

proceeding for the enlargement of the waterway through the same or the requiring of a new waterway to be constructed.

8. Failure of such owner or maintainer to comply with the order of the court shall be punishable as for a contempt and such owner or maintainer failing to comply with such order shall be liable to the injured party for all damages.

Section 1379—31v. 1. Whenever it is necessary to the successful drainage or protection of any district or of any considerable area of such district, the commissioners may purchase, construct, maintain and operate all necessary levees, bulkheads, reservoirs, silt basins, holding-basin, flood-ways, engines and other machinery, pumps and pumping stations.

2. If the same will cost more than two thousand dollars and the same has not been included in the report under section 1379—18, the court shall order a hearing on such notice as is required in proceedings to purchase machinery under section 1379—31n of the statutes.

3. After such hearing the court may authorize the purchase and construction prayed for or any part thereof or refuse the same.

Section 1379—31w. The provisions of section 1379—10a to section 1379—40, inclusive, of the statutes shall be liberally construed.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 15, 1919.

No. 10, S.]

[Published July 2, 1919.

CHAPTER 558.

AN ACT to revise, consolidate or repeal sections 27.08, 27.09, 27.10, 27.11, 27.12, 27.13 and certain other sections of the statutes, relating to public parks, parkways, boulevards and pleasure drives.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Subsection (1) of section 27.01 is renumbered to be subsection (1m) of said section and a new subsection (1) is added to read:

(27.01) (1) NAMES. The state parks are designated as follows:

The state park in Polk county, as "Interstate Park of the Dalles of the St. Croix;"

The state park in the town of Gibraltar, Door county, as "Peninsula State Park;"

The state park in the town of Wyalusing, Grant county, as “Nelson Dewey State Park;”

The state park in Sauk county, as “Devil’s Lake State Park;”

The state park in the town of Delafield, Waukesha county, as “Cushing Memorial Park.”

SECTION 2. Paragraph (h) of subsection (1) of section 27.01 of the statutes is renumbered and amended to read:

(27.01) * * * (1m) (h) * * * Said commission * * * may acquire * * * by *gift, purchase or condemnation* * * * *such lands as may be needed for state park purposes.*

SECTION 3. Subsection (3) of section 27.02 of the statutes is amended to read:

(27.02) (3) * * * Each of said commissioners shall take and * * * *file the official oath.* * * *

SECTION 4. Section 27.06 of the statutes is repealed.

SECTION 5. Section 27.07 of the statutes is renumbered to be section 27.06.

SECTION 6. Section 27.08 of the statutes is repealed.

SECTION 7. A new section is added to the statutes to be numbered and to read:

City, Village and Town Parks.

27.07 INTERPRETATION. The provisions of sections 27.08, 27.09, 27.10, 27.11, 27.12 and 27.14 are applicable to every city, however organized, unless a different intention is expressly stated; but said sections do not repeal or amend any other law applicable to any such city of the first class, and every city of that class may, at its option, act under said sections or any part thereof, or under such other law.

SECTION 8. Subsections (3) and (4) of section 27.09; subsection (3) and part of subsection (4) of section 27.10; and section 925—48m of the statutes are consolidated, renumbered and revised to read:

27.08 BOARD OF PARK COMMISSIONERS. (1) ESTABLISHMENT. Every city may by ordinance authorize the appointment of a board of park commissioners and specify therein the time within which the board shall be appointed.

(2) APPOINTMENTS, TERMS. Said board shall consist of five members appointed by the mayor and confirmed by the common council. The full term of each member shall be the five years beginning on the first day of January next following his appointment and until his successor is appointed and qualified. But when the board is first constituted the respective appointments shall be for terms ending one or more years after the first day

of January next succeeding the appointments, but so distributed that not more than one term will end in any one year. In the month of November or the month of December next preceding the ending of any member's term the mayor shall appoint his successor for a full term and submit the appointment to the common council for confirmation. Every vacancy in the board caused otherwise than by expiration of term shall be filled within thirty days thereafter by like appointment and confirmation for the remainder of the unexpired term.

(3) **QUALIFICATION OF MEMBERS.** Each member shall be a resident freeholder of the city except when a park district has been established pursuant to section 27.09 including territory both within and without the corporate limits of the city, in which case at least one and not more than two members shall be appointed who are resident freeholders of such outside territory, if that can be done. Each member shall take and file the official oath.

(4) **ORGANIZATION OF BOARD.** As soon as all of the members of the first board shall have been appointed and their appointments confirmed the city clerk shall give each appointee written notice of his appointment and confirmation and name the time and place for their first meeting which shall not be less than five nor more than ten days from the date of the last of said confirmations, at which meeting said board shall organize by electing from its members a president and a treasurer, each of whom shall hold office until his successor shall be elected and qualified. Provided that the common council by ordinance may provide, that the city treasurer shall act as treasurer of the board. Thereafter the annual meeting of the board shall be held on the second Tuesday of January in each year at which the same officers shall be elected for terms of one year each and until their respective successors are elected and qualified. Every treasurer elected by the board shall execute and file an official bond with sureties approved and in an amount fixed by the board. The treasurer's bond shall be in a sum not less than the estimated amount of taxes to be raised in the district during the same year for park, parkway, boulevard and pleasure drive purposes. Three members of the board shall constitute a quorum for the transaction of business. Each member of any existing board of park commissioners in any city shall continue to hold office beyond the end of his term for such time as may be necessary to avoid a vacancy in consequence of the changes made by this section in the times fixed for the commencement and the ending of his term.

