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# HANDBOOK

## Ohio County Commissioners

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## CHAPTER 35

# PARKS AND RECREATION

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### 35.01 INTRODUCTION

Local park and recreation activities are becoming more important in the lives of Ohioans. Many residents are "rediscovering" the leisure time activities available right here in "The Heart of It All." In addition, local communities are finding that the promotion of local sites and facilities can be an important economic development mechanism. This chapter of the handbook will discuss the powers of county commissioners relative to parks and a broad range of recreation related functions. It will also consider two additional structures that could prove important to the residents of a county in the delivery of park and recreation programs: park districts and joint recreation districts.

### 35.02 MAJOR POWERS OF COUNTY COMMISSIONERS FOR PARKS AND RECREATION

1. To acquire, construct, improve, maintain, operate, and protect parks, pathways, and forests.
2. To provide an administrative agency---often called the county parks department.
3. To acquire real estate in fee or lesser interest.
4. To receive and execute the terms of gifts and the bequests of money, land and other property (ORC 301.26, 9.20, and 9.26). This often involves the establishment of trust funds in the county treasury.
5. To designate lands and buildings owned by the county and not dedicated or devoted to other public use for playgrounds, playfields, gymnasiums, public baths, swimming

pools, or indoor recreation centers (ORC 755.12). In conjunction with these uses the county may also acquire land and buildings for these purposes.

6. To delegate supervision and maintenance of the above uses to a recreation or other existing body or advisory board and equip, operate, and maintain the facilities (ORC 755.13).
7. To hire play leaders, recreation directors, supervisors, superintendents, and other employees.
8. To procure liability insurance for park employees and to pay all or any part of its cost.
9. To adopt rules to preserve order within parks, playfields, and reservations and on adjacent highways, rivers, riverbanks, and lakes. These rules may deal with the preservation of property and natural life.
10. To levy a tax for recreation purposes. There is no limit on the amount of the levy, but it can not run for more than five years (ORC 5705.19(C) and (H)).
11. To enter into agreements with other political subdivisions, including park districts, to provide recreation services (ORC 307.15). This law allows the county to exercise any power, perform any function, or render any service, including park and recreation services, of the contracting subdivision.

### **35.03 CONTRIBUTIONS TO PARK DISTRICTS**

County commissioners are authorized to make contributions to park districts. Contributions may be in the form of money, supplies, equipment, office facilities, and other personal property or services. Such contributions are to be used for park planning, acquisition, management, and improvement (ORC 307.281). The commissioners may also issue bonds to make contributions to park districts for planning, acquisition, management, and improvement.

### **35.04 SUPPORT FOR THE ARTS**

Support for the arts, in the broadest sense, is an important form of recreation. State law provides for a variety of options for county participation. The county commissioners may allow the use and occupation of land dedicated and used for park purposes as the site for art buildings and for art purposes (ORC 307.28). Counties may also allow certain amusement, museum, and park corporations to build and maintain buildings on county park lands if certain specified conditions are met by the corporation (ORC 1743.10).

In counties where there is a symphony association, area arts council, or a similar organization, the county commissioners may pay the organizations up to one-half of a cent

for each \$100 of value as shown on the tax duplicate (ORC 757.05). Commissioners have a means to assist symphony orchestras, and other organizations to foster and encourage the development of the arts including literature, theater, music, dance, painting, sculpture, photography, architecture, and motion pictures (ORC 757.03). Prior to becoming eligible for county funds, the arts organization must allow the commissioners to nominate persons for membership on the organizations' governing boards who must be given the authority to require that orchestras and other performing arts groups provide feasible popular performances at low cost (ORC 757.06).

It is also possible to establish a regional arts and cultural district to be involved in promoting art related activities. When a district is created it becomes an independent taxing authority. A tax levy for the maintenance and operation of a free public museum of art or science is authorized in Section 5705.19(AA) of the Revised Code. For additional information refer to Sections 3381.01 to 3381.22 of the Revised Code.

### **35.05 ZOOLOGICAL PARKS**

County commissioners have the authority to maintain and operate a zoological park (ORC 307.76). The commissioners may also contribute to non-profit corporations for the following purposes:

1. To maintain and operate a zoo.
2. To develop a zoo.
3. To provide for the acquisition, care, and disposition of animals.

County commissioners also have the authority to levy a property tax for the provision and maintenance of zoological park services and facilities (ORC 5705.19(Z)).

### **35.06 JOINT PROVISION OF RECREATIONAL FACILITIES**

Counties are given broad authority to jointly provide recreational facilities by acquiring property for and constructing, maintaining, operating and equipping parks, playgrounds, playfields, gymnasiums, public baths, swimming pools, indoor recreation centers, and community centers. Any combination of municipalities, township park districts, counties, or school districts may join together for such purposes. Counties may also appropriate money for these purposes (ORC 755.16).

