

Chapter 226

City Parks, Memorials and Cemeteries

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GENERAL PROVISIONS

226.010 Control of municipal corporations over property outside its boundaries. Every incorporated city or municipal corporation owning or controlling any lands without its boundaries may enact any police or penal ordinance necessary to protect the same or preserve the peace and order therein or regulate the use of such park, enforce the ordinance by penalties of fine or imprisonment and make arrests and serve process of courts therein or upon persons therein or thereon in like manner and with like effect as the same might be enacted or enforced within its corporate limits.

226.020 to 226.100 [Reserved for expansion]

PARK COMMISSION IN CITIES OF 3,000 OR MORE

226.110 Definitions for ORS 226.120 to 226.240. As used in ORS 226.120 to 226.240, unless the context requires otherwise:

- (1) "City" means incorporated city containing not less than 3,000 inhabitants.
- (2) "Board" means board of city park commissioners.
- (3) "Commissioner" means city park commissioner.

226.120 Composition and selection of board of park commissioners. The board of park commissioners of the city shall be composed of the mayor and city engineer, if there is one, and if not, the city auditor, together with five citizens thereof, to be appointed by the circuit court in which the city is located. If there is more than one circuit judge in the circuit in which the city is located, the appointment shall be made by all the judges acting together. Not more than three citizens so appointed to the board shall be of the same political party.

226.130 Acceptance of statute by electors; ballot. ORS 226.110 to 226.240 shall not take effect in the city unless accepted by a majority of the votes cast on the question. The question of acceptance and the answer thereto shall be printed on ballots and shall be submitted in the manner specified in this section to the legal voters of the city, at any regular city election or at any special city election called for that purpose. The vote shall be by ballot. The ballot shall be "yes" or "no" in answer to the question: "Shall an Act relating to parks approved on the seven-

teenth day of February, 1899, as amended by Act of 1921, be accepted?"

226.140 Organization of board; compensation. The commissioners shall organize at a meeting thereof, to be called by the mayor not less than 30 nor more than 60 days after appointment of the commissioners is complete. The mayor shall be chairman of the board. Whenever a vacancy occurs in the board appointed under ORS 226.120, the proper judge or judges shall fill the vacancy. Commissioners shall not receive compensation for their services as such.

226.150 Duties of secretary. The board shall appoint a secretary, who shall keep an accurate record of all proceedings of the board, including all rules and regulations adopted for government or use of the parks.

226.160 Duties of treasurer. The city treasurer shall be treasurer of the board. He shall keep an accurate account of all moneys received and paid out on account of the board apart from all other accounts, and shall pay out no moneys on account of the board, except upon a warrant drawn upon him by the chairman or acting chairman, countersigned by the secretary or acting secretary, of the board.

226.170 Publication of penalties. The rules and regulations of the board for violation of which penalties are fixed shall be made public, as the board determines.

226.180 Meetings; participation required for business transactions. Regular meetings of the board shall be held on the first Tuesday of each month. Special meetings may be called by the chairman upon application of three members of the board. No business shall be transacted at any meeting of the board without the presence of three or more of the commissioners. No land shall be purchased without concurrence of a majority of the board.

226.190 Prohibition of interest in contracts. No commissioner shall be interested in any contract to which the board of which he is a member is a party or in which it is interested.

226.200 Taxing power of board. The board, at any of its regular meetings, may assess a tax, not exceeding one-half mill on the dollar in any one year, upon the taxable property of the city of which it is the board. This tax shall be collected like other city

taxes and when so collected shall be exclusively under the control of the commissioners, and shall be exclusively used for park purposes according to their judgment.

226.210 General powers of board. (1) The board shall have full and exclusive control of all parks within or connected with its respective city. For that purpose it may:

- (a) Lay out and improve such parks.
- (b) Appoint all necessary engineers, surveyors and all other employes, including a police force to act in the parks and fix the amount of their compensation.
- (c) Do all acts needful and proper for the protection, care or improvement of the parks.
- (d) Make all necessary rules or regulations for the use or government of the parks.
- (e) Affix penalties for breaches of the rules or regulations made under paragraph (d) of this subsection. These penalties shall not exceed \$20 for any one offense and shall be collected as other fines and penalties are collected in the city where such offense is committed.

(f) Acquire title by purchase, gift, devise or otherwise, to any land it deems desirable for parks, the title to be taken in the name of the city.

(2) The board shall disburse all moneys appropriated, given, received or collected for the improvement or use of the parks.

(3) All contracts for the purchase of land for park purposes shall be made by the board.