(5) COMPENSATION. Members and officers of the board shall serve without salary or other compensation except when the board, in its discretion, allows to the treasurer a specified compensation to be paid out of the park fund provided by subsection (1) or subsection (2) of section 27.10.

SECTION 9. Part of subsection (5) and all of subsection (6) of section 27.09; and part of subsection (4) and all of subsection (5) of section 27.10 are consolidated and renumbered to be subsection (6) of section 27.08 and amended to read:

(27.08) (6) POWERS AND DUTIES. * * * The board of park commissioners * * * is empowered and directed:

(a) To * * * govern, manage, control, improve and care for all public parks, parkways, boulevards and pleasure drives located within, or partly within and partly without, the corporate limits of the city, and secure the quiet, orderly and suitable use and enjoyment thereof by the people; also to adopt rules and regulations to promote those purposes.

(b) To * * * acquire in the name of the city for park, parkway, boulevard or pleasure drive purposes * * * by gift, * * * purchase, devise, * * * bequest or condemnation, either absolutely or in trust. * * * money, real or personal property, * * * or * * * any incorporeal right or privilege.

* * *

(c) * * * To buy or lease lands for park, parkway, boulevard or pleasure drive purposes within the county in which such park district is situated, and, with the approval of the common council of the city constituting the original park district, to sell or exchange property no longer required for its purposes. * * *

(d) * * * To change or improve all parks, parkways, boulevards or pleasure drives within the city limits, controlled by the board, at the expense of the real estate to be benefited thereby, as * * * provided in subsection (3) of section 27.10.

(e) * * * To * * * plant, transplant, maintain, protect, and care for shade trees in any of the public highways of * * * the park district under its charge, and to control all such planting and transplanting by others.

(f) * * * To * * * acquire and maintain such equipment as may be necessary to properly carry out these purposes.

(g) * * * To restrict traffic and prohibit heavy teaming * * * on any such park, parkway, boulevard or pleasure drive.

(h) * * * *To appoint a secretary and a superintendent, fix their terms and compensations and define and describe their respective duties and authority, * * * and employ such other employes as it may deem necessary, including special police, who are hereby granted the powers now granted to regular city police, and fix their compensation. * * **

SECTION 10. A new paragraph is added to subsection (6) of section 27.08 to read:

(27.08) (6) (i) To execute every trust imposed upon the use of property or property rights by the deed, testament or other conveyance transferring the title of such property to the city for park, parkway, boulevard or pleasure drive purposes.

SECTION 11. The last sentence of subsection (1) of section 27.10 of the statutes is renumbered to be paragraph (a) of subsection (7) of section 27.08 and revised to read:

(27.08) (7) FURTHER POWERS. (a) *Of public corporations.* The board of park commissioners in every city having a park district comprising territory both within and without its corporate limits shall be a separate and distinct public corporation and shall possess all the powers necessary or convenient to accomplish the objects and perform the duties prescribed for the board by law.

SECTION 12. Subsection (6) of section 27.10 of the statutes is renumbered to be paragraph (c) of subsection (7) of section 27.08 and is amended by striking therefrom the last sentence.

SECTION 13. Subsection (8) of section 27.10 of the statutes is renumbered to be paragraph (c) of subsection (7) of section 27.08 and is amended to read:

(27.08) (7) (c) *Co-operative improvements.* * * * The board * * * shall receive and consider requests from property holders within the park district * * * for the planting or alteration of shade trees or for any other improvement in the highways abutting * * * their property. * * * If such * * * requests are approved by the board, it may make such improvement in such manner and on such terms as it may agree upon with said property holders.

SECTION 14. Subsection (9) of section 27.09 of the statutes is renumbered to be paragraph (d) of subsection (7) of section 27.08 and is amended to read:

(27.08) (7) (d) *Land contracts, options.* * * * Said board * * * may contract in the name * * * and on behalf of the city for the purchase of lands within the limits of the county in which the city is located, for park, *parkway*, * * * boulevard or *pleasure drive* purposes; and may lease

lands therein for such purposes, with the privilege of purchasing the same. But no such lease or * * * contract shall be binding upon the city until the same shall have been * * * approved by the common council by resolution adopted by an affirmative vote of a majority of the aldermen-elect, specifying the land to be purchased, the maximum price to be paid therefor and the terms of payment, or the terms of any option in * * * any such lease. * * *

SECTION 15. Section 27.13 of the statutes is renumbered to be paragraph (e) of subsection (7) of section 27.08 and is amended to read:

(27.08) (7) (e) *Eminent domain beyond city limits.* * * * Every city * * * is * * * authorized, upon recommendation of its * * * officers, board or body having the control and management of its public parks, to * * * acquire by condemnation such lands outside of its corporate boundaries as it may need for public parks, * * * parkways, boulevards and pleasure drives located in the same county in which such city, or any part * * * thereof is located. * * *

SECTION 15a. A new paragraph is added to subsection (7) of section 27.08 to be designated paragraph (f) and to read:

(27.08) (7) (f) *Limitation of powers as to gifts.* Gifts to any city of money or other property, real or personal, either absolutely or in trust, for park, parkway, boulevard or pleasure drive purposes shall be accepted only after they shall have been recommended by the board to the common council and approved by said council by recorded resolution.

