CHAPTER 398

PARK SYSTEMS

PARK DISTRICTS

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PARK DISTRICTS

398.01 PARK DISTRICTS; SINGLE AND MULTICOUNTY.

There are hereby created, subject to activation by the boards of county commissioners, as hereinafter provided, park districts which are bodies corporate and politic and which, when activated, shall be deemed to be political subdivisions of the state of Minnesota and public corporations. Park districts shall be of two kinds: (1) single county, which shall be coterminous with a county except that in counties containing a city of the first class such city shall be excluded from the park district; and (2) multicounty, which shall include parts or all of more than one county but shall not include any city of the first class. No park district shall be activated under this chapter until it contains at least part of a county having a population of 350,000 people or more according to the last federal decennial census preceding such activation or an entire county contiguous to a county having such a population. No park district activated hereunder shall contain a county now or hereafter containing a city of the first class which occupies more than 30 percent of the county by area.

History: *1955 c 806 s 1*

398.02 BOARD OF PARK DISTRICT COMMISSIONERS.

Each park district shall be governed by a board of park district commissioners. The board for single county park districts shall consist of seven commissioners. The board for multicounty park districts shall be constituted as determined in accordance with sections 398.03 and 398.04.

History: *1955 c 806 s 2*

398.03 COMMISSIONERS.

Subdivision 1. **Single county districts.** The first board of park district commissioners for each single county district shall be appointed by the board of county commissioners of the county in which the park district is located as follows: The board of county commissioners shall by resolution divide the single county

park district into four election districts which shall be similar in shape and no one of which shall contain more than five percent more area than any other. Following the adoption of such a resolution, the board of county commissioners shall appoint as park district commissioners one resident of each of the election districts and three residents of the park district at large, each for a term continuing until a successor is elected and qualifies. The chair of the board of county commissioners may call the first meeting of the first board of park district commissioners or they may meet and organize without such a call.

Subd. 2. **Multicounty districts.** Subject to the requirements set forth herein and in sections 398.04 and 398.05 the number, qualifications, first meeting and terms of park district commissioners for multicounty park districts and the method of their selection and replacement shall be determined by joint resolution adopted separately by the several boards of county commissioners for the counties in which the park district is located. Park commissioners in such park districts shall be appointed in the first instance and when vacancies occur, but in all other cases they shall be elected. Certified copies of the joint resolution adopted by the several boards of county commissioners and of any amendments thereto shall be filed with the secretary of state for the state of Minnesota and shall take effect upon such filing.

History: *1955 c 806 s 3; 1986 c 444*

398.04 ELECTION OF COMMISSIONERS.

Except in the case of the first boards and when vacancies occur before the expiration of a term, park district commissioners shall be elected without party designation at the same time and in the same manner as county commissioners. In single county park districts the three commissioners at large shall be elected by all the qualified voters in the park district while the successors in office to the four commissioners representing the four election districts, whether appointed, candidates for election or elected, must reside when appointed or elected and while serving, in the election district which they represent and shall be elected by the qualified voters residing in such district. Park district commissioners shall be elected for terms of four years or until their respective successors are elected and qualify, except where a commissioner is being elected to finish out an unexpired term when election shall be for the balance of such term. Vacancies resulting from the death, resignation or removal of a commissioner shall be filled by appointment by the board of county commissioners, such appointment to be effective only until the first Monday in January following the next general election or until a successor has been elected and qualifies for office. The four commissioners representing the election districts shall be elected at the first primary and general elections after the activation of the district and each four years thereafter and the commissioners elected at large shall be elected at the second primary and general election after such activation and each four years thereafter. The terms of elected commissioners shall commence on the first Monday in January following their election.

History: *1955 c 806 s 4*

398.05 QUALIFICATIONS OF COMMISSIONERS.

No commissioner shall hold other public office other than notary public. Commissioners must be citizens of the United States and they must reside within the park district at the time they are appointed or file for office and while serving and within the appropriate election district if so required by sections 398.03 and 398.04. All persons appointed or elected to the office of park district commissioners shall before entering upon the discharge of their duties severally file a written acceptance and oath of office in the Office of the Secretary of State for the state of Minnesota. Commissioners shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties. No commissioner or any person holding appointment under the corporation shall be interested directly or indirectly in any

contract entered into under the provisions of this chapter. No commissioner shall be subject to any personal liability on account of any liability of the corporation.

History: *1955 c 806 s 5*

398.06 BOARD; OFFICERS, POWERS, MEETINGS.

At the first meeting of the board and at the first meeting each calendar year, each board shall elect from its membership a chair and a vice-chair who shall serve in such capacity for the calendar year, and until their successors are elected and qualified. The chair shall preside at all meetings; in the absence of the chair, the vice-chair shall preside. Meetings of the board shall be held in accordance with chapter 13D. The board shall preserve order at their meetings, compel the attendance of members, and punish nonattendance. The board shall have power to regulate their own procedure and shall adopt from time to time written rules of procedure.

