

CHAPTER 11-28
COUNTY PARKS AND RECREATIONAL AREAS

11-28-01. Board of county park commissioners - Appointment by county commissioners - Number.

The board of county commissioners shall establish a five-member to seven-member board of county park commissioners consisting of at least two members of the county commission and at least two resident citizens of the county.

11-28-02. Eligibility for appointment - Term - Vacancy - Compensation.

Any resident citizen of the county, including county, city, and township officers, is eligible for appointment to the board of county park commissioners. Each appointed county park commissioner shall hold office for a term of three years, or until a successor is appointed and qualified. Any vacancy in the board must be filled for the unexpired term by appointment by the board of county commissioners as soon as practicable. The appointing authority shall establish the rate of compensation for park commissioners and actual expenses incurred by the commissioners may be reimbursed at the official reimbursement rates of the appointing authority. Unless otherwise agreed upon, the board of county park commissioners shall meet at the time of the regular meetings of the board of county commissioners upon the order of the chairman, and appointed members only are entitled to compensation for attendance at the concurrent meetings.

11-28-03. County auditor, county treasurer, and state's attorney shall serve board.

The county auditor or other official designated by the board shall serve as secretary of the board of county park commissioners and the county treasurer shall serve as treasurer of the board and custodian of all its funds from whatever source received. Such funds shall be placed in a separate fund and shall not be diverted to any other use or purpose. The state's attorney of the county shall act as legal adviser to the board and shall prosecute and defend any and all actions brought by or against said board. Neither the county auditor nor official designee, the county treasurer, nor the state's attorney shall receive any additional compensation for acting in their respective capacities.

11-28-04. Organization of board - Quorum - Meetings.

Within twenty days after the appointment of the board of county park commissioners, and within twenty days after any change in its personnel, the board shall meet and shall organize by selecting one of its members as chairman. One-half or more of the members constitutes a quorum of the board. The board shall hold such meetings as may be required for the transaction of its business and activities. If the board decides to hold meetings at a time other than the time for regular meetings of the board of county commissioners, the board shall draft a schedule of regular meetings to be held throughout the year. The schedule must be filed with the county auditor and the meetings must be noticed in accordance with section 44-04-20. A special or emergency meeting may be called by the secretary upon the order of the chairman, or upon the request of the majority of the board with notice provided in accordance with section 44-04-20.

11-28-05. Powers and duties of the board of park commissioners.

The board of county park commissioners shall have the power and it shall be its duty to:

1. Sue and be sued in the name of the board.
2. Accept on behalf of the county any and all lands and waters and any and all interests, easements, or rights therein, and any gifts, grants, donations, or trusts in money or property, or other assistance, financial or otherwise, from federal, state, municipal, and other public or private sources for park and recreational purposes; accept and assume the supervision, control, and management of any privately owned property or recreational area, when the conditions of the offer for its public use are such as in the judgment of the board will be conducive to the best interests of the people of the county and state; and acquire by lease, purchase, gift, devise, or otherwise and hold,

- own, possess, and maintain real and personal property for parks and recreational purposes.
3. Cooperate and contract with the state or federal government or any department or agency thereof in furnishing assurances and meeting local cooperation requirements in connection with any project involving the construction, improvement, operation, maintenance, conservation, or use of any park or recreational area under the jurisdiction, supervision, control, and management of the board.
 4. Regulate, supervise, control, and manage all areas of land and water owned or held by the county or which may be, under written agreement, placed by an individual, a corporation, a limited liability company, the federal, state, or a municipal government, or any department or agency thereof, under the jurisdiction, supervision, control, and management of the board of county park commissioners for park or recreational purposes.
 5. Promulgate, publish, and impose rules and regulations concerning the uses to which such land and water areas may be put, including the regulation or prohibition of the construction, establishment, or maintenance therein or thereon or within one-half mile [.80 kilometer] thereof of any concession, dancehall, dance parlor, dance pavilion, soft or hard drink parlor or bar, and of any and all establishments of every name, nature, or description which may, in the judgment of the board, be unsightly, noisome, improper, inappropriate, or detrimental to the social usages of the area or areas for park and recreational purposes.
 6. Regulate, supervise, control, and manage all such land and water areas, including all lakes, streams, and ponds and all artificial bodies of water created by any water development or water conservation or flood control project of the county, state, or federal government not under the jurisdiction, supervision, or control of any other board, department, or governing body.
 7. Exercise full police power, supervision, control, and management over such areas and the adjoining and adjacent lands within one-half mile [.80 kilometer] thereof, and by regulations duly promulgated, published, and imposed regulate or prohibit the construction, establishment, maintenance, or operation within one-half mile [.80 kilometer] of any such land or water area of any dancehall, dance parlor, dance pavilion, soft or hard drink parlor or bar, and any and all establishments of every name, nature, and description which may, in the judgment of the board, be unsightly, noisome, improper, inappropriate, or detrimental to the social usages of any land area or body of water so developed or created. The authority provided by these subsections is intended to be exercised for the protection of the health, safety, good morals, and general welfare of the people of the county and state to the fullest extent permissible under the police power of the county and state.
 8. Prevent the pollution, contamination, or other misuse of any water resource, stream, or body of water under its jurisdiction, supervision, control, or management.
 9. Certify to the county auditor the amount of money necessary to meet the estimated expenses and costs of properly conducting its business and activities, including the operation, maintenance, and improvement of the park and recreational areas under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county for the ensuing year, such certificate to be filed with the county auditor not later than the first day of July each year. Such certificate shall be accompanied by an itemized budget statement showing the detailed expenditure program, as nearly as possible, of the board for the ensuing year.
 10. Do all the things reasonably necessary and proper to preserve the benefits accruing from the park and recreational areas under the jurisdiction, supervision, control, and management of the board of county park commissioners.
 11. To exercise the power of eminent domain in the manner provided by title 32 for the purpose of acquiring and securing any right, title, interest, estate, or easement necessary to carry out the duties imposed by this chapter, and particularly to acquire

