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GOVERNMENT CODE - GOV

TITLE 4. GOVERNMENT OF CITIES [34000 - 45345] (Title 4 added by Stats. 1949, Ch. 79.)

DIVISION 3. OFFICERS [36501 - 41805] (Division 3 added by Stats. 1949, Ch. 79.)

PART 2. LEGISLATIVE BODY [36801 - 40592] (Part 2 added by Stats. 1949, Ch. 79.)

CHAPTER 9. Discontinuance of Parks [38400 - 38510] (Chapter 9 added by Stats. 1949, Ch. 79.)

ARTICLE 2. Parks Dedicated by City [38440 - 38462] (Article 2 added by Stats. 1949, Ch. 79.)

38440. A city may discontinue and abandon the use as a public park of any land owned in fee by it and dedicated or placed in such use by such city, and thereafter dispose of the land, pursuant to this article.

(Amended by Stats. 1951, Ch. 729.)

38441. Without a special election, the legislative body may convey a minor portion of such a park in exchange for an equal or greater area or value of privately owned land contiguous to the park after:

- (a) Notice and a public hearing pursuant to this article.
- (b) Determination that the exchange is in the public interest.
- (c) Adoption of a resolution of discontinuance.

(Added by Stats. 1949, Ch. 79.)

38442. Except as provided in Section 38441, this article shall not be construed to authorize:

- (a) A discontinuance and abandonment, or change in the use, of such lands which will cause the reversion of the lands to private ownership or a forfeiture of the city's ownership in fee.
- (b) The discontinuance of the use of park lands acquired by funds obtained from a local assessment based on benefits.

(Added by Stats. 1949, Ch. 79.)

38443. Proceedings are initiated when the legislative body adopts a resolution declaring that public interest or convenience requires the discontinuance of the use of such land as a public park, and that the legislative body intends to call a special election to submit the question of discontinuance to the city electors.

(Added by Stats. 1949, Ch. 79.)

38444. The resolution shall:

- (a) Contain an accurate description of the lands.
- (b) State the common name of the park.
- (c) State the disposition which the legislative body proposes to make of the park.
- (d) Fix a time, not less than thirty nor more than sixty days after adoption of the resolution, and a place, at which the public or persons particularly interested may protest.

(Added by Stats. 1949, Ch. 79.)

38445. The city clerk shall cause the resolution to be published twice in a daily newspaper published and circulated in the city, or if there is none, twice in a weekly or semiweekly newspaper so published and circulated. If there are no such newspapers, the resolution shall be published twice in a newspaper published in the county. Publication shall be completed at least twenty days before the time set for the hearing.

(Added by Stats. 1949, Ch. 79.)

38446. The park superintendent or another person designated by the legislative body shall cause at least three notices of the adoption of the resolution to be posted conspicuously not more than three hundred feet apart along the exterior boundaries of the area proposed to be discontinued and abandoned as a public park. Posting shall be completed at least twenty days before the time set for the hearing. Failure to post the notices does not invalidate the proceedings or prevent the legislative body from acquiring jurisdiction to proceed with the discontinuance and abandonment.

(Added by Stats. 1949, Ch. 79.)

38447. The posted notices shall be headed: "Notice of proposed discontinuance of public park land" in legible characters, state the date of adoption of the resolution, and recite the facts contained in the resolution.

(Added by Stats. 1949, Ch. 79.)

38448. At any time before the hour set for the hearing, any person or persons interested may protest in writing against the proposed abandonment and discontinuance, or to the extent thereof. The protest shall be delivered to the clerk of the legislative body.

(Added by Stats. 1949, Ch. 79.)

38449. At the time set for the hearing or to which it is postponed, the legislative body shall hear and pass upon all such protests.

(Added by Stats. 1949, Ch. 79.)

38450. Protests are sustained unless overruled by two-thirds vote of the legislative body. The legislative body may sustain protests as to one portion, and overrule them as to another portion of park land. If protests are overruled, the legislative body may adopt an ordinance calling, and fixing the date of, a special election to submit to the city electors the question of discontinuance and abandonment of the use of park land on which protests were overruled.

(Added by Stats. 1949, Ch. 79.)

38451. If a majority of the electors voting on the proposition are in favor of it, the legislative body shall adopt an ordinance declaring that use of the land described in the ordinance calling the election for park purposes is discontinued and abandoned.

(Amended by Stats. 1951, Ch. 729.)

38452. If less than a majority of such electors vote for it, the legislative body shall not initiate proceedings for discontinuance of the use of such land for park purposes for one year after the election.

(Amended by Stats. 1951, Ch. 729.)

38460. When the ordinance becomes effective, the land described in it is deemed held by the city in fee. The city may sell or otherwise dispose of the property in the same manner as it may dispose of other city property no longer required for municipal purposes.

(Amended by Stats. 1951, Ch. 729.)

38461. If the land was acquired by money derived from bonds authorized for park purposes, and the land sold, the reasonable market value of the land at the time of adoption of the ordinance shall be transferred to the bond fund from such other municipal fund as the legislative body determines. If the land was not acquired from bond funds and the land is sold, the proceeds from such sale shall be deposited in the general fund of the city.

(Amended by Stats. 1951, Ch. 729.)

38462. Except as permitted by general laws allowing diversions of bond funds, money so transferred shall be devoted only to the purposes for which the bonds were authorized.

(Added by Stats. 1949, Ch. 79.)