At its first meeting, the board shall adopt a temporary name for the park district and it shall, at a meeting held within six months from its first meeting, adopt by a majority vote of all commissioners an official name for the park district.

Regular meetings of the park district boards shall be held at least monthly at such times and places as may be prescribed by their rules. Special meetings may be called by the chair, or by any two members of a board, by writing filed with the secretary, who shall then mail a notice to all board members of the time and place of such meeting at least two days before such meeting.

A majority of the commissioners shall constitute a quorum for the transaction of business, although a smaller number may adjourn from time to time.

History: *1955 c 806 s 6; 1986 c 444; 2001 c 44 s 3*

398.07 PRIMARY DUTIES.

Park district boards shall have as their primary duty not the establishment of parks and playgrounds of a local or neighborhood type but rather the acquisition, development and maintenance of large parks, wild life sanctuaries, forest and other reservations, and means for public access to historic sites and to lakes, rivers, and streams and to other natural phenomena.

History: *1955 c 806 s 7*

398.08 GENERAL POWERS.

Park districts shall have all the rights, powers, privileges, and immunities of a municipal corporation at common law and they shall be subject to the duties of a municipal corporation at common law. Except as otherwise limited in this chapter they shall have perpetual succession, may sue and be sued, may use a corporate seal, may acquire by lease, purchase, gift, condemnation, or otherwise such real and personal property as the purposes of the board may require and may hold, manage, control, sell, convey, lease or otherwise dispose of such property or its interests therein. The board shall have full authority to exercise all the powers of the district, to make all necessary or desirable contracts, to procure public liability and other insurance protection as may be necessary or desirable, to hire and employ help and assistance as its needs require, to exercise the power of eminent domain, to enact ordinances, and to declare that the violation thereof shall be a penal offense and to prescribe the penalties thereof, not to exceed a fine of $100, or imprisonment in a statutory city or county jail for a period of not more than 90 days, or both, and in either case the cost of prosecution may be added to the penalties imposed. The board shall have full power and

authority to acquire and establish parks and to operate, maintain, protect, improve and preserve a park system and to conduct a recreational program in its parks.

History: *1955 c 806 s 8; 1973 c 123 art 5 s 7*

398.09 SPECIFIC POWERS.

Park district boards in addition to the foregoing general powers shall have these specific powers:

(a) The power to regulate by ordinance the use of the waters of any lake lying wholly within a park established under this chapter and the use of any lake shore which is within a park established under this chapter and the waterfront immediately abutting such lake shore for not to exceed 300 feet therefrom, by all persons, including persons boating, swimming, fishing, skating, or otherwise, in, upon, or about said lake, lake shore, and abutting waterfront, subject to regulation by the state of Minnesota.

(b) The power to acquire lands either within or without the park district for conversion into forest reserves and for the conservation of the natural resources of the state, including streams, lakes, submerged lands and swamplands, and to these ends may create parks, parkways, forest reservations and other reservations and afforest, develop, improve, protect and promote the use of the same in such manner as is conducive to the general welfare. These lands may be acquired by the board, on behalf of the district, by gift or devise, by purchase or by condemnation. In furtherance of the use and enjoyment of the lands controlled by it, the board may accept donations of money or other property, or may act as trustee of land, money or other property and use and administer the same as stipulated by the donor, or as provided in the trust agreement. The terms of each trust shall first be approved by the district court before acceptance by the board. If the park district includes all or part of more than one court district, approval shall be by the district court of the court district having the largest area within the park district. In case of condemnation the proceedings are to be instituted in the name of the district and conducted in the manner provided in chapter 117 and acts now in effect and hereafter adopted amendatory thereof and supplemental thereto. Either the fee or any lesser interest may be acquired as the board deems advisable. Nothing herein contained shall authorize the board to:

(1) acquire real estate by purchase or condemnation which is located within the boundaries of an incorporated statutory city or city unless the governing body of such statutory city or city shall have consented thereto by resolution duly adopted; or

(2) acquire real estate by condemnation which is located outside the park district unless the board of county commissioners of the county in which such property is located has consented thereto by resolution duly adopted.

(c) The power, if the board finds that any lands which it has acquired are not necessary for the purposes for which acquired, to dispose of such lands upon such terms as are advisable, including the power to transfer such lands to other public corporations. Where lands which were acquired by condemnation less than 20 years before are to be sold to private parties, the former owners, or their heirs, successors or assigns, shall be notified in writing of the board's intent to dispose of the properties and shall be given 20 days to purchase the property taken from them at such price as the board shall deem fair compensation to the district for such property. The board may lease any of its lands or permit their use for purposes consistent with the purposes for which the lands were acquired upon such terms as are advisable. No such lands shall be sold without the approval of the district court of the county in which the lands are situated.