If the joint provision of facilities is agreed to, a written agreement must be executed among the cooperating parties. In addition, the combined political subdivisions may establish a joint recreation board to administer the agreements. The number of members, their terms and method of appointment and filling of vacancies must be specified in the resolution of the cooperating subdivisions (ORC 755.14). Once a joint recreation board is established

it elects its own chairman, secretary and other officers and may employ other persons (ORC 755.15). Members of the board receive no compensation.

### **35.07 MISCELLANEOUS AUTHORITIES**

County commissioners also have a variety of powers that can be considered related to recreational programs in the broadest sense. Table 35-1 at the end of this chapter details some of these powers.

Counties may also expend funds to promote tourism (ORC 307.692) and to assist convention and visitors bureaus (ORC 307.693). It must be stressed, however, that the purpose of these expenditures is primarily to promote economic development. Many communities, however, find a heightened interest on the part of local residents in their local sites and facilities after a tourism organization is established.

### **35.08 VACATION AND SALE OF UNUSED PARK LAND**

Sections 307.81 - 307.83 of the Revised Code provide a method for county commissioners to vacate or sell dedicated parks and park lands which have remained unimproved and unused by the public. Previous law stated that the lands must have been unimproved and unused for 21 years, but SB 266, effective July 21, 1992, removed the 21 year restriction.

If it appears that there is little or no possibility that the lands will be improved or used by the public, and if a majority of the abutting landowners petition for their vacation as dedicated park lands, the county commissioners may declare the park lands vacated. Before the commissioners take final action, the following steps must be taken:

1. Notice of the pending vacation is given in a newspaper of general circulation for three consecutive weeks.
2. Notification of the proposed vacation is given by letter to all political subdivisions who have the authority to acquire, develop, and maintain public parks and recreation areas, and who contain the lands within their boundaries, or adjoin a political subdivision which contains the lands.
3. Any of the above political subdivisions, within 90 days, may make an offer to buy or lease the lands.
4. The commissioners may reject any offer, except that if any political subdivision agrees to use the lands for park purposes and the commissioners find all the other terms acceptable, the commissioners shall accept that offer.
5. No offer shall be accepted until notice of the offer is published in a newspaper of general circulation in the area for three consecutive weeks and a public hearing is held.

When the real estate has been vacated or when it is to be sold or leased for non-park purposes, and where there are reversionary interests, the reversionary interests take precedence. If the commissioners are unable to establish the names of those to whom the property would revert, it shall establish a date on or before which claims to the real estate may be made. The commissioners must give notice by publication in a newspaper of general circulation for four consecutive weeks of the date before which claims must be made and of the date after which the real estate will be sold or leased. If no claims are made or found to be valid, the real estate shall be sold.

The real estate shall be sold by public auction at the courthouse to the highest and best bidder. The commissioners may reject any or all bids. Proceeds of the sale are placed in the general fund and may be used for any general fund purpose.

### **35.09 REQUIREMENT FOR RECREATIONAL AREAS IN SUBDIVISIONS**

Counties experiencing significant new housing development, may consider requiring developers to provide parks as a part of the development process. One of the purposes of county subdivision regulations is to "secure and provide for the proper arrangement of recreation..." (ORC 711.10). This has been interpreted to mean that the plat approving authority can require a reasonable amount of land for park purposes be dedicated as a condition for approval of the plat (OAG 7113, 1956). Some counties provide for the payment of fees-in-lieu of land dedication.

### **35.10 PARK DISTRICTS**

Park districts may be formed following the procedures contained in Chapter 1545 of the Revised Code. Park districts may include all or any part of land within a county as long as the boundary does not divide any existing township or municipality.

### **35.11 FORMATION OF PARK DISTRICTS**

To form a park district, an application must be submitted to the probate judge by any of the following:

1. A majority of the electors from the proposed district.
2. A resolution of the county commissioners.
3. A resolution of any board of township trustees within the district.
4. A resolution of any municipal legislative authority within the proposed district (ORC 1545.02).

The probate judge then holds a hearing on the application after giving public notice. After the hearing the judge may then establish the district if the judge finds that the creation of the district would be conducive to the general welfare (ORC 1545.03).

### **35.12 EXPANSION OF PARK DISTRICTS**

Land may be annexed to an existing park district in three ways:

1. By a petition submitted to the board of park commissioners from a majority of the electors in the area to be added.
2. By a petition submitted to the board of park commissioners signed by at least 50 residents from the area to be added.
3. The board of park commissioners may petition the probate court for expansion.

The board of park commissioners, after receiving a petition from electors, decides if the annexation should be made. If they feel it is advisable, they apply to the probate judge stating why it is advisable to annex the land. Under this procedure, land in different counties can be included in the same park district. In addition, only portions of townships and municipal corporations need to be included in the district.