SECTION 15b. A new paragraph is added to the statutes to be numbered paragraph (g) of subsection (7) of section 27.08 and to read:

(27.08) (7) (g) *Public concerts in city parks.* The board of park commissioners of any city may conduct public concerts within its public parks and pay the expenses thereof out of the park fund. A fee for admission may be charged for the purpose of defraying such expenses in whole or in part.

SECTION 15c. Section 959—117 of the statutes is amended to read:

PUBLIC CONCERTS. Section 959—117. * * * Any city, village or town * * *, whether organized under general or special charter, is authorized * * * to conduct public concerts in * * * auditoriums and such other public places within * * * its boundaries as the common council, village board or town board * * * shall determine. * * * Such concerts * * * shall be conducted by the board or

department having charge of such place and the expenses thereof of above receipts, if any, shall be paid out of such fund as the common council, village board or town board shall determine. A fee to said concerts may be charged for the purpose * * * of defraying the expenses thereof in whole or in part.

SECTION 16. Section 925—199 of the statutes is renumbered to be subsection (8) of section 27.08 and is amended to read:

(27.08) (8) CARE OF PARKS IN CITIES HAVING NO PARK BOARD.
 * * * *In any city having no board of park commissioners*
 * * * *its public parks, parkways, boulevards and pleasure drives shall be under the charge of its * * * board of public works, if it has such last named board; otherwise under the charge of its common council. When so in charge, the board of public works or the common council may exercise all the powers of a board of park commissioners.*

SECTION 17. Subsection (13) of section 27.11 of the statutes is renumbered to be subsection (9) of section 27.08 and is amended to read:

(27.08) (9) * * * TEMPORARY EXERCISE OF POWERS OF CITY PLAN COMMISSION. In * * * *every city * * * having no commission of city plans * * * under the provisions of sections 959—17a to 959—17e, * * * the board of * * * park commissioners, if there be such board in such city, * * * shall be vested with the powers enumerated in sections 959—17f to 959—17j * * *. The one and one-half mile zone beyond the city limits mentioned in section 959—17f shall for * * * street, park, parkway, boulevard, pleasure drive and platting purposes * * * be extended to three miles beyond the city limits. * * * For the purpose of carrying out the provisions of section 959—17f * * * in said extended zone * * * the common council * * * may appropriate out of any available fund a sufficient sum to be used by said board for hiring engineers, surveyors and draftsmen, and other necessary help and assistants in making a comprehensive map of the said city and zone so as to put in concrete form the ideas of the said board as to how future dedications, openings and platting of streets, highways, boulevards, pleasure ways and parks, or other public improvements or thoroughfares, shall be made; which said map, when adopted by the common council, shall serve as an advisory guide to the said board of * * * park commissioners in making recommendations to the common council in the future as to approving plats, and shall not be departed from except in cases of necessity or discovered error therein.*

SECTION 18. Subsection (14) of section 27.10 of the statutes, except paragraph (a) and paragraph (h) thereof, is renumbered to be subsection (10) of section 27.08 and is amended to read:

(27.08) (10) CITY FORESTER. (a) * * * *The board of park commissioners of every city may appoint a city forester to take charge of and direct, subject to * * * its supervision and control, * * * all of the work authorized to be done * * * under this * * * subsection, * * * fix * * * his term and compensation, * * * and * * * remove him at pleasure * * * . It is also * * * empowered to employ, or authorize the city forester to employ, as many assistants as * * * it may deem necessary for * * * carrying on said work, * * * and fix their compensation.*
* * *

(b) * * * The common council * * * shall include in its annual budget such sum as it may deem necessary, if any, to meet all expenses of doing said work during the following fiscal year, including the * * * salary of the city forester and * * * the compensation of employes assisting him, but * * * not including amounts assessable to abutting property; and the taxes levied * * * to provide for such expense shall be in addition to all other taxes for park and boulevard purposes.

(c) * * * The city forester, under the supervision and direction of the board, * * * may plant, * * * transplant, * * * remove, * * * trim, spray and otherwise care for and protect all trees and shrubs on or in that part of * * * every street, the grade of which has been established, lying between the lot line and the curb, or in the center or side plots in all boulevards and parkways, and in all public parks or grounds in the city over which the * * * board * * * exercises control * * * .

(d) * * * Whenever the board * * * proposes the setting out, planting or removing of any such living shade tree * * * , it shall give two weeks' written notice * * * to the owner * * * of * * * the lot or parcel of land on which such tree stands or will stand, or his agent, * * * or, if neither * * * is known and there be a tenant occupying said property, then to such * * * tenant, * * * of a time and place at which said contemplated work * * * will be considered by the city forester, specifying in detail the street, avenue or boulevard and portion thereof, upon or from which trees are proposed to be planted or removed, and the general nature and character of the changes and improvements

contemplated. After * * * *such* hearing * * *, the city forester, subject to the direction * * * of the board shall abandon said work or * * * proceed with it * * * as he believes the best interest of the public requires.

(e) * * * Before doing any *such* work * * * the board * * * or the city forester, shall divide * * * *the* street, avenue or boulevard *affected* into sections, and the entire cost of protecting, trimming, spraying, planting, renewing and * * * *removing* of trees and shrubs between the lot line and the curb in any such section * * * shall be chargeable to and assessed upon the lots or parcels of land abutting upon such section * * * at an equal rate per lineal front foot.

