
WEST VIRGINIA CODE CHAPTER 8

ARTICLE 21

WV Legislature

PART I. ESTABLISHMENT; ORGANIZATION.

§8-21-1. Cities may establish board.

Every city is hereby empowered and authorized to provide for by charter provision, or to create by ordinance, a board of park and recreation commissioners, for the purpose of establishing, constructing, improving, extending, developing, maintaining and operating a city public park and recreation system.

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§8-21-2. Board a public corporate body; perpetual existence; seal; name; powers.

The board of park and recreation commissioners provided for by charter provision, or created by ordinance, pursuant to the authority of this article, shall be a public corporate body, with perpetual existence and a common seal. It shall be known as the board of park and recreation commissioners of such city. It shall have the power to purchase, hold, sell and convey real or personal property; receive any gift, grant, donation, bequest or devise; sue and be sued; contract and be contracted with; and do any and all things and acts which may be necessary, appropriate, convenient or incidental to carry out and effectuate the purposes and provisions of this article. For convenience of reference herein, the board of park and recreation commissioners will be hereinafter referred to as the "board."

§8-21-3. Members; quorum; qualifications; election or appointment; terms; disqualification.

The board shall consist of not less than three nor more than seven members as may be provided by charter provision or ordinance, a majority of whom shall constitute a quorum for the transaction of business, except as hereinafter in this article provided. Each member of the board must be a resident and freeholder of the city. It may be provided either by charter provision or by ordinance for the appointment of the members thereof by the governing body, but unless and until such provision is made, the members of the board shall be elected by the qualified voters of the city at appropriate regular municipal elections. Membership on the governing body may not disqualify any member for election to the board. If provision is made for the appointment of members as aforesaid and the board consists of three or four members, one member of the governing body, if otherwise qualified, may be appointed by the governing body; if the board consists of five members not more than two members of the governing body so qualified may be so appointed and if the board consists of six or seven members not more than three members of the governing body so qualified may be so appointed. The term of the board membership of any member of the governing body so appointed shall continue during his or her term as a member of the governing body and until his or her successor is appointed or elected and qualified. The terms of other appointed or elected members shall be for six years, and until their successors have been duly appointed or elected and qualified: Provided, That notwithstanding the fact that there be no charter provision or ordinance for appointment of the members of the board, the governing body of the city shall appoint the members of the first board, such appointees to serve, one for a term of six years, one for a term of four years, and one for a term of two years. The date upon which the terms of the board members shall begin shall be specified by ordinance. When any member of the board, during his or her term of office, shall cease to be a resident and freeholder of the city, he or she shall thereby be disqualified as a member of the board and his or her office shall thereupon become vacant.

§8-21-4. Filling vacancies.

When a vacancy occurs on said board by reason of death, resignation, change of residence from the city, failure to remain a freeholder of the city, or due to any other cause, the remaining member or members of said board shall appoint a successor or successors, or if there should be no members left on said board, the governing body of the city shall appoint successors, and in either event, the appointments shall be for the unexpired term or terms.

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§8-21-5. Oath of members; organization of board; secretary; treasurer.

After appointment or election, the members of the board shall qualify by taking and filing with the recorder of the city the oath prescribed by law for public officials, and they shall not be permitted to serve upon said board until they have so qualified. If any member of said board shall fail to so qualify on or before the date upon which he should assume the duties of his office, a vacancy shall exist which shall be filled as provided in section four of this article.

At the first meeting held after the first board has been appointed, as hereinbefore provided, and thereafter on a date to be fixed by ordinance, the members of the board shall organize by electing one of their number president, and another vice president, and by electing a secretary who need not be a member of the board. The secretary shall keep an accurate record of all the fiscal affairs of the board, and shall keep a minute book in which he shall record the proceedings and transactions of each meeting of the board. The secretary shall be paid such compensation for his services as the board shall fix from year to year. The city treasurer shall be ex officio treasurer of said board, and he shall take the oath prescribed by law and shall furnish such bond as may be required by said board.

§8-21-6. Members to be paid expenses; members not to be personally interested in contracts or property controlled by board.

