

CHAPTER 448**PARKS AND PARKWAYS; PARK DISTRICTS, PARK BOARDS****448.01 VILLAGES MAY ACQUIRE LAND FOR PARK PURPOSES BY CONDEMNATION.**

If there are sufficient moneys in the general revenue fund a village may use such funds to purchase land for park purposes. OAG Aug. 23, 1943 (469-c-8).

Permission may be granted to Boy Scouts to use buildings and park for recreational and training purposes. OAG Aug. 23, 1943 (469-c-8).

Real estate which has been acquired by a village for park purposes may thereafter be used for recreational purposes. OAG Oct. 17, 1944 (159-B-1).

There is no prohibition against the amount for which a village may be bonded for park purposes so long as the village debt limit is not exceeded; but no more than \$4,000 may be expended for park purposes out of the general revenue fund. OAG Sept. 17, 1945 (469-c-8).

A village cannot purchase property for a speculative purpose. There must be a public use or need for the property and the question whether or not the purpose is a proper one is a question of fact. OAG June 7, 1946 (469-A-12).

The village of Houston may not expend in excess of \$4,000 in acquiring land for a park, but that limitation does not prevent the village from acquiring additional land by compliance with the provisions of sections 471.15 and 471.16. OAG Sept. 9, 1946 (469-a-12).

There is no statutory limitation as to the number of parks that may be acquired and owned by a village, the only limitation being the limitation on amount to be expended in accordance with the provisions of section 448.01. OAG April 2, 1947 (469-C-8).

Revenue from a liquor store if kept in a separate fund may be transferred into the general revenue fund and within the limitation found in section 448.02 may be used for park purposes. OAG May 1, 1947 (218-R).

There is no statutory authority authorizing villages to promote games, exhibitions, and contests, the expense to be paid out of village funds, but under certain conditions the village may lease the use of its parks to third persons when such use does not interfere with reasonable public use of the park. OAG May 1, 1947 (469-C-8).

The title to the property does not vest in the city where the grant to the city and the acceptance thereof is specifically for park purposes. OAG May 8, 1947 (59-A-40).

448.02 APPROPRIATION FROM REVENUE FUND FOR IMPROVEMENT.

Appropriation may be made by villages from the general revenue fund for certain park purposes in a sum not to exceed two mills in any one year. Municipal liquor store funds may be used. OAG May 13, 1947 (476-B-10).

448.09 CITIES OF FIRST, SECOND, OR THIRD CLASS MAY ACQUIRE LANDS FOR PARKS AND PARKWAYS.

Where the park board of the city of Rochester laid out a baseball field on park property the field could be leased to a baseball club, the city to receive a percentage of the profits; but the city, in case the baseball club met a loss, would be powerless to return the sum so received to the club. OAG Feb. 21, 1946 (59-B-11).

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PARKS, PARKWAYS; PARK DISTRICTS; PARK BOARDS 448.56

448.17 PUBLIC PARKS, PARKWAYS, AND PLAYGROUNDS.

The term "playground" is embraced within the term "parks." Booth v City of Mpls. 163 M 223, 203 NW 625.

448.32 POWERS OF COMMISSION.

Land no longer needed for park purposes may be leased to private individuals. OAG March 27, 1943 (59-A-40).

448.33 MEETINGS; ORDINANCES; CONTRACTS; CLAIMS.

A municipality may function as a governmental agency in matters left optional to it as well as in those imposed by law. Upon the ground that municipal corporations are not liable for negligence in the performance of governmental functions, a city which through its park commission provides free to its inhabitants instrumentalities for diversion or exercise in a public park, is not liable to persons injured while using such instrumentalities because defective or out of repair due to negligence of the city, its servants or agents. Emmons v City of Virginia, 152 M 295, 188 NW 561.

Where a city constructs and maintains a roadway in its parks which is used by the public as a way in passing from one public highway to another in the city, it is liable for injuries resulting from dangerous conditions caused by negligence of the city, its officers and employees. Nelson v City of Duluth, 172 M 176, 214 NW 774.

Governmental liability for tort. 26 MLR 293, 333.

448.37 OFFICERS; VACANCIES.

The office of a member of the village council and a member of the park board are incompatible. OAG Dec. 20, 1946 (358-E-9).

Under the provisions of sections 448.36 to 448.39 the village of Edina may levy two mills for park purposes. OAG Jan. 28, 1947 (519-q).

448.39 PARK FUND; LEVY.

If the village council levies the maximum two-mill tax, and the park board expends it all, money cannot be transferred from the general revenue fund to be expended by the park board. OAG July 15, 1947 (643-i).

448.53 PARKS OR PARKWAYS OUTSIDE CITY LIMITS.

Extraterritorial powers of cities. 10 MLR 475, 564.

448.54 REGULATING TRAVEL ON PARKWAYS.

Airplane landing field as a park purpose. 12 MLR 549.

448.56 POWERS AND AUTHORITY OF BOARDS OF PARK COMMISSIONERS IN CITIES.

In establishing, caring for and maintaining streets, highways, and public parks, municipalities act in their governmental and not in their proprietary capacity. Cities and villages are liable for injuries resulting from dangerous conditions in their streets but, with this single exception, municipalities are not liable in damages for negligence in performing their governmental functions unless such liability has been imposed by statute. Ackaret v City of Mpls. 129 M 191, 151 NW 976.

A deed which by its terms exempted lands from assessments to the extent of \$48,000 is construed as having reference to assessments not only for parkway purposes but also for parks and park improvements; and the word "parks" includes "playgrounds." Horn v City of Mpls. 182 M 172, 234 NW 289.