(f) * * * The board * * * shall keep a strict account of the cost of planting, removing, trimming, spraying and caring for trees and shrubs within each section of any street, avenue or boulevard which is to be assessed against the lots or parcels of land abutting thereon, and * * * prior to the tenth day of November in each year * * * shall make a report to the comptroller, *in cities having such an officer, and in other cities to the common council*, of all work done for which assessments * * * have been made * * *, stating and certifying the description of lands, lots, parts of lots, or parcels of land, in * * * *each such* section * * * in which any such work shall have been done and the amount chargeable to each such piece of property, and the said comptroller shall, at the time of making his annual report to the common council of the lots or parcels of land subject to special assessment, include therein the lots or parcels of land so reported to him by the board of park commissioners with the amount chargeable thereto for work done during the preceding year. * * *

(g) *The amounts so reported directly or through a comptroller to the council* shall be levied on said lots or parcels of land, respectively, to which they are chargeable, and shall constitute a lien thereon and shall be collected * * * as other special taxes are levied and collected * * *. The board * * * shall advance out of the park * * * *or other proper* fund sufficient money for doing said work, and the said special assessments shall be credited to * * * *said* fund * * *, and shall not be diverted or used for any other purpose.

SECTION 19. The first sentence of subsection (1) of section 27.10 and all of subsection (2) of said section are renumbered and amended to read:

27.09 PARK DISTRICTS. * * * (1) CREATION BY ORDINANCE. * * * *Every* city * * * may by * * *

*ordinance clearly defining all boundaries create one or more park districts within the corporate limits of the city, or in lieu thereof a single park district * * * comprising all of the territory * * * within * * * such corporate boundaries * * ** and any other contiguous territory within the same county, which may become annexed * * * *thereto* in any one of the ways provided in subsection (2) of this section.

(2) ANNEXATIONS. Any * * * *such* contiguous territory * * * may become so annexed * * * for park, parkway, boulevard and pleasure drive purposes in * * * either one of the following ways:

First. * * * If a majority of the electors, and the owners of at least one-third in area of the taxable real property in the territory proposed to be annexed, together petition the board of park commissioners of such * * * city * * * to annex such territory * * * said board may * * * make the *annexation by resolution adopted* by a majority vote of all its members and recorded in its minutes.

Second. * * * If there are no resident electors within the territory proposed to be annexed, the board * * * may *in like manner* annex such territory upon the presentation of a petition from the owners of at least one-half in area of the taxable real property within such territory, asking * * * *therefor.*

Third. * * * Upon the presentation of a petition from not less than fifteen per cent of the electors in * * * *such* contiguous territory * * * *praying therefor* the board * * * may, * * * *in its discretion* and upon such terms as it shall determine, order an election to be held in such territory * * * at which the question of annexation shall be submitted. The board shall give notice of *the time and place thereof* * * * by publication * * * in some newspaper published within the park district, once a week for four successive weeks immediately preceding such election, *incorporating in such notice a copy of the petition and the board's approval thereof.* The board * * * shall * * * provide * * * the necessary officers, ballots, polling places, and all other things necessary in conducting * * * *such* election * * * and for the canvass of the returns thereof. If annexation is approved by a majority of the electors voting at such election the board * * * shall * * * *make the annexation as in other cases.* * * * A proposition * * * so submitted to * * * and rejected by the electors * * * shall not be again submitted within one year thereafter.

(3) RECORD OF PROCEEDINGS. *Every such ordinance, petition and recorded resolution shall clearly define the boundaries of the territory to be annexed and copies thereof certified by the secretary of the board shall be recorded in the office of the register of deeds. Until such recording the annexation shall be ineffectual.*

SECTION 20. Section 27.12 of the statutes is renumbered to be subsection (4) of section 27.09 and amended to read:

(27.09) (4) * * * PORTIONS OF STREETS SET APART FOR PARK PURPOSES. * * * *Whenever the common council of any city * * * determines to improve any street, avenue or boulevard * * *, the board of public works, or if there be no such board, * * * the officer or officers * * * authorized to * * * make such improvement, may, as a part * * * thereof set aside * * * a portion of such street, avenue or boulevard for park purposes, and * * * determine, subject to the approval of the board of park commissioners, if there be such a board, in what manner the * * * portion so set aside shall be improved * * *. The damages and benefits resulting from such entire improvement, including the cost of the improvement of the part of such street, avenue or boulevard so set aside * * * shall be assessed to the several parcels of land affected thereby as provided * * * by law in such city for such assessments. * * * Any report required to be made and filed * * * respecting such improvement shall include a detailed statement of said determination and the approval thereof by said board.*

SECTION 21. Subsection (6) of section 27.11 is renumbered to be subsection (5) of section 27.09 and amended to read:

(27.09) (5) * * * TITLE DEEDS AND CONTRACTS, HOW EXECUTED. *The acquisition of any lands under this section or section 27.08 shall be in the name of and for * * * the city. Any deeds, leases, contracts, mortgages, or other instruments necessary to be executed on the part of the city in carrying out the purposes of * * * either of said sections shall be executed in the name of such city and signed in its behalf by said board by its president and secretary, after due authorization by resolution of said board.*

SECTION 22. Subsections (7) and (8) of section 27.09 are renumbered to be respectively paragraphs (a) and (b) of subsection (1) of section 27.10 and are amended to read:

27.10 TAXATION AND FINANCE. (1) IN CITIES OF THE FOURTH CLASS. (a) * * * *The board of park commissioners in every city of the fourth class shall, prior to the first day of*

October in each year, make an estimate of the * * * *expenditures* * * * by * * * said board * * * *during* the ensuing *calendar* year including all necessary incidental expenses, and *also an estimate of* the amount necessary for the purchase of *land for* * * * parks, * * * *parkways, boulevards and pleasure drives*, and * * * transmit the same to the common council. Such part of said estimates as the council shall approve shall be * * * levied and collected * * * *as other general taxes are levied and collected*, for the *exclusive* use of said board. * * * Said board * * * *shall* transmit to the common council at its first regular meeting in * * * *January* of each year a full * * * detailed report of all its transactions for the preceding year, together with an itemized account of all *receipts and* expenditures, a list of employes, and an inventory of property *in charge of the board*, * * * *including* * * * an itemized statement of the cost * * * of *each article procured by purchase*. * * *

(b) * * * All moneys under the control of said board * * * raised by *taxation*, * * * or *appropriated* by the common council, * * * or received by subscription or gift for parks, *parkways*, boulevards * * * or pleasure drives, shall be paid over to the city treasurer and constitute a separate fund for such purposes, *denominated the park fund*, and be disbursed by orders of the city clerk *drawn* upon the city treasurer * * * to pay accounts or bills that have been audited and allowed by said board and presented to the city clerk. Such orders shall * * * *when paid*, be * * * vouchers of the city treasurer for his payment from the park fund. * * * The board * * * *shall not* contract any liability on the part of the city in excess of the sums set apart in said fund * * * *unless* the same be expressly authorized by the common council. * * *

SECTION 23. Subsections (9), (10) and (12) of section 27.10 of the statutes are renumbered to be respectively paragraphs (a), (b), (c), (d) and (e) of subsection (2) of section 27.10 and are amended to read:

(27.10) (2) IN CITIES OF THE SECOND OR THIRD CLASS. (a) * * * The board of park commissioners *in any city of the second or third class* may incur indebtedness and *issue and sell bonds* for the purpose of acquiring, laying out, and improving parks, *parkways*, boulevards and pleasure drives, or to *acquire lands* * * * *to be used for those purposes*. Such indebtedness shall at no time exceed one-quarter of one per cent of the assessed valuation of the taxable property within the park dis-

trict. All bonds issued by the board shall be made payable in *instalments, and the last instalment shall not be deferred more than twenty years.* * * * The board shall include in its annual tax estimate a sum sufficient to pay the interest on such bonded debt and * * * *the principal thereof as the instalments mature.* All bonds issued by said board shall be certified by the treasurer of the city included within said park district before they are delivered to the purchaser, and may be registered if the board * * * shall so direct.

(b) * * * The board * * * shall, prior to the first day of October in each year, make an estimate of * * * *its expenditures during the ensuing calendar year, including all necessary incidental expenses; * * * also an estimate of the amount thereof * * * necessary to be raised by taxation, * * * which shall not exceed one mill on the assessed valuation of the taxable property within said park district.*

(c) The * * * board shall apportion such amount among the cities, towns and villages, or parts of cities, towns, and villages, which constitute * * * *the park district in charge of the board, according to the last assessed valuation of the taxable property within such * * * district and within * * * said cities, towns and villages, or parts thereof.* Said board shall certify such apportioned amounts to the respective city, town and village clerks, including in such certificate any special assessment, * * * *made under this section, * * * against any property within any such city. * * ** Said clerks shall thereupon carry out on the tax rolls of such cities, towns, or villages, respectively, for such year, *the amounts so apportioned as a tax for the purposes of said park district on all taxable property, within that portion of their respective cities, towns or villages which is within such park district.* * * *

(d) * * * The treasurers of such cities, towns and villages * * * *shall collect such tax * * * as other taxes are collected and * * * pay the same over to the treasurer of said board * * * within ten days after the date fixed by law for the return of taxes as delinquent. * * ** *Any such taxes not collected by said treasurers * * * shall be returned as delinquent * * * and * * * thereafter be collected as other delinquent taxes are collected, * * * and be paid over to the treasurer of said board.* * * *

(e) * * * The treasurer of the board * * * *shall keep all moneys received or raised in any way for the purposes of such board, * * * and * * * pay out the same upon certified bill, voucher or schedule signed by the president and*

secretary of said board setting forth the names of the claimants, the amount * * * of each claim and the purpose for which expended. He shall preserve and invest such funds in such manner as may be prescribed by the board. *Money received and held for the payment of current expenses shall be kept separate from trust funds and be known as the "Park Fund."*

SECTION 24. Subsection (7) of section 27.10 is renumbered to be subsection (3) of section 27.10 and amended to read:

(27.10) (3) SPECIAL ASSESSMENTS FOR PARKS IN ALL CITIES.