The members of said board shall receive no compensation for their services but they shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of their duties as members of said board. They shall not be personally interested, directly or indirectly, in any contract entered into by said board, or hold any remunerative position in connection with the establishment, construction, improvement, extension, development, maintenance or operation of any of the property under their control as members of said board.

PART II. POWERS.

§8-21-7. Office; powers.

The governing body shall furnish said board an office in the city building where it may hold its meetings and keep its records. Any board operating under the provisions of this article shall have complete and exclusive control and management of all of the properties which shall be operated in connection with the public park and recreation system for the city, and shall have power to employ such persons as, in its opinion, may be necessary for the establishment, construction, improvement, extension, development, maintenance or operation of the property under its control, at such wages or salaries as it shall deem proper, and shall have full control of all employees.

§8-21-8. Purchase, lease or condemnation of real property.

The board is hereby granted the power and authority to acquire in its name or in the name of the city by purchase, lease, or by exercise of the power of eminent domain, or otherwise, such land or lands as it shall determine to be necessary, appropriate, convenient or incidental to the establishment, construction, improvement, extension, development, maintenance or operation of a system of public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities for the city, whether of a like or different nature: Provided, That any such acquisition by the board made by exercise of the power of eminent domain must be approved by a majority vote of the governing body of that municipality. Approval by the governing body must be granted as to each specific parcel or tract of land to be acquired by power of eminent domain.

§8-21-9. Authority to take title to real and personal property; conveyances of real property to board by public bodies; sales and conveyances of real property by board; execution of deeds.

The board is hereby empowered and authorized to take title in its name or in the name of the city to all real and personal property acquired by it for the use of the public or useful to the public in the establishment, construction, improvement, extension, development, maintenance or operation of all public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and all other public park and recreational facilities for the city, whether of a like or different nature, and shall manage and dispose of the same as, in its opinion, will best serve the interests of the public in carrying out the purposes of this article. The city and all other public bodies owning real property intended to be used for public parks and recreation are hereby authorized to convey the same to said board to be held by it for such purposes, and said board is hereby authorized to receive the same. Nothing contained in this chapter shall be construed as limiting said board from going beyond the corporate limits of the city, anywhere within the state, to lease, purchase or otherwise acquire any real property for the purposes herein set forth. The board shall have the right to sell and convey only such part of the real property that it may acquire by gift, devise, purchase or otherwise, as it may determine to be of no advantage in the establishment, construction, improvement, extension, development, maintenance or operation of said public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities, whether of a like or different nature; except that the board shall have the power and authority to make such sales and conveyances of its real property as may be necessary, appropriate or convenient to enable the city to obtain the benefits of article sixteen of this chapter or any other similar act or legislative authorization. Under no circumstances shall any of such real property of the board be sold or conveyed except by unanimous vote of all of the members of said board. All deeds conveying the real property of said board shall be executed in its official name by its president or vice president, shall have its seal affixed and shall be duly attested by its secretary.

§8-21-10. General powers of board; enactment and enforcement of rules and regulations; counsel.

The board shall have the necessary, appropriate, convenient and incidental powers and authority to manage and control all public parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities of all kinds used as a part of said public park and recreation system or as a means of maintaining places of beauty, education and recreation, and promoting the health, property, lives, decency, morality and good order of the general public, and particularly of the inhabitants of the city and vicinity; to abate or cause to be abated all nuisances affecting same; to regulate or prohibit the selling of any article, goods, wares or merchandise within said park and recreation system so designated; to regulate or prohibit the placing of signs, billboards, posters and advertisements within said park and recreation system as so designated, or the grounds immediately adjacent thereto; to have the same kept in good order and free from obstruction for the use and benefit of the public; to restrict and prohibit vagrants, mendicants, beggars, tramps, prostitutes or disorderly individuals therefrom; to establish, construct, improve, extend, develop, maintain and operate such parks, parkways, playgrounds, athletic fields, stadiums, swimming pools, skating rinks or arenas and other public park and recreational facilities, whether of a like or different nature, on any grounds controlled by said board; to acquire for public use by lease or otherwise lands either within or without the corporate limits of the city; to cause any public street, avenue, road, alley, way, bridle path or walkway, which is a part of the public park and recreation system, to be graded, drained and surfaced; to construct, maintain and operate all necessary sewers and water lines in connection with said public park and recreation system; and to do any and all other things or acts which may in any way be necessary, appropriate, convenient or incidental to the use and enjoyment of said public park and recreation system by the general public as a place or places of beauty, education, entertainment and recreation.