(d) The power to fix, alter, charge, and collect fees, tolls, and charges for the use of facilities of the park district, for services rendered by, or for any commodities furnished by, or for licenses issued by, the board

pursuant to ordinances authorized hereunder. All fines collected for any violation of a board's ordinance shall be paid into the treasury of such park district board.

(e) The power to borrow, make, and issue negotiable bonds, notes, and other evidences of indebtedness, subject to the provisions of sections 398.16 and 398.17, and to pledge its full faith, credit, and taxing power to the payment thereof, and/or to secure the payment of such obligations or any part thereof by mortgage, lien, pledge, deed of trust otherwise, on all or any of its property, contracts, franchises, or revenues and to make such agreements with the purchasers or holders of such notes, bonds or other evidences of indebtedness or with others in connection with the same, whether issued or to be issued.

(f) The power to cooperate with or borrow from any governmental organization, state or federal, or from any agency of the state or federal government for any purpose within the scope of the authority of this corporation.

(g) The power to cooperate with any public or municipal corporation, with the counties and with any private or public organization engaged in conservation, recreational activities, protection of the public health and safety, prevention of water pollution, sanitation, and/or mosquito abatement for any constructive purpose, and the power, upon request, to assume control of all or a portion of any existing parks or park lands owned by any county government or municipal corporation in the park district; such control shall be assumed only at the request of and by agreement with the public authority in control of such parks or park lands. Thereupon such parks or park lands may be developed, improved, protected, and operated as a park as in case of lands otherwise acquired by the board. Such acquisition or assumption of control or operation of a municipal park system by a park district shall in no way impair the authority and power of such municipality to levy and collect taxes for park, playground, and recreational purposes, all or part of such tax funds to be transferred to the park district for such uses as may be agreed upon between the district and the municipality.

(h) The power to designate employees as police officers within the parks under the jurisdiction and control of the board, and employees so designated may exercise all the powers of police officers within the park lands under the jurisdiction and control of the board. Before exercising these powers, each such employee shall take an oath and give a bond to the state in such sum as the board prescribes for the proper performance of the employee's duties in such respect. The board may contract with municipalities or with the county or counties for the policing of park properties.

(i) The power to enter into an agreement under section 471.59 with any political subdivision, governmental unit, or agency, including an elected park and recreation board in a city of the first class, to expend public money, including bond proceeds, in its possession for any metropolitan regional park purposes, including transferring money in its possession as a grant to other political subdivisions, governmental units, or agencies, including an elected park and recreation board in a city of the first class.

History: *1955 c 806 s 9; 1957 c 160 s 1; 1973 c 123 art 5 s 7; 1984 c 654 art 2 s 127; 1986 c 444; 2001 c 44 s 4*

398.10 PARK SUPERINTENDENT; EMPLOYEES.

The board shall, by secret ballot, elect a park superintendent to serve as the chief administrative officer of the park district. Such election shall be for terms of not to exceed five years and the superintendent shall serve at the pleasure of the board. No person shall be elected superintendent unless the person has had at least ten years experience in business or in public administration, at least five years of which shall have been in a responsible administrative capacity and at least three years in the administration of parks or recreation. The salary of the superintendent shall be set by the board. The superintendent or a designee shall serve as

secretary to the board. The secretary shall, promptly after selection, file with the board a bond in the penal sum of $10,000, with good and sufficient sureties acceptable to the board of park district commissioners.

The board shall have power to appoint such officers, agents, and employees as it deems necessary for the proper administration of the district. The officers, agents, and employees shall perform such duties and receive such compensation as the board may determine and shall be removable at the pleasure of the board.

History: *1955 c 806 s 10; 1986 c 444; 1991 c 326 s 22; 2004 c 251 s 21; 2005 c 82 s 10*

398.11 INSTRUMENTS, EXECUTION.

Every contract, conveyance, license, or other written instrument shall be executed on behalf of the board by the chair and secretary with the corporate seal affixed if the district has one, and only pursuant to authority from the board.

History: *1955 c 806 s 11; 1986 c 444*

398.12 ORDINANCES, RESOLUTIONS; ENACTMENT.

The board may, after public hearing held upon two weeks' published notice, enact such ordinances as it may deem necessary or convenient to carry out the general and special powers herein granted. It may also, without notice of hearing, adopt such resolutions as may be deemed necessary or convenient to carry out such powers, except where action is herein directed to be taken by ordinance. An ordinance or resolution shall be signed by the chair, attested by the secretary, and published once in one legal newspaper published within the district. Proof of the publication shall be attached to and be filed with the ordinance or resolution. Every ordinance shall be recorded in an ordinance book within 20 days after its publication. All ordinances shall be suitably entitled and shall be substantially in the style: "The Board of the Park District of ..... Ordains: ....."