### **35.13 APPOINTMENT OF BOARD OF PARK COMMISSIONERS**

After the creation of the district, the probate judge appoints three park commissioners. The terms are for three years, except the first members are appointed to staggered terms so there is a new appointment each year. The county auditor and treasurer are ex-officio members as a result of the role they play in park district financing and administration.

The park commissioners must take an oath and file a \$5,000 bond with the county auditor. Park commissioners receive no pay but may be reimbursed for expenses. Park commissioners may be removed by the probate judge at his discretion after a hearing. Vacancies are filled for the unexpired term. County commissioners may also serve as park commissioners (OAG 73-064).

### **35.14 GENERAL POWERS OF BOARD OF PARK COMMISSIONERS**

The park commissioners are referred to as the board of park commissioners, which is the governing body of the park district. Following are the general powers and responsibilities of the board:

1. To sue and be sued.
2. To employ a secretary and other needed employees for whom it may purchase life and hospital insurance.

3. To hire and contract for professional, technical, consulting, and other special services. Procedures to be used in retaining such services must be detailed in the by-laws of the district.
4. To purchase needed goods following the competitive bidding procedures set forth in Sections 307.86 - .92 of the Revised Code.
5. To keep an accurate permanent record of the proceedings of the board and other information and reports relating to the district and its proceedings.

### **35.15 ADOPTION OF BY-LAWS, RULES, AND REGULATIONS**

The board must adopt by-laws, rules and regulations that it determines is advisable for the preservation of good order within and adjacent to the parks and to protect and preserve the land, property and natural life under its jurisdiction. All such by-laws or other rules and regulations must be published in the same manner as municipal ordinances.

### **35.16 CONTRACTS WITH NATURAL HISTORY ASSOCIATIONS**

The park commissioners may enter into a contract with non-profit associations that maintain natural history museums within the district to provide any assistance or services deemed necessary. Contracts may also be executed with an association not maintaining a museum if the purpose of the association is to promote interest, conservation, or preservation of flora or fauna in the district.

### **35.17 ACQUISITION, SALE, OR LEASE OF PROPERTY**

The board of park commissioners may acquire land for two broad purposes:

1. For conversion into forest reserves.
2. For conservation of natural resources.

Park districts have the authority to acquire land by the following methods:

1. Cash purchase.
2. By gift or devise.
3. Purchase by installment payments.
4. Lease-purchase agreement.
5. Lease with or without purchase option.

6. Eminent domain following the procedures of Chapter 163 of the Revised Code.

The board can also accept gifts of money or other property, with the approval of the probate court, to further the use and enjoyment of the land it controls. It may act as a trustee of land and other property and administer the terms of a donor or a trust agreement.

Park commissioners may sell land that has been acquired if they find it is not needed. Before selling, the board must publish a notice of intent to sell once a week for four consecutive weeks in at least two newspapers of general circulation in the district. The notice must contain an accurate description of the lands and the time and place where sealed bids will be received for the land. After these bids are received, no future private sale at a lesser amount than the highest and best bid is permitted unless the land is readvertised. Prior to any sale of land, the board of park commissioners must receive approval of the probate judge.

### **35.18 PARK SECURITY**

The board of park commissioners may designate security personnel, and when so designated, they may exercise all the powers of police officers within the parks and on lands adjacent to the park. Park district rangers and patrolmen must take an oath and give bond in an amount determined by the board of park commissioners.

### **35.19 INTERGOVERNMENTAL CONTRACTS**

State law grants broad authority for park districts to contract with other public authorities. They may enter into contracts concerning the control of parks or the development, improvement, or protection of parks.

### **35.20 TAXATION, BONDS, AND INVESTMENTS**

The board of park commissioners may levy up to .5 mills annually "subject to the combined minimum levy..." (ORC 1545.20). This section allows a levy of inside millage by park districts, however, the county budget commission has some discretion when determining if it should certify the levy. The board may also submit an outside millage levy to the electors of the district. The levy can be for up to two mills and can run for any number of years (ORC 153.351 and 1545.22).

Park districts also have authority to borrow in anticipation of tax levies by issuing general obligation notes and bonds. They may also issue revenue bonds by pledging the following revenues to repay the instruments:

1. Pledges from deeds or the terms of a trust agreement.
2. Revenues resulting from rentals, concessions, licenses and permits.



Investment of park district funds is the responsibility of the county unless the park district board appoints a treasurer. If a treasurer is appointed, the treasurer is the fiscal officer of the board and has responsibility for investing and for certification of available funds before expenses are incurred (ORC 1545.22).

The law provides that interest income from the park district funds must be credited to the park district. If the park district board does not appoint a treasurer, the county auditor is the district's fiscal officer, and bