

1905

**Authorizing Cities of the First or Second Class to Acquire, Establish and Maintain Public Parks or Pleasure Grounds, Boulevards, Parkways, Avenues, Driveways and Roads, Establishing a Park Commission and Defining Its Powers and Duties, and Repealing All Acts Inconsistent Therewith.**

Colorado General Assembly

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#### Recommended Citation

Colorado General Assembly, "Authorizing Cities of the First or Second Class to Acquire, Establish and Maintain Public Parks or Pleasure Grounds, Boulevards, Parkways, Avenues, Driveways and Roads, Establishing a Park Commission and Defining Its Powers and Duties, and Repealing All Acts Inconsistent Therewith." (1905). *Session Laws 1901-1950*. 403.

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## CHAPTER 128.

## PUBLIC PARKS.

(S. B. No. 232, by Senator De La Vergne.)

## AN ACT

AUTHORIZING CITIES OF THE FIRST OR SECOND CLASS TO ACQUIRE, ESTABLISH AND MAINTAIN PUBLIC PARKS OR PLEASURE GROUNDS, BOULEVARDS, PARKWAYS, AVENUES, DRIVEWAYS AND ROADS, ESTABLISHING A PARK COMMISSION AND DEFINING ITS POWERS AND DUTIES, AND REPEALING ALL ACTS INCONSISTENT THEREWITH.

*Be it Enacted by the General Assembly of the State of Colorado:*

Section 1. Any city of the first or second class shall have authority in the manner hereinafter provided, to acquire, establish and maintain public parks or pleasure grounds within or without the corporate limits of such city, and boulevards, parkways, avenues, driveways and roads without the corporate limits; Provided, The same are within at least ten miles of the corporate limits.

May acquire  
and maintain  
parks.

Proviso.

Sec. 2. Lands for any of the purposes mentioned in section 1 hereof may be acquired by the city either by gift, devise or purchase, but no land shall be purchased for such purposes until the question shall have been first submitted, as is hereinafter provided, to those qualified electors of such city who shall in the year next preceding have paid a real property tax therein. Lands given or devised to such city for the purposes herein mentioned shall be accepted or refused by ordinance passed by the common council of such city.

Lands, how  
acquired.

Lands  
purchased must  
be ratified  
by electors.

Lands given  
or devised  
accepted or  
refused by  
city council.

Sec. 3. The care, custody, management and control of such parks, pleasure grounds, boulevards, parkways, avenues, driveways and roads shall be vested exclusively in a park commission which shall be composed of six members who shall be electors and tax payers in said city, and well known for their ability, probity and public spirit, one of whom shall be president of the com-

Care and  
control of  
parks vested  
in a park  
commission.

Commission  
composed of.

Mayor appoint commission.	mission. The mayor of the city shall, with the advice and consent of the city council, appoint for and on behalf of such city, such park commissioners who shall hold office, one-third for two years, one-third for four years and one-third for six years, from the first of July following their appointment, and at their first regular meeting they shall cast lots for their respective terms, and biennially thereafter and on or before the first day of July, the members of said commission whose terms of office shall not then expire shall elect two members having the qualifications aforesaid, for the ensuing six years, to take the place of the retiring members. All vacancies in such park commission arising from any cause shall be filled by election by the remaining members thereof.
Terms of office.	
How determined	
Vacancies, how filled.	
No compensation.	Sec. 4. The commissioners shall serve without compensation except for their actual disbursements, approved by the mayor. No member of the said commission shall be interested, directly or indirectly, in any contract relating to the establishment or maintenance of any of the properties mentioned in section 1 hereof, or in any contract providing for the expenditure of any money in relation thereto; and any commissioner shall be considered as vacating his office upon the acceptance of any other public office.
No member shall be interested in any contract relative to said park.	
Effect of acceptance of other public office.	
Commission may employ secretary. Salary.	Sec. 5. The commission may employ a secretary at a salary not exceeding twelve hundred dollars (\$1,200) per annum, to be fixed by the commission, payable out of the park fund, who shall keep a record of all proceedings of the commission, have custody of and preserve all its records, and perform such other duties as may be prescribed by the commission.
Duties.	
City provide office and supplies.	Sec. 6. The commission shall be provided by the city with convenient offices, stationery and the facilities necessary for the performance of its duties as by the commission deemed necessary and advisable.
Superintendent of parks.	Sec. 7. The commission may appoint a superintendent of parks, who shall be a practical landscape gardener, who shall, under the direction of the commission, have active charge, control and direction of all the parks, pleasure grounds, boulevards, parkways, avenues, drive-ways and roads which are under the control of the commission, and perform such other duties as may be prescribed by the commission, with such other assistants, and at such salaries payable out of the park fund, as may
Duties.	
Assistants' salaries.	

be authorized by the commission, with the approval of the mayor.

Sec. 8. The commission shall hold a regular meeting on the first Tuesday of each month, and may by rule provide for special meetings and service of notice thereof. A majority of the members shall constitute a quorum, and no action of the commission shall be binding unless authorized by a majority of the members at a regular or duly called special meeting thereof.

Meetings of  
commission.

Quorum.

Sec. 9. The commission shall, with the approval of the mayor, have full, complete and exclusive power and authority to expend for and on behalf of the city, all sums of money that may be raised by general taxation for park purposes, and all other sums of money appropriated by the council from the general revenues for the same purposes; and all moneys that may be realized by the commission from the sale of privileges in or near the parks of the city, or realized from the sale of the general bonds of the city and set apart for park purposes, or from the sale of the park bonds hereinafter provided for.

Expenditures  
for park  
purposes.

Sec. 10. The fiscal year of the park commission shall end on the thirty-first day of December of each year, and during the month of January of each year the commission shall make an annual report to the mayor and city council of all moneys received and expended in the purchase, improvement and maintenance of parks, showing when, where, how and in what manner the same were received, expended, and what improvements have been made during the year preceding the report.

Fiscal year.

Annual report.

Sec. 11. The commission shall have exclusive management and control of all parks, pleasure grounds, boulevards, parkways, avenues, driveways and roads as mentioned in section 1 of this act, and exclusive power to lay out, regulate and improve the same, and to prohibit certain or heavy traffic therein and thereon, and to grant or refuse licenses to vend goods on the streets or sidewalks within three hundred feet of any park entrance and on the streets and sidewalks adjoining parks, and shall establish and maintain necessary rules and regulations for the proper supervision and government thereof. The commission shall have such additional powers relating thereto as may be prescribed by ordinance, and the council shall, by ordinance, provide for the enforcement of the rules and orders of the commission.

Commission  
has  
exclusive  
management  
and control  
of park.

Grant or  
refuse  
licenses.

Rules and  
regulations.

Additional  
powers.

Enforcement  
of rules.

No franchise  
for railway  
within park.

No franchise  
of special  
privilege  
within park.

Devises and  
bequeaths to  
city for park  
purposes.

Under control  
of commission.

Lands  
acquired by  
purchase.

Question of  
purchase  
submitted to  
electors.

Manner of  
voting on  
question.

Incurring of  
debt or  
issuance of  
bonds  
submitted to  
electors.

No franchise, license or permit for the construction or maintenance of any railway shall ever be granted within the limits of any park or pleasure ground, or lengthwise upon any boulevard, parkway, avenue, driveway or road. Nor shall any franchise for the maintenance of any other special privilege within any park or pleasure ground be granted.

Sec. 12. Real or personal property may be granted, bequeathed, devised or conveyed to the city for the purpose of the improvement or ornamentation of any park, pleasure ground, boulevard, parkway, avenue, driveway or road, or for the establishment or maintenance in parks or pleasure grounds of museums, zoological or other gardens, collections of natural history, observatories, libraries, monuments or works of art, upon such trusts or conditions as may be approved by the commission; and all such property or the rents, issues and profits thereof shall be subject to the exclusive management and control of the commission.

Sec. 13. Lands which may be required for any of the purposes named in section 1 hereof, either within or without the corporate limits, may be acquired by purchase, but no lands shall be so acquired unless the question of acquiring the same shall have been submitted at a regular election for officers of such city, to a vote of the qualified electors of such city who shall, in the year next preceding, have paid a real property tax therein, and a majority of those voting on the question shall vote in favor of acquiring the same. All votes upon the question shall be "For the acquirement of lands for park purposes," or "Against the acquirement of lands for park purposes," and the proposition aforesaid shall be included in the ballot used at such election for the officers of the said city. But no indebtedness shall be created nor shall any bonds be issued for acquiring such parks or establishing such boulevards, parkways, or roads unless the question of incurring such debt and issuing such bonds shall have been submitted at a regular election for officers of such city to a vote of such qualified electors thereof who shall, in the year next preceding, have paid a real property tax therein, and a majority of those voting on the question by ballot deposited in a separate ballot box shall vote in favor of incurring such debt and issuing such bonds. The city council of such

city shall, upon petition of the electors of such city equal in number to one-tenth of the number of such electors voting at the last general election of such city, submit to the electors of such city at the next general election for officers of such city, either or both of the questions aforesaid by separate ordinance; and shall, in the ordinance, submitting the question of the acquirement of such lands and the establishment of such parks, boulevards, parkways and roads state the location of the land proposed to be acquired, describing the same by legal subdivisions, wherever practicable, and the price to be paid in cash for purchase and the manner of payment; and if the majority of those voting upon the question last aforesaid at such election shall vote in favor of the acquirement of such lands for such purposes, the city council shall acquire such lands for the purposes aforesaid, and if authorized as hereinbefore provided, shall contract the necessary indebtedness and issue the necessary bonds therefor.