History: *1955 c 806 s 12; 1986 c 444*

398.13 ORDINANCES, ENFORCEMENT.

The board shall have authority to enforce its ordinances and to employ police officers and attorneys for such purposes. Any police officer, sheriff, or other public enforcement official having jurisdiction in the county, in which all or a part of a park district is located, shall have authority to arrest persons violating ordinances of the board and to serve warrants upon persons accused of violating an ordinance of the board, and to carry out the prosecution in any proper tribunal under such ordinance. Nothing herein contained shall prevent the enforcement within a park district of any ordinance or regulation of a municipality or county within such park district which is not inconsistent with the ordinances of the board.

History: *1955 c 806 s 13; 2005 c 10 art 2 s 4*

398.14 RECORDS, REPORTS.

The board shall keep accurate and permanent records of all its proceedings and shall compile and publish reports and information relating to the park district and to the board's functions and proceedings.

History: *1955 c 806 s 14*

398.15 PUBLIC HIGHWAYS IN PARK DISTRICTS.

When a public highway extends into or through a park area, or when a public highway forms all or part of a suitable connection between two or more park areas, and it is advisable to make alterations in the route

or width of the highway or to grade, drain, pave or otherwise improve the highway, the board may enter into agreements with the public authorities in charge or control of so much of the highway as lies within the park area or which forms the whole or a part of a connecting link between two or more park areas, providing for the doing of such things, under the procedure authorized by law in case of such public authorities, and for the payment by the board of so much of the cost thereof as is agreed upon. This section does not affect the legal status of the highway.

History: *1955 c 806 s 15*

398.16 TAX LEVY, BUDGET.

The park district board, as soon after organization as practicable and on or before the first day of July of each year thereafter, shall prepare a detailed budget of its proposed expenditures during the next fiscal year, other than those to be met by bond issues or by revenues described in section 398.17 and section 398.09, paragraph (d), which budgets shall in no year exceed 18 cents per person in the district as determined by the last federal decennial census. But no such assessment shall be made upon the people or property of a city of the first class.

As soon after organization as practicable, and on the first day of July each year thereafter, the park district board shall certify to the governing body of each township, town or city included in the district, the budget adopted pursuant to this section, together with a statement of the proportion of the budget to be provided by such governmental subdivision. The budget shall be apportioned among such subdivisions within the district in the same proportion as their respective populations bear to the total population of the district, population figures to be based on the last federal decennial census.

For the purpose of this section, the governing body of any city means that board, council, commission, or officer authorized by law or charter to levy taxes for park and recreation purposes and the governing body of each unorganized township means the county board. It shall be the duty of each such governing body in the district to provide the funds necessary to meet its proportionate share of such budget, such funds to be raised by tax levies or other means within the authority of said governing bodies, and to pay the same over to the treasurer of the district in such amounts and at such times as may fairly be required by the park district board.

Any such governing body is hereby authorized to levy annually upon all taxable property within its boundaries a tax at the rate necessary to raise, at 98 percent collection, its proportionate share of the park district's budget, which tax, except in the case of cities of the first class, may be levied in excess of and over and above all charter tax limitations.

All money received from said levies shall be turned over by the county treasurer collecting the same to the treasurer of the park district. All money received by the park district shall be used to carry out the powers and duties imposed on the park district board by this chapter and shall not be subject to review or reduction by other boards, commissions, or councils.

If the governing body of any subdivision fails before September 15 of any year to pay its proportionate share of the park district budget for the next fiscal year or to certify to the county auditor a tax levy specifically designated for said purpose, the park district board shall, on or before September 15, certify to the county auditor of each county in which such governmental subdivision is located such amount of taxes as is deemed necessary to raise such subdivision's proportionate share of the budget, for collection with and as a part of other taxes on taxable property within such subdivision, which tax, may be levied in excess of and over and above all other tax limitations.

The park district board may, by resolution, submit to the electors of the park district at a general or primary state election the question of raising the limit on the park district's budget from 18 cents to not to exceed 35 cents per person in the district. Any resolution providing for an election on raising the budgetary limit shall specify the proposed additional amount per person in the district to be authorized and the number of consecutive years such increase in the limit shall be effective. The resolution shall be certified to the county auditor of each county wherein lies any part of the territory of the district, and the county auditor or auditors shall cause the same to be submitted to the electors residing within such territory at the next ensuing general or primary election on a ballot setting forth the proposed additional amount per person and the number of years such increase shall be effective as provided in the resolution, and shall forward the official returns of the judges of election in the precincts voting on such ballot to the park district board for canvass, and the increase shall be authorized if approved by a majority of the electors of the district voting on such ballot.

The board may borrow money in anticipation of the collection of all taxes levied in its behalf and issue the negotiable notes of the district in an amount not in excess of 90 percent of the amount so levied which has not been received by the district at the time of the borrowing. Such notes shall mature not later than March 1 of the year following the year in which the tax levies are to be collected and shall be payable primarily from the proceeds of the levies anticipated thereby, but the full faith and credit of the district shall be pledged to the payment of the notes, and if such levies are not sufficient to pay all principal due and interest accrued thereon the park district board shall levy for the repayment of the principal and interest on such notes an ad valorem tax in the next ensuing year and for so long thereafter as may be necessary upon all of the taxable property within its corporate limits, which levy may be made without limitation as to rate or amount.

History: *1955 c 806 s 16; 1957 c 160 s 2; 1973 c 123 art 5 s 7; 1994 c 416 art 1 s 43; 1994 c 505 art 3 s 7*

398.17 BONDS.

The park district board may by resolution provide for the issuance of negotiable general obligation bonds of the district in the manner specified in chapter 475, except as otherwise provided in this section, but only for the purpose of financing the acquisition and betterment of park properties and facilities or for refunding outstanding obligations of the district, and bonds shall at no time be issued in an amount such as to cause the net debt of the district to exceed five-tenths of one percent of the latest full and true valuation, as finally equalized in accordance with section 274.13. "Net debt" for the purpose of this chapter is defined as in section 475.51 except that tax anticipation notes shall be excluded therefrom. No bonds shall be issued in an amount which would cause the net debt to exceed one-tenth of one percent of such full and true valuation without first obtaining the approval of a majority of the electors voting on the question at an election called in the manner provided in section 398.16.

The ballot at any bond election shall state the maximum amount and purpose or purposes of the proposed issue, and no issue shall be invalidated by reason of the inclusion in the ballot of more than one purpose. Taxes for the payment of principal and interest on bonds, whether levied before the issuance thereof or levied subsequently to restore deficiencies in the bond sinking fund, shall not be subject to any limitation as to rate or amount and shall not be included in determining the application of any statutory limitation to other tax levies.

History: *1955 c 806 s 17; 1957 c 160 s 3*

398.18 DEPOSITORIES.

All funds under the control of the park district board are to be kept in depositories selected in the manner provided for the deposit of county funds insofar as those proceedings are applicable. Deposits are to be secured as provided in the case of county funds. The county treasurer shall serve as the treasurer of the board and in multicounty districts, the county treasurer of the county containing the largest portion of the district shall so serve. The treasurer shall receive and be responsible for all moneys of the district, from whatever source derived, and the same shall be considered public funds. The treasurer shall disburse the moneys of the district only on orders made by the secretary, countersigned by the chair, vice-chair, or other person authorized by the district showing the name of the claimant and the nature of the claim. No disbursements shall be certified by such officers until the same have been approved by the commissioners at a meeting thereof. The treasurer shall keep an account of all moneys received and disbursed, and at least once a year, at times to be designated by the commissioners, file with the secretary a financial statement of the district, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statement, the moneys on hand and the purposes for which the same are appropriated.

History: *1955 c 806 s 18; 1986 c 444*

398.19 PLAN FOR DEVELOPMENT OF PARKS; RECORDING.

Within 18 months of the activation of a park district, the board for such park district shall develop and approve a written plan for development of parks within the district. Certified copies of such plan shall be recorded by the secretary of the board with the county recorders for the counties having land within the district and with the Department of Natural Resources. Such plans shall be revised and brought up to date at least every five years.

History: *1955 c 806 s 19; 1976 c 181 s 2; 2005 c 4 s 103; 2018 c 182 art 1 s 95*

398.20 PARK DISTRICTS.

Subdivision 1. **Activation; boundaries.** Boundaries of park districts as created by this chapter shall be determined and park districts activated as follows:

Application for the creation of a park district shall be made to the county board or boards of the county or counties within which the district is to be located. The application shall either be signed by one percent of the electors residing within each county or portion thereof to be included within the proposed district as determined by the number of electors voting at the last preceding general election within such territory, or, in lieu thereof, shall be authorized by resolutions adopted by a majority of the governing bodies of the cities within each county or portion thereof to be included in the proposed district. The application shall contain an accurate description of the territory to be included in the proposed district and when presented to the county board or boards shall be accompanied by an accurate map or plat thereof. Where multicounty districts are proposed applications for the various portions of the district shall be presented to the respective county boards in which the portions of the district lie.

An application may consist of more than one counterpart, each setting forth the description of the proposed territory of the district and containing the signatures of one or more electors and having endorsed thereon or attached thereto the affidavit of the person obtaining such signatures stating that to the best of the affiant's information or belief, they are genuine and are the signatures of duly qualified electors residing within the proposed park district.

Subd. 2. **Notice, hearing.** Upon the filing of the applications provided for in subdivision 1, each county board shall fix a time for the hearing of the application which shall be not less than 20 nor more than 40

days after the date of such filing. Notice of such filing and the date of hearing shall be published in a newspaper of general circulation within the proposed district. If there is no newspaper of general circulation within the proposed district, then the notice shall be posted in five of the most public places within the proposed district. The notice shall be published or posted for not less than 15 days prior to the date fixed for the hearing. The hearing may be adjourned from time to time. At a hearing on an application for the creation of a park district, each county board shall consider and determine the sufficiency of the application and shall hear all arguments for and against the creation of the district. Joint hearings may be held pursuant to notice thereof where the activation of a multicounty district is applied for. If the county board finds the application to be insufficient, additional signatures or resolutions may be obtained and the application may be resubmitted to the board at any time within six months of the original filing thereof. Signatures or resolutions may be withdrawn at any time prior to the final determination by the board as to sufficiency of the application.

Subd. 3. **Conducive to general welfare.** When the application has been determined to be sufficient the board of county commissioners in single county districts, and each board of county commissioners in multicounty districts, shall consider whether or not the designation and activation of the district will be conducive to the general welfare. If a majority of the board of county commissioners in single county districts or a majority of each board of county commissioners in multicounty districts shall determine that it will be conducive to the general welfare a resolution so stating shall be adopted designating and activating the district. Such resolution shall not be adopted sooner than 90 days after the first hearing is held. The boards may change but not expand the boundaries of proposed multicounty districts from those described in the application at the time of the hearing, and may exclude all territory within any county if the county board of that county disapproves the application. Park districts when finally activated must include all of one county excluding cities of the first class therein, or parts of more than one county, but the boundary lines of the district as finally ordered by the board or boards shall not divide any existing town or municipal corporation and shall not include any territory situated in any other park district activated pursuant to this chapter and shall not include any noncontiguous areas unless such areas are located in a county containing a city of the first class.

Subd. 4. **Referendum.** The county board on its own motion may, and if requested to do so by petition of one percent of the electors in the proposed district residing within the county, as determined in subdivision 1, shall submit to a referendum of the electors in the proposed district residing within the county at the next general or primary election the following question which shall be worded on the ballot in this way:

Shall a park district be activated encompassing the following territory: (here insert the designation of each county to be included in the district in its entirety, or in its entirety except for cities of the first class, and of each city or town to be included which is outside any such county, and a legal description of any unorganized territory to be included which is outside any such county)?

If a majority of the votes cast on this issue in single county districts are "yes" votes, the referendum shall be declared carried and the park district shall be activated. In multicounty districts a majority of the votes cast on this issue in each county where a referendum is held must be "yes" votes for the referendum to carry. In all cases where referenda carry the county boards shall have 60 days to appoint park district commissioners. If they fail to appoint such commissioners within 60 days after the referendum, the governor shall make such appointments. Referenda need be held in only those counties where a petition bearing the required number of elector's signatures is filed or where the board of county commissioners orders a referendum.

Once a park district is activated, referenda may be held on its enlargement as herein provided, but not on its activation.

History: *1955 c 806 s 20; 1957 c 160 s 4; 1973 c 123 art 5 s 7; 1986 c 444*

398.21 ENLARGEMENT OF DISTRICTS.

When conducive to the general welfare any territory adjacent and contiguous to an existing park district, whether located within any county in which the district was created or not, may be annexed to the district under the following procedure: A petition shall be filed with the board of park district commissioners requesting such annexation, containing an accurate description of the territory proposed to be annexed, accompanied by an accurate map or plat of the territory, and signed either by one percent of the electors residing within the territory or authorized by resolutions of a majority of the councils of the cities within the area to be annexed. The board shall determine whether the petition is sufficient and whether it is advisable that the annexation be made. If the board determines in favor of the annexation, it makes application to the county board of the county in which the territory is located, setting forth the fact of the filing of the petition and the reasons why it is advisable that the territory be annexed to the district. The board may on its own motion file such petition with the county board. Upon the filing of such petition, like proceedings shall be had as are provided in section 398.20 upon application for the creation of a park district. The territory annexed may not include any city of the first class, a part only of an existing town or municipal corporation and shall not include any territory situated in any other park district activated pursuant to this chapter unless the park district board of such district consents to the transfer of such territory.

In the event of the annexation to a park district of territory located in a county other than the county or counties in which the district was created, the county board of the county in which the annexed territory is located shall exercise, with reference to the annexed territory, the powers conferred upon county boards by section 398.20 and the auditor and the treasurer of the county in which the annexed territory is located shall exercise, with reference to taxes levied and collected by the board of park district commissioners upon the annexed territory, the powers conferred upon auditors and treasurers by sections 398.16 to 398.19.

History: *1955 c 806 s 21; 1973 c 123 art 5 s 7*

COUNTY PARKS

398.31 APPLICATION; EXERCISE OF POWERS.

Except as otherwise expressly provided or indicated by the context, sections 398.31 to 398.36 apply to all counties other than Hennepin and Ramsey, in which no park districts have been activated as provided by this chapter, as amended, and the term "county" as used in said sections means any such county. Except as otherwise expressly provided, all powers vested in a county by sections 398.31 to 398.36 shall be exercised by the county board.

History: *1961 c 512 s 1; 1973 c 76 s 1*

398.32 COUNTY PARKS.

Subdivision 1. **Acquisition, establishment, and maintenance.** Any county may acquire by purchase, lease, or gift or by condemnation as provided by law any land or water areas or interests therein within or outside of the county which the county board deems suitable for use by the residents of the county for public park purposes and related outdoor recreational purposes, may establish and name the same as county parks or other units, and may hold, improve, maintain, supervise, control, and operate the same for said purposes;

provided, that no such area situated in any other county as defined by section 398.31 or otherwise shall be acquired without the approval by resolution of the county board thereof, and no such area situated within the limits of any city shall be acquired without the approval by resolution of the governing body thereof.

Subd. 2. **Existing areas.** Except as otherwise expressly provided, all areas heretofore or hereafter acquired by any county under any other law for public park purposes, public access to waters, or related outdoor recreational purposes shall be deemed to be county parks or other units of the county park system and subject to the provisions of sections 398.31 to 398.36 so far as applicable.

Subd. 3. **Public use facilities, accommodations, and services; public or private operation.** The county board of any county having a county park or parks may provide for the construction, installation, maintenance, and operation therein of suitable facilities, accommodations, and services for public use for the purposes specified in subdivision 1, or may authorize private persons or corporations to do so under leases or contracts upon such terms and conditions as the board may prescribe in the public interest.

Subd. 4. **Surveys and plans.** The county board of any county may provide for surveys to determine the need for county parks and the location and suitability of areas available therefor, for general plans for a county park system, and for plans for the improvement of any county park or the construction or installation of facilities, accommodations, or services for public use therein.

Subd. 5. **Sale or disposal of surplus tracts.** The county board of any county, after public hearing upon notice given by the county auditor by publication for two successive weeks in the official newspaper of the county, may, upon determining that any tract of land or water or interest therein acquired under or subject to the provisions of sections 398.31 to 398.36 is no longer needed for the purposes thereof, sell, lease, or otherwise dispose of such tract or interest upon such terms as it deems best in the public interest, or may provide for the use thereof for other purposes, so far as not inconsistent with any lawful restrictions on the use or disposal of such tracts or interests therein.

Subd. 6. **Cooperation with other agencies.** A county or any other governmental subdivision or public agency of the state may be a party to a joint cooperative project, undertaking, or enterprise with any one or more other counties as defined in section 398.31 or otherwise or other governmental subdivisions or public agencies for any purpose under sections 398.31 to 398.36 upon such terms as may be agreed upon between the governing bodies or authorities concerned not inconsistent with law. Without limiting the effect of the foregoing provision or any other provision of sections 398.31 to 398.36, any such county or other governmental subdivision or public agency, with respect to any of said purposes, may act under and be subject to the provisions of section 471.59, as now in force or hereafter amended, or any other appropriate law now in force or hereafter amended, or any other appropriate law now in force or hereafter enacted providing for joint or cooperative action between governmental subdivisions or other public agencies.

History: *1961 c 512 s 2; 1973 c 123 art 5 s 7*

398.33 FUNDS.

Subdivision 1. **Tax levy.** For the purposes of sections 398.31 to 398.36, the county board of any county may levy taxes on all the taxable property in the county.

Subd. 2. **Fees.** For the purposes of sections 398.31 to 398.36, the county board of any county may prescribe and provide for the collection of fees for the use of any county park or other unit of the county park system or any facilities, accommodations, or services provided for public use therein.

Subd. 3. **Contributions from other governmental subdivisions.** Contributions of funds for the purposes of sections 398.31 to 398.36 with respect to any county park or other unit of the county park system may

be made to the county to which the same belongs by any city, town, or school district within or without the county or by any other county as defined in section 398.31 or otherwise to whose residents the park may be of substantial benefit for park or recreational purposes. Such contributions may be made out of the general funds of the contributing governmental subdivisions or out of funds raised or designated for park purposes or out of funds raised expressly for the purpose of such contributions, and the governing bodies of such subdivisions may levy taxes therefor, subject to any applicable limitations. The governing body of a governmental subdivision making such a contribution may specify the particular purpose for which the same is to be used within the general purposes aforesaid, and such contributions shall be used only for the purposes so specified. Subject to such restrictions, if any, all such contributions shall be paid into the county park fund of the county receiving the same and used for the purposes herein authorized.

Subd. 4. **Gifts, grants, and loans.** The county board of any county may, in the name and behalf of the county, accept gifts, grants, or loans of money or other property from the United States, the state, or any other source for any purpose under sections 398.31 to 398.36, may enter into any agreement for repayment or otherwise required in connection therewith, and may hold, use, and dispose of such money or property for said purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

Subd. 5. **County park fund.** All money received from any source specified in sections 398.31 to 398.36 shall be paid into the county treasury, placed in a special fund designated as the county park fund, and used only for the purposes authorized in said sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable to such money or any part thereof.