the necessary rights in land for the control of the shores of any lake and to protect the right of ingress and egress therefrom and to provide recreational areas or facilities.

12. Lease lands owned or controlled by the board for residential, camping, concession, and other purposes under terms determined by the board, and to deposit and expend any income from the lease as other moneys under the control of the board.

11-28-05.1. Board of county park commissioners authorized to collect user fees and issue evidences of indebtedness in anticipation of user fee revenues.

1. A board of county park commissioners may prescribe and collect user fees for facilities or activities furnished by the county and in anticipation of the collection of such revenues may issue evidences of indebtedness for the purpose of acquiring, constructing, improving, and equipping parks and park and recreational buildings and facilities, and for the purpose of acquiring land for those purposes.
2. Evidences of indebtedness issued under this section are payable, as to principal and interest, solely from all or part of the revenues referred to in this section and pledged for such payment.
3. Notwithstanding any other provision of law, evidences of indebtedness issued under this section are fully negotiable, do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and together with interest thereon and income therefrom, are not subject to taxation by the state of North Dakota or any political subdivision of the state.
4. Evidences of indebtedness issued under this section must be authorized by resolution of the board of county park commissioners and, notwithstanding any other provision of law, may be issued and sold in such manner and amounts, at such times, in such form, and upon such terms, bearing interest at such rate or rates, as may be determined in the resolution.

11-28-06. (Effective for taxable years beginning before January 1, 2016) County parks and recreation areas funding and county parks and recreation areas capital projects levy by board of county commissioners.

At the time of levying county general fund taxes for other county purposes, the board of county commissioners shall consider the budget statement and levy request of the board of county park commissioners and may fund from revenues derived from county general fund levy authority an amount to pay the actual necessary expenses of the county park and recreational areas and activities program of the board of county park commissioners, including repair and operation of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county. The county auditor shall credit the funding authorized by the board of county commissioners to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

The board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and may levy taxes annually as provided in section 57-15-06.6 for county park capital projects; acquiring real estate as a site for public parks; and construction, equipping, and maintaining structural and mechanical components of parks and recreational facilities. The question of whether the levy for county park capital projects for county parks and recreational facilities is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent of the qualified electors voting in the last regular county election, if the petition is filed not less than sixty days before the election. A levy may not be discontinued or reduced if it is dedicated to the payment of bonds issued pursuant to subsection 6 of section 21-03-07. If the majority of the qualified electors vote to discontinue the levy for county park capital projects for county parks and recreational facilities, it may not again be levied without a majority vote of the qualified electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board. The levy for county park capital projects for county parks and recreational facilities does not apply to any property

located in a city in which park district taxes are levied, unless the governing body of the city in which the property is located consents, by resolution, to the levy.