Sec. 14. The park fund shall consist of moneys levied, collected and appropriated therefor, and coming into the said fund by donation or otherwise. All moneys collected and credited to the said park fund shall be used for the maintenance and improvement of parks, parkways, boulevards, avenues, driveways and roads, and shall be expended by the commission as in their judgment the needs of such property shall require, and the same shall be drawn upon by the proper officers of such city, upon vouchers properly authenticated by the president and secretary of the park commission.

Sec. 15. As a part of the annual levies authorized by law, the council shall annually levy, assess and collect upon each dollar of taxable property within the city not more than one and one-half (1½) mills for the purposes of said park fund, the proceeds of which shall be collected in the same manner as other city taxes, and shall be by the common council appropriated to the park fund.

All moneys collected or received or levied or appropriated by the city council for park purposes shall be deposited in the treasury of such city to the credit of "The Park Fund," and shall be kept separate and apart from other moneys of such city and any portion thereof remaining unexpended at the end of any fiscal year or

Petition by electors.

City council submit questions to electors.

Ordinance shall state location of park, price and manner of payment.

Park fund.

Used for support and improvement.

Drawn upon certified vouchers.

Maximum tax levy.

Collection of levy.

Moneys credited to park fund.

at any other time shall not in any event be converted into the general fund nor be subject to appropriation for general purposes.

Acquisition of  
park land by  
assessment and  
bond sale.

Sec. 16. In addition to the powers herein conferred to acquire lands for parks and parkways by the sale of the general bonds of the city, it shall be lawful for the park commission, with the approval of the mayor, to acquire parks or pleasure grounds, boulevards, park ways, avenues, driveways and roads, in the manner following, the same to be paid for by special assessments upon all the other real estate, except parks, pleasure grounds, avenues, boulevards, streets and roads, in such city, or partly out of the proceeds of the sale of the general bonds of the city and partly by such assessments as the same may be determined by the mayor and park commission.

Acquisition by  
condemnation.

Sec. 17. For the purpose of acquiring lands for parks and pleasure grounds, boulevards, parkways, avenues, driveways and roads, it shall be lawful for the park commission and said commission is hereby authorized and empowered, by and with the approval of the mayor, to select and by a suitable proceeding in the name of the city, without the passage of any ordinance, to condemn real estate, or, with the approval of the mayor, to purchase any real estate so selected for one or more parks or pleasure grounds, boulevards, parkways, avenues, driveways or roads, and to select routes and streets for the purpose of establishing and maintaining a system of connecting boulevards and pleasureways or parkways therein. All such condemnation proceedings shall be in accordance with the general laws of the State, so far as the same are applicable, but the benefit to other lands shall be ascertained and assessed.

Condemnation  
proceedings.

Payments  
made by  
park bonds.

Sec. 18. The parks and pleasure grounds, boulevards, parkways, avenues, driveways and roads established in any such city, or such part thereof as may be determined by the mayor and park commission may be paid for in park bonds of the city of date and form prescribed by the park commission, bearing the name of the city, and payable to bearer at such times and in a sufficient period of years to cover the period of payments herein provided for, with interest annually at such rate, not exceeding six per cent. per annum, as may be determined by the commission. The bonds shall be

Form.

Dates of  
payment.

Interest.

signed by the mayor, countersigned by the auditor and attested by the clerk and seal of the city with the approval of the president of the park commission thereon, the interest to be evidenced by suitable coupons attested by a fac.simile of the signature of the city clerk.

Bonds signed and attested.  
Interest coupons.

Sec. 19. All acts and parts of acts inconsistent herewith are hereby repealed.

Repeal.

Sec. 20. In the opinion of the General Assembly an emergency exists; therefore, this act shall take effect and be in force from and after its passage.

Emergency.

Approved April 10, 1905.

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#### CHAPTER 129.

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#### RAILROADS.

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#### LIEN ON EQUIPMENT.

(S. B. No. 149, by Senator Millard.)

### AN ACT

TO AMEND SECTIONS 1 AND 4 OF AN ACT, ENTITLED "AN ACT TO SECURE MANUFACTURERS AND OWNERS OF RAILROAD EQUIPMENT AND ROLLING STOCK IN MAKING CONDITIONAL SALES AND CERTAIN CONTRACTS FOR THE LEASE THEREOF," APPROVED MARCH 31, 1885.

*Be it Enacted by the General Assembly of the State of Colorado:*

Section 1. That section 1 of "An act to secure manufacturers and owners of railroad equipment and rolling stock in making conditional sales and certain contracts for the lease thereof," approved March 31, 1885, be, and the same is hereby amended so as to read as follows:

Amended.

Section 1. That in any written contract, of or for the sale of railroad equipment, or rolling stock, deliverable immediately, or subsequently, at stipulated periods, by the terms of which the purchase money, in whole or in part, is to be paid in the future, it may be agreed that the title to the property so sold, or contracted to be sold,

Title to railroad equipment may not pass until purchase money paid.