIL TO LEVY ASSESSMENTS NOT DIVESTED. Section 448.54 shall not divest or deprive the council of the city of any jurisdiction or power now existing by virtue of any statute or charter, to levy assessments for the grading, protecting, improving, and ornamenting of any public park, square, or grounds now or hereafter laid out, and for planting and protecting shade and ornamental trees and for constructing or reconstructing sewers, sidewalks, retaining walls, gutters, curbing, and for boulevards, macadamizing, and paving in or upon any streets set apart for park and parkway purposes.

[1907 c. 440 s. 2] (1544)

448.56 POWERS AND AUTHORITY OF BOARDS OF PARK COMMISSIONERS IN CITIES. Subdivision 1. Authority to establish and maintain. The board

of park commissioners of each of the cities in this state shall have authority to devise, plan, and establish a system of public parks and parkways and, from time to time, to alter and extend the same and to add thereto; to designate the lands and grounds to be used, appropriated, and acquired for such purposes; to take possession of the same, or any part thereof, upon obtaining title thereto, and to improve, govern, and maintain the same for such purposes.

Subd. 2. Superintendence. The board of park commissioners shall have authority to direct, superintend, and regulate the planting, culture, and preservation of shade and ornamental trees, shrubbery, and turf in the streets, avenues, alleys, and public grounds of the city, and in such parts thereof as may be lawfully placed under the jurisdiction and control of the board of park commissioners.

No shade or ornamental trees, shrubbery, or turf growing in the streets, avenues, alleys, and public grounds of the city shall be destroyed or removed except by leave in writing first obtained from the president of the board of park commissioners, the same to be duly countersigned and recorded by the secretary of the board.

The board of park commissioners may, by proper ordinances, provide for the enforcement of this subdivision and for the preservation of such trees, shrubbery, and turf and affix penalties for the violation of these ordinances, and the municipal court of the city shall have jurisdiction of all offenses against these ordinances.

Subd. 3. Petition for planting of shade trees. Upon the filing in the office of the board of park commissioners of the petition of a majority in number of the owners of real estate abutting upon any of the streets, avenues, alleys, or public grounds of the city, or any part thereof, asking for the improvement thereof by the planting of shade trees, the board of park commissioners is authorized to so improve the same and to cause suitable shade trees to be planted along and upon the same, or any part thereof.

Subd. 4. Assessing benefits. It shall be the duty of the board of park commissioners to make and preserve a full and accurate account of the cost of purchasing and planting these shade trees. The cost thereof, together with the additional amount as shall be, by the board of park commissioners, deemed necessary for the proper care of these shade trees for the period of three years after planting, shall be assessed upon the pieces or parcels of land abutting upon such streets, avenues, alleys, or public grounds and benefited by the improvement to the amount of the special benefit resulting therefrom.

Subd. 5. Maximum assessment. These assessments shall be made, levied, and collected in the manner provided by law for other assessments for the improvement of parks and parkways. The sum so assessed shall not be greater than 50 cents per front foot upon any piece or parcel of land abutting upon the improvement. Any trees that may die within three years after having been planted by the board of park commissioners shall be replaced by the board without additional assessment.

[1895 c. 243 ss. 1, 2, 3, 4, 5]