(Effective for taxable years beginning after December 31, 2015) County parks and recreation areas funding and county parks and recreation areas capital projects levy by board of county commissioners - Financial reports. At the time of levying county general fund taxes for other county purposes, the board of county commissioners shall consider the budget statement and levy request of the board of county park commissioners and may fund from revenues derived from county general fund levy authority an amount to pay the actual necessary expenses of the county park and recreational areas and activities program of the board of county park commissioners, including repair and operation of the park and recreational areas and their facilities under its control and those recreational activities of benefit to the general populace of the county which are under the control of a city or a city park district within the county. In the year for which the levy is sought, a board of county park commissioners seeking approval of a property tax levy under this chapter must file with the county auditor, at a time and in a format prescribed by the county auditor, a financial report for the preceding calendar year showing the ending balances of each fund held by the board of county park commissioners during that year. The county auditor shall credit the funding authorized by the board of county commissioners to the separate fund of the board of county park commissioners. This levy shall not apply to cities that already have a park levy unless the governing body of the city by resolution consents to the levy.

The board of county commissioners shall consider the certificate and budget statement of the board of county park commissioners and may levy taxes annually as provided in section 57-15-06.6 for county park capital projects; acquiring real estate as a site for public parks; and construction, equipping, and maintaining structural and mechanical components of parks and recreational facilities. The question of whether the levy for county park capital projects for county parks and recreational facilities is to be discontinued must be submitted to the qualified electors at the next regular election upon petition of twenty-five percent of the qualified electors voting in the last regular county election, if the petition is filed not less than sixty days before the election. A levy may not be discontinued or reduced if it is dedicated to the payment of bonds issued pursuant to subsection 6 of section 21-03-07. If the majority of the qualified electors vote to discontinue the levy for county park capital projects for county parks and recreational facilities, it may not again be levied without a majority vote of the qualified electors at a later regular election on the question of relevying the tax, which question may be submitted upon petition as above provided or by decision of the governing board. The levy for county park capital projects for county parks and recreational facilities does not apply to any property located in a city in which park district taxes are levied, unless the governing body of the city in which the property is located consents, by resolution, to the levy.

11-28-07. Auditing and payment of bills.

All bills incurred by the board of county park commissioners shall be audited and recommended for payment by said board and shall be certified to the county auditor who shall present them for audit and allowance by the board of county commissioners in the same manner as other bills of the county are audited and allowed. Upon the allowance of such bills, they shall be paid out of the funds standing to the credit of the board of county park commissioners, from whatever source received, in the same manner in which other county obligations are usually paid.

11-28-08. Publication of rules, regulations, and proceedings.

All rules and regulations governing the use of county parks and recreational areas under the jurisdiction, supervision, control, and management of the board of county park commissioners and all proceedings of said board shall be published in the same manner as the proceedings of the board of county commissioners.

11-28-09. Violation of any rule or regulation - Penalty - Injunction.

Violation of any rule or regulation of the board of county park commissioners shall be an infraction, and in addition, the board of county park commissioners shall have remedy by injunction to enjoin the operation or maintenance of any establishment, concession, or activity prohibited by the rules and regulations of the board.

11-28-10. Police and sheriff to enforce chapter.

It is the duty of all police, the sheriff, and other peace officers to enforce this chapter and of the rules of the board of county park commissioners within their respective jurisdictions.

11-28-11. Declaration of power - Saving clause.

It is the purpose of sections 11-28-01 through 11-28-11, among other things, to ensure to the people of the state that the bodies of water, parks, and recreational areas created by public agencies in whole or in part with public funds for the use and enjoyment of the public shall not be made the source of private gain through means inconsistent with the best social uses of the same, and to that end the above-named sections shall be liberally construed. The provisions of sections 11-28-01 through 11-28-11 relating to the manner in which these objectives are to be accomplished do not form an inducement for its enactment. The powers herein granted to the board over private lands shall extend only so far as not prohibited by the state or federal constitutions. Should any word, sentence, paragraph, or section hereof be held to be unconstitutional, or should the exercise of any of the powers herein granted be in any particular circumstances in violation of either the state or federal constitution, the remaining provisions would have been enacted even though such provisions had been eliminated, hence invalidity of any part of sections 11-28-01 through 11-28-11 shall not affect the remainder of these sections, but the same shall continue to be in full force and effect as to all other provisions and all other circumstances within the limits of the constitution.

11-28-12. Joint county park district.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-13. Compensation - Vacancy - Meetings.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-14. Secretary and treasurer.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-15. Organization - Quorum.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-16. Powers and duties of board.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-17. District budget - Tax levy - Election.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-18. Auditing and payment of bills.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-19. Publication of rules and proceedings.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-20. Violation of rules - Penalty.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-21. Police officers to enforce provisions.

Repealed by S.L. 2015, ch. 439, § 104.

11-28-22. Declaration of power.

Repealed by S.L. 2015, ch. 439, § 104.