In order to accomplish the foregoing purposes, said board is hereby empowered and authorized to promulgate, and amend from time to time, such rules and regulations as may be necessary, appropriate, convenient or incidental thereto; after codification of such rules and regulations, or any amendment thereto, by ordinance of the governing body which may provide penalties for a violation thereof, which codification is hereby authorized, to enforce the same by appropriate proceedings in any proper tribunal of this state, or any county, district or municipality thereof; and to employ such police officers as it shall deem proper and necessary. The city attorney shall be the official counsel for said board and shall advise it on all legal matters, but said board may, in its own discretion, employ other or additional counsel.

PART III. FINANCING.

§8-21-11. Charges for use of recreational facilities; use of funds.

The board may make reasonable charges to the public for the privilege of using any of the recreational facilities provided in said park and recreation system and may use the funds so received for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating said park and recreation system.

§8-21-12. Use of city appropriations and other funds.

In carrying out the purposes of this article, the board is hereby empowered and authorized to receive and disburse for such purposes, any moneys appropriated to it by the governing body of the city, together with any other funds which may come into its hands by gift, grant, donation, bequest, devise, or from its own operation, or otherwise.

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§8-21-13. Public park and recreation bonds.

Every city is hereby empowered and authorized to issue, in the manner prescribed by law, bonds for the purpose of raising funds to establish, construct, improve, extend, develop, maintain or operate, or any combination of the foregoing, a system of public parks and recreational facilities for such city, or to refund any bonds of the city, the proceeds of which were expended in the establishing, constructing, improving, extending, developing, maintaining or operating of such public park and recreation system, or any part thereof. Any bonds issued for any of the purposes stated in this section shall contain in the title or subtitle thereto the words "public park and recreation bonds," in order to identify the same, and shall be of such form, denomination and maturity and shall bear such rate of interest as shall be fixed by ordinance of the governing body of the city. The governing body may provide for the issuance of bonds for other lawful purposes of the city in the same ordinance in which provision shall be made for the issuance of bonds under the provisions of this section. The board shall pay all of the costs and expenses of any election which shall be held to authorize the issuance of public park and recreation bonds only. The costs and expenses of holding an election to authorize the issuance of public park and recreation bonds and bonds for other city purposes shall be paid by the board and the city respectively, in the proportion that the public park and recreation bonds bear to the total amount of bonds authorized.

Whenever the governing body of the city and the requisite majority of the legal votes cast at the election thereon shall authorize, in the manner prescribed by law, the issuance of bonds for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a system of public parks and recreational facilities for the city, or for refunding any outstanding bonds, the proceeds of which were applied to any of said purposes, said bonds shall be issued and delivered to the board to be by it sold in the manner prescribed by law, and the proceeds thereof shall be paid into the treasury of the board, and the same shall be applied and utilized by the board for the purposes prescribed by the ordinance authorizing the issuance of such bonds. In any ordinance for the issuance of bonds for such purposes, it shall be a sufficient statement of the purposes for creating the debt to specify that the same is for the purpose of establishing, constructing, improving, extending, developing, maintaining or operating, or any combination of the foregoing, a public park and recreation system for the city, without specifying the particular establishment, construction, improvement, extension, development, maintenance or operation contemplated; but an ordinance for refunding bonds shall designate the issue and the number of bonds which it is proposed to refund.

PART IV. CONSTRUCTION.

§8-21-14. Construction of article.

The provisions of this article shall be construed as conferring additional power and authority upon cities acting hereunder, and shall not be construed as affecting any power or authority heretofore conferred upon any city by the Legislature by general, special or local law or municipal charter, or parts thereof.

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