(a) * * * Whenever any change of *grade* or improvement of parks, *parkways*, boulevards or pleasure drives within the * * * limits of any city is proposed by * * * its board of park commissioners at the expense of the real estate to be benefited thereby, it shall view the premises and determine the damages and benefits which will accrue to each parcel of real estate by such proposed change or improvement, and the entire cost * * * thereof. * * * Said board shall make and file in its office a *preliminary* report showing its *said* determinations. * * *

(b) Notice shall be given by the board * * * that such report is open for review at its office, and will be so continued for the space of ten days after the date of such notice and that on a day and hour named therein, which shall be not more than three days after the expiration of said ten days, said board will hear all objections that may be made to such report. Such notice shall be published in the official newspaper of the city at least once, and copies of such notice shall be posted at convenient places at intervals of not more than five hundred feet along any highway through or adjacent to the real estate so determined to be affected by such proposed change or improvement. Such posted notices shall be printed in type not smaller than pica. Such publication and posting shall be made *at least* five days prior to the date of hearing objections. * * *

(c) At the time specified for hearing objections to said report, said board shall hear all parties interested, who * * * appear for that purpose, reduce to writing all objections * * * made and all evidence * * * offered to sustain the same, and may review, modify and correct said report as it deems just. *At such hearing any member of the board may administer oaths.* * * *

(d) Thereupon a complete and final report and determination shall be made and filed by said board in its office, together with all of *said* objections and evidence * * * and proof *by affidavit* of *said* publication * * * and * * * posting.

* * * which affidavit shall be * * * presumptive evidence of the facts therein stated. No irregularity in the form of *any* of said * * * proceedings * * * shall affect the legality * * * thereof, unless it shall appear that the owners of the property affected * * * were * * * misled by such irregularity and have not had an opportunity to be *fairly* heard. * * *

(e) When such final determination shall have been reached * * * the board * * * shall, *within the next following fifteen days*, publish notice thereof in the official paper of the city once in each week for two successive weeks, *that a final determination has been made and is on file in its office as to the benefits and damages that will accrue to the real estate affected by the proposed change or improvement.* * * *

(f) * * * The owner of any parcel of land mentioned in said notice * * * *feeling aggrieved* by * * * *such final determination* * * * may, within * * * *thirty days* after the date * * * thereof * * * *commence an action* in the circuit court * * * *to correct or redress such grievance.* * * * Any contract * * * *already* * * * *entered into* for making the proposed change or improvement, * * * shall not * * * *be affected by* said * * * *action*, but a certificate against the parcel of real estate in question for the amount of benefits assessed to such parcel shall be issued notwithstanding such * * * *action*; and in case the * * * *plaintiff* shall succeed, the difference between the amount charged in the certificate so issued and the amount adjudged to be paid as benefits accruing to the parcel of real estate described in such certificate shall be paid from the funds of the park district. * * * *Said action* shall be the only remedy of the owner of any parcel of land or of any person interested therein affected by such change or improvement for the redress of any *such* grievance. * * *

(g) * * * If in any *such* action * * * the court shall determine that any *such* special assessment * * * is invalid for any cause, the board * * * shall proceed forthwith to make a new assessment * * * against the property of the plaintiff as * * * such original assessment *should have been made*, in accordance with the provisions of section 1210e, * * * so far as applicable.

SECTION 25. Section 27.11 of the statutes, except paragraph (d) of subsection (4), subsection (6) and subsections (10) and (13) thereof, is revised and amended to read:

27.11 BOARD OF PUBLIC LAND COMMISSIONERS.

(1) CREATED BY ORDINANCE. * * * *Every city* * * * is * * * empowered to create by ordinance * * * a board of public land commissioners consisting of the commissioner of public works, the city engineer, and three *resident* citizens, * * * *with power to convert* streets and highways designated by the common council * * * into parkways or boulevards.

(2) APPOINTMENT AND ORGANIZATION. (a) Such resident commissioners shall be appointed by the mayor, subject to the approval of the common council, within sixty days after * * * *such* creation of * * * *the* board. * * *

(b) * * * *The terms of the appointive members of the first board* * * * shall * * * *terminate as follows:* Of one member * * * *on* the next ensuing first day of January * * *; *of* one member * * * *on* the second ensuing first day of January * * *; *and of* one member * * * *on* the third ensuing first day of January. * * * The commissioner of public works and the city engineer shall serve on said board during their respective terms of office. *Each commissioner shall hold his office until his successor is appointed and qualified. In December immediately preceding the expiration of the term of any appointive member* * * *, the mayor shall appoint * * * *his* successor to serve for a term of three years. * * *

(c) Within one month after any vacancy * * * *in the board occurs,* the mayor shall appoint some person to fill * * * *the same* for the unexpired term. * * *

(3) SALARIES OF MEMBERS. The common council may fix and provide for the payment of a salary or salaries for one or more of the members of said board, when * * * *it is satisfied that such* payment * * * is necessary in order to carry out the purposes of this section, which salaries shall be paid solely out of the fund named in subsection (8), unless other provision shall be made in said ordinance for the payment of the same.

(4) FUNCTIONS OF BOARD; EMPLOYES. (a) Said commissioners shall have power to appoint such clerks, assistants and workmen as they may deem necessary and proper for the proper discharge of their duties, subject, however, to such regulations in respect to the number of such employes to be appointed and their compensation as the common council may by ordinance prescribe.