Subd. 6. **Bonds.** To raise funds for the cost and expense of acquisition of areas for county parks or other units of the county park system or for the improvement thereof, or to refund bonds issued for said purposes, the county board of any county may issue the bonds of the county in the manner and subject to the conditions prescribed by chapter 475, as heretofore or hereafter amended, so far as applicable to counties, except as herein otherwise expressly provided, and may levy all taxes necessary therefor. Such bonds and interest thereon and the expense of issuance thereof may be paid out of the proceeds of tax levies or out of revenue from fees or other sources, or both, and the county board may pledge any such proceeds or revenues thereto. Such bonds may be issued in addition to all other bonds authorized by law. No limitation hereafter prescribed by law shall apply to such bonds unless expressly so provided.

History: *1961 c 512 s 3; 1973 c 123 art 5 s 7; 1973 c 583 s 29,30; 2011 c 107 s 97*

398.34 ORDINANCES.

Subdivision 1. **Enactment.** The county board of any county may enact ordinances relating to the county park system or to any county park or other unit subject to the provisions of sections 398.31 to 398.36 as hereinafter provided. Before acting on any such ordinance the county board shall hold a public hearing upon the proposal therefor upon at least three weeks' notice given by the county auditor by publication in the official newspaper of the county, stating briefly the subject matter and the general purpose of the proposed ordinance. The proposed ordinance may be amended by the county board before enactment in any manner not inconsistent with the terms of the notice of hearing thereon. Every such ordinance, upon enactment, shall be signed by the chair of the county board, attested by the county auditor, filed by the auditor, and published in the official proceedings of the board. Thereupon the ordinance shall take effect, subject to the further provisions of this section in the case of an ordinance affecting public waters. Every ordinance shall be recorded by the county auditor in an ordinance book with a notation of the date of publication. Such record or a certified copy thereof shall be prima facie evidence of the contents of the ordinance and of compliance with all requirements of law relating to the enactment and taking effect thereof.

Subd. 2. **Ordinances regulating protection and use of parks.** By ordinance adopted as hereinbefore provided the county board may prescribe regulations, not inconsistent with law, for the protection and use of any county park or parks or other units subject to the provisions of sections 398.31 to 398.36, including any waters lying within the boundaries of such a park or unit, and, in the case of waters extending beyond such boundaries, including also any part of such waters lying within 300 feet of that part of the shore thereof lying within such boundaries; provided, that no provision of any such ordinance affecting public waters shall be valid except with the approval of the commissioner of natural resources. In case any provision of a proposed ordinance affects any public waters, notice of the hearing thereon with a copy of such provision shall be mailed by the county auditor to the commissioner of natural resources at least three weeks before the date of the hearing. Unless written approval of such provision by the commissioner of natural resources is filed with the county auditor at or before the hearing, it shall be stricken from the proposed ordinance, and, if incorporated therein, shall have no force or effect; provided, that the invalidity of such a provision shall not affect the validity of any other provision of an ordinance.

Subd. 3. **Violations; penalties; disposal of fines.** Every ordinance relating to any matter specified in subdivision 2 shall have the force and effect of law, and a violation of any provision thereof shall be a misdemeanor. The provisions of such ordinances shall not supersede any applicable provision of an ordinance of any city, but shall be supplementary thereto. All fines collected for violations of ordinances enacted hereunder shall be deposited in the county park fund.

History: *1961 c 512 s 4; 1969 c 1129 art 10 s 2; 1971 c 23 s 35; 1973 c 123 art 5 s 7; 1986 c 444*

398.35 PERSONNEL.

Subdivision 1. **Appointment.** The county board of any county having or proposing to establish a county park or parks may appoint a superintendent thereof and such other personnel as may be necessary for the care, maintenance, and operation thereof or for other purposes authorized by sections 398.31 to 398.36, subject to other provisions of law relating to county employees so far as applicable.

Subd. 2. MS 2004 [Repealed, 2005 c 10 art 2 s 5]

History: *1961 c 512 s 5*

398.36 COUNTY PARK COMMISSION.

Subdivision 1. **Creation; delegation of authority.** The county board of any county having or proposing to establish a county park or parks may by ordinance enacted as provided by section 398.34 create a county park commission, with such provisions for membership, terms of office, and other requirements as the county board may prescribe, and may delegate to such commission, under such conditions as the county board may prescribe, authority to exercise any of the powers conferred on the board by sections 398.32 to 398.35, except the power to acquire or sell land or water or interests therein, to levy taxes, to appropriate money, or to enact ordinances. The commission may make recommendations to the county board in the respect of any matter relating to county parks requiring action by the board.

Subd. 2. MS 2012 [Renumbered 398.37]

History: *1961 c 512 s 6*

398.37 PROVISIONS ARE SUPPLEMENTARY.

The provisions of sections 398.31 to 398.36 shall not repeal or supersede any existing law except so far as in direct conflict therewith, but shall be supplementary thereto.

History: *1961 c 512 s 7*