(4) If the board, being desirous of acquiring any land for any park, cannot agree with the owner as to the amount to be paid therefor, the board may proceed in the circuit court of the county in which the land is situated, as provided in ORS 223.005 to 223.020 for the appropriation of such land for park purposes.

226.220 Vote required for special tax levy. (1) If necessary, the board may provide for payment of land purchases under paragraph (f), subsection (1) of ORS 226.210 by a special tax, not to exceed one-half mill on the dollar in any one year, on taxable property in the city, to be levied by the board and collected like other city taxes.

(2) Before such tax shall be levied and upon written application of the board, signed by its chairman and secretary and filed with the proper city official in such cases, the city council, in the manner provided in subsection

(3) of this section, shall submit the proposition of the special tax levy to legal voters of the city at any regular city election or at a special election called for that purpose.

(3) The vote on the proposition to levy the special tax shall be by ballot, and shall be "yes" or "no" in answer to the following question: "Shall the board of park commissioners be empowered to levy a special tax, not to exceed one-half mill on the dollar, for the purchase of park property?" This question and the answers thereto shall be printed on ballots. If a majority of the votes cast upon the subject is in favor of the proposition, the special tax shall be levied and collected as provided in ORS 226.200; otherwise the levy shall not be made.

(4) The provisions of this section shall not apply to the ordinary tax for park purposes as provided by ORS 226.200.

226.230 Dissolution of board and transfer of powers. (1) Any city which has a park board, created under ORS 226.120, and desiring to abolish the board and transfer its powers, functions and duties, as defined in ORS 226.110 to 226.220, to the city government, council or commission, shall submit to the legal voters of the city at any regular or special election the question of such transfer.

(2) The voting on the proposition to transfer shall be by ballot. The ballots shall be "yes" or "no" in answer to the question: "Shall the park board be abolished and the powers, functions and duties thereof transferred to and be exercised and performed by the city council or city commission?" This question and the answers thereto shall be printed on the ballots in the usual manner so as to provide for an "X" mark by the voter.

226.240 Transfer of functions on favorable vote. If the question as stated in subsection (2) of ORS 226.230 is answered in the affirmative by the majority vote of the legal voters of the city, the park commission shall cease and the offices of park commissioner terminate within 30 days after the returns of the election have been canvassed. Thereafter, all powers, functions and duties of the park commission shall be exercised and performed by the city council or city commission exclusively, to the same extent as if those powers, functions and duties had originally been vested in and exercised by the city council or the city commission.

226.250 to 226.300 [Reserved for expansion]

**PARKS, MEMORIALS AND OTHER
PUBLIC GROUNDS IN CITIES OF 5,000
OR MORE**

226.310 Definition of "city" for ORS 226.320 to 226.400; public character of use.

(1) As used in ORS 226.320 to 226.400, "city" means any incorporated city having 5,000 inhabitants or more.

(2) The taking, using, acquiring and appropriating of private property for any purpose specified in ORS 226.320 to 226.390 is declared to be done for public use.

226.320 Authority to acquire land for certain purposes. Whenever the municipal authorities determine by ordinance to do so, the city may purchase, acquire, take, use, enter upon and appropriate land and property within or without its corporate limits for the purpose of:

(1) Public squares, parks, memorial monuments or buildings, pioneer memorials, pioneer museums, memorials and monuments to United States war veterans, sites or buildings for meeting places for such war veterans, auto campgrounds, playgrounds or comfort stations.

(2) Enlarging any public square, park, auto campground, playground or comfort station.

226.330 Appropriation in excess of needs. The city may purchase, acquire, take, use, enter upon and appropriate land and property in excess of what may be needed for any public squares, parks or playgrounds.

226.340 Terms of appropriation ordinance. (1) In the ordinance providing for an appropriation under ORS 226.330, the municipal authorities shall specify and describe the land authorized to be taken, purchased, acquired, used and appropriated. Such land shall not embrace more than 200 feet beyond the boundary line of the property to be used for the public squares, parks or playgrounds in order to protect the same by resale of the neighboring property with restrictions whenever the council determines thereon by ordinance.

(2) The council shall declare in the ordinance that the control of the neighboring property within 200 feet of the boundary lines of the public squares, parks or playgrounds is reasonably necessary in order to protect the public squares, parks or playgrounds, their environs, the preservation of the view, appearance, light, air, health or usefulness thereof.

226.350 Sale of excess land; restrictive covenants in deed of resale. After so much land and property referred to in ORS 226.330 as is needed has been appropriated for public squares, parks or playgrounds, the municipal authorities of the city may by ordinance authorize the sale of the remainder of such land or property and impose such restrictions in any deed of resale as may be deemed necessary or proper. The ordinance shall specify correctly and describe the land or property to be sold, and the restrictions in regard to the use thereof. The restrictions shall fully insure the protection of the public squares, parks, or playgrounds, their environs, the preservation of the view and appearance, light, air, health or usefulness thereof, whenever the council shall by ordinance determine thereon and which are to be imposed and inserted in the deed of resale.

226.360 Application of proceeds from sale of excess land. The proceeds from resale of any neighboring property taken in excess of what may be necessary for actual construction, opening, widening, extending and laying out of any public square, park or playground as provided in ORS 226.310 to 226.390 shall be deposited in the city treasury and used in payment of interest and as a sinking fund to retire any bond issues authorized under ORS 226.390. Any surplus arising from such transaction shall be turned over to and for the use of the park department of the city.

226.370 Notice and conduct of sale of excess land. Before selling the neighboring lands or property acquired under ORS 226.320 to 226.360, or any part thereof or any right or interest therein, the municipal authorities of the city shall give a notice of such sale by publication for five successive days in one or more daily newspapers of the city having a general circulation therein and by posting a similar notice in two conspicuous places in or upon the property described and referred to in the notice. The notice shall describe the property to be sold and shall state any restrictions under which the property will be sold and the terms of sale. The notice shall further state that sealed proposals will be received by an officer of the city named in the notice at his office for such purchase until the day and hour named therein. At the time appointed, such municipal authority shall open the proposals and shall either award to the highest responsible bidder for the purchase of the property; or

at their discretion, reject any or all bids, and readvertise in the manner provided in this section.

226.380 Condemnation procedure. When it is intended by the municipal authorities of the city to take, use and appropriate private property for any of the purposes mentioned in ORS 226.320 to 226.340 and the owners and the municipal authorities cannot agree upon compensation and damages arising therefrom, compensation and damages shall be considered, ascertained, determined, awarded and paid in the manner provided by general laws relative to condemnation or by such means as may be prescribed by the city charter for widening, opening, laying out or extending streets, or for acquiring private property for park purposes, at the option of the municipal authorities.

226.390 Financing of projects by bond issues. The municipal authorities may issue bonds for the costs and expenses of acquiring the private property for any of the purposes mentioned in ORS 226.320 to 226.380. The bonds shall be at such rate of interest and for such length of time as the municipal authorities determine, shall be advertised and sold in such manner as the municipal authorities determine and shall be a general obligation of the city. The municipal authorities shall, at the time of issuing the bonds, make provisions for the payment of interest and a sinking fund for the retirement thereof.

226.400 Construction of memorials or veterans' facilities in parks within city limits. The city may permit and authorize the erection and construction of memorial monuments or buildings, or both, pioneer memorials, pioneer museums, memorials and monuments to United States war veterans and/or buildings for meeting places of pioneer associations and/or veterans upon any public park within the limits of the city. Such use or parks is a lawful use of any grounds or premises dedicated as public parks, unless the use thereof for such purposes is forbidden by the terms of the conveyance creating such parks.

MUNICIPAL CEMETERIES

226.410 Authority to establish cemeteries and crematoria within or without city limits. Any incorporated city may acquire, own, maintain and operate cemeteries and crematoria either inside or outside its corporate limits, in accordance with such plans as the city governing body deems best.

226.420 Acquisition of property of cemetery association. Any incorporated city may acquire, by purchase or gift, any ground or other property belonging to any cemetery association, situate within the corporate limits of the city, for the purpose of owning, controlling or operating such cemetery and the interment of the body of any deceased person therein, or the disinterment and removal to a different cemetery of the body of any person buried therein, or for any other purpose.

226.430 Control by city after conveyance. Whenever any cemetery association transfers to any incorporated city, as provided in ORS 226.420, the ground and property of such cemetery association, from and after such transfer the city shall have exclusive control of such cemetery and all property connected therewith.

226.440 Sale of lots by city. Any incorporated city acquiring incorporated cemetery association property as provided in ORS 226.420, may sell or otherwise dispose of any lots or blocks situate in and being a part of such cemetery in the manner prescribed by the common council of such city.

226.450 Authority to expend funds for maintenance of cemeteries. All cities owning and controlling lands, lots or parcels of ground used for cemetery purposes may expend, for the purpose of beautifying, caring for and keeping up all such lands and premises, such public funds as have been included for that purpose in their annual budget.

226.460 to 226.980 [Reserved for expansion]

PENALTIES

226.990 Penalties. Violation of ORS 226.190 is punishable, upon conviction, in the same manner and to the same extent as for a crime defined in ORS 165.015.