(b) Said board * * * is * * * empowered to acquire, in the name of * * * *the* city, lands and improvements thereon * * *, within a distance of five hundred feet on either side of and abutting on any public street or highway *in the city* for the purpose of converting the same into a park-

way or boulevard. * * * Said lands may be acquired by purchase, gift, or condemnation, but * * * *only after* such * * * *acquisition* * * * shall have been recommended to the common council by said board * * * and ordered by resolution of said common council * * *. Any gift of land for the purposes specified in this section, shall first be accepted by the common council * * * upon the recommendation of said board * * * before the same shall become the property of such city.

(c) Said board * * * may, however, * * * either prior or subsequent to such * * * *approval* * * * obtain from any or all of the respective owners * * * contracts or options, in the name of * * * said city, for the * * * *acquisition* of said lands, or any part thereof, * * * or * * * any leasehold or other interest or claim therein or thereto; and said board * * * *may* * * * in such case * * * pay out of the *public land fund* * * * created by *subsection (8)* any charges or expenses by it incurred * * * *in procuring such contracts or options*. But * * * any such contract or option *shall not* be * * * binding upon, nor shall * * * *it* create any liability against, * * * *the city* until * * * *it* shall have been reported and recommended by said board * * * to the common council * * * and * * * approved * * * by resolution of * * * *the common council recorded in its minutes* * * *.

(d) * * * Said board * * * *is empowered* to manage, control, govern, improve, subdivide, resubdivide and plat, *any land so acquired*; and also to mortgage and sell * * * *the same*, or parcels thereof, on such terms and with such restrictions and reservations as *it may* * * * *deem necessary* * * * in order to convert such street or highway into a parkway or boulevard, and to protect the same and its environs, and preserve the view, appearance, light, air, health, and usefulness thereof.

(5) MAINTENANCE. (a) Whenever said board shall deem it necessary to grade, * * * pave, * * * curb, repair, or repave * * * any parkway or boulevard laid out and established under this section, or *any part thereof*, including the sidewalks thereof, * * * said board shall * * * *recommend its proposed improvement* to the common council * * *, describing its plan, * * * and submitting a plat for the same * * *. *The* * * * common council shall, if it deems such improvement necessary, direct the * * * *officer, board, or body* * * * having charge of the improvement * * * of streets therein, to make an estimate of the cost * * * of

such improvement * * *, which shall be placed on file in the office of said * * * officer, board, or body, * * * and be open to the inspection of the public * * *.

(b) Thereupon such * * * officer, board or body * * * shall send such estimate * * * to the common council, * * * and upon the same being adopted by said * * * council, in whole or in part, said improvement * * * shall be made and the procedure * * * provided by law in * * * the city for the improvement of streets, alleys and sidewalks shall be followed in making such improvement. * * * All property fronting or abutting any parkway or boulevard laid out under this section shall be subject to an assessment of benefits and damages for any improvements made under said section * * * as property abutting or fronting on streets or alleys are now assessable under existing law governing such city, whether such city owns the fee or an easement in the land laid out for such parkway or boulevard.

(6) TITLE DEEDS AND CONTRACTS, HOW EXECUTED. *In the acquisition of land and in the execution of instruments, the board shall be governed as park boards are governed by subsection (5) of section 27.09.*

(7) LIABILITIES PAYABLE FROM PROCEEDS OF OPERATIONS. No corporate liability whatever shall in any event be created under this section against any * * * city, except to pay for lands condemned. * * * All securities issued by said board and the damages for lands condemned shall be payable solely out of the proceeds of the operation of such board and the public land * * * fund named in subsection (8). Such securities shall not be issued in an amount in excess of the cost to such city of such lands and ten per cent of such cost in addition thereto.

(8) PUBLIC LAND FUND. For the purposes of * * * this section the common council shall, at the request of said board, make an initial appropriation * * * not * * * exceeding twenty-five thousand dollars, and thereafter * * * such annual appropriations * * * as the council may deem reasonably necessary for the purpose of carrying on the work and paying the expenses of said board. Such appropriations * * * shall constitute a fund * * * denominated the public land fund, and it shall be deposited, together with all the proceeds of the operation of such board with the treasurer of such city. Said fund shall be drawn * * * upon only * * * by orders signed by the president and secretary of such board, and countersigned by the city comptroller in cities having such officer, and by the city clerk in other cities.

(9) AUDIT OF ACCOUNTS. * * * *Every* * * * *claim or account* * * * *arising under this section* * * * shall be audited and allowed by said board before an order is issued therefor. * * * Immediately after * * * *such allowance* * * * said board * * * shall furnish the city comptroller, *in cities having such officer, and in other cities, the city clerk*, with a * * * *copy* of such claim * * * or account * * * or a statement of the character thereof, materials furnished, or services rendered, and said comptroller or clerk shall then audit the same before countersigning said order. * * * Said board * * * shall transmit to the common council * * * at its first regular meeting in January of each year a full and detailed report of all transactions of said board for the preceding year together with their itemized account of all expenditures, * * * a list of employes, an * * * inventory of property, * * * the purchase price thereof, and a *description* of all mortgages and securities issued * * * and outstanding.

(10) SUSPENSION OR ABOLITION OF BOARD. * * * The common council * * * may by a three-fourths vote of the aldermen-elect either suspend the operation of or abolish such board. In case of *such* suspension or abolition * * * the common council may exercise the powers of such board so far as may be necessary to carry out the terms of any contract or complete any proceeding already entered into by such board.

(11) POWERS DELEGATED TO OTHER BOARDS. * * * *Every* city is * * * authorized and empowered to vest the powers, duties, and restrictions specified in this section, upon *its board of park commissioners or any other* existing board or commission, by an ordinance of its common council, in lieu of creating a board of public land commissioners * * * under this section.

(12) MAY EXERCISE POWERS OF CITY PLAN COMMISSION. *In cities of the first class, said board of public land commissioners shall exercise all the powers conferred on city park boards by subsection (9) of section 27.08.*

SECTION 26. Subsection (2) of section 27.09 and subsection (11) of section 27.10 are consolidated, renumbered to be section 27.12 and amended to read:

27.12 NONLIABILITY. (1) FOR COST OF CONSTRUCTION AND MAINTENANCE. * * * The common council may, by * * * resolution * * * make it a condition of the acceptance * * * of any gift of * * * lands for parks, *parkways*, boulevards * * * or pleasure drives that the same shall be constructed and maintained *solely* at the expense of private par-

ties * * * until, by * * * like resolution, the council shall vote to maintain * * * *them* at the expense of the city.
* * *

(2) FOR DAMAGES CAUSED BY WANT OF REPAIR. *Neither the city nor any such private parties shall * * * be liable for any damage resulting from * * * insufficiency in * * * such construction, * * * maintenance or repair of any parks, parkways, boulevards * * * or pleasure drives owned by the city and located outside of * * * its limits; * * * but the city may cause any of them or any part of either of them * * * which is not * * * in good repair, * * * to be closed to the use of the public until * * * the same shall be put in good repair. * * ** At conspicuous points along any such * * * *boulevard or pleasure drive a notice shall be placed* at intervals not exceeding one mile, * * * painted in large, plain letters, as follows: "Any person using this drive does so at his own risk as to defects therein."

(3) THE SAME, IN CONTINUOUS ANNEXED TERRITORY. * * * No city, town or village * * * *containing any * * * territory annexed for park, parkway, boulevard or pleasure drive purposes to any other city by proceedings under * * * subsection (2) of section 27.09, shall be liable, nor shall any park board or its officers or employes be liable, for any damage resulting from * * * insufficiency in the construction or maintenance or repair of any such park * * * parkway, boulevard, * * * or pleasure drive. * * ** At conspicuous points within and upon such parks, *parkways*, boulevards and pleasure drives, outside of the * * * *limits of such other city, at intervals of not exceeding one mile, a notice in large, plain letters shall be placed, as follows: "Any person using this park, parkway, * * * boulevard, or drive, * * * does so at his own risk as to defects therein."*

SECTION 27. A new section is added to the statutes to be numbered section 27.13 and to read:

27.13 TOWN AND VILLAGE PARKS. Every town and every village empowered by law to provide and maintain parks, parkways, boulevards or pleasure drives shall be governed in such matters by those provisions of this chapter which are applicable to cities of the fourth class.

SECTION 28. A new section is added to the statutes to read:

27.14 POLICE PROTECTION (1) Every city may exercise police supervision over all parks, parkways, boulevards and pleasure drives managed and controlled by its common council or by its board of park commissioners.

(2) The board of park commissioners shall recommend to the common council the enactment of such ordinances as it deems necessary to protect and preserve the parks, parkways, boulevards and pleasure drives under its charge, or to secure the free and reasonable use and enjoyment thereof by the public; and the common council shall enact such proposed ordinances or such other ordinances as will be suitable for the purposes stated.

(3) The city attorney shall prosecute in a court or courts of competent jurisdiction all violations of said ordinances.

(4) Each member of a board of park commissioners and its superintendent are vested with the powers of police officers for the enforcement of all rules and regulations of the board and the ordinances aforesaid.

SECTION 29. Subsection (13) of section 27.10 of the statutes is repealed and subsection (2) of section 1038 of the statutes is amended to read:

(Section 1038) (2) * * * *Lands* owned or occupied free of rental exclusively by any county, city, village, town or school district, or by any free public library; * * * *also lands and personal property* possessed, managed and controlled exclusively for the public use as park lands or grounds, or for the maintenance of parks, parkways, boulevards or pleasure drives by any city or village. But lands purchased by counties at tax sales shall be exempt only in the cases provided in section 1191.

SECTION 30. Subsection (1) of section 27.09, paragraphs (a) and (h) of subsection (14) and all of subsection (15) of section 27.10, paragraph (d) of subsection (4) and all of subsection (10) of section 27.11, paragraph (a) of subsection (69) of section 925—52 and all of section 925—200 of the statutes are repealed.

SECTION 31. All parts or fragments of sections 27.09, 27.10 and 27.11 of the statutes which have not been repealed, or renumbered, or amended, or revised by other sections of this act, are repealed.

SECTION 32. The following chapters of Wisconsin Session Laws, namely, chapter 324 laws of 1878; chapter 315 laws of 1895; chapter 102 laws of 1899; chapter 305 laws of 1901; chapter 232 laws of 1903; chapters 169 and 395 laws of 1905; chapters 109, 558 and 560 laws of 1907; chapters 112, 327, and 376 laws of 1909; chapters 188, 454, 560, 589 and 626 laws of 1911; chapters 281 and 527 laws of 1913; chapters 90 and 166 laws of 1915; and chapters 309 and 392 laws of 1917 are repealed.

SECTION 33. This act shall take effect upon passage and publication.

Approved July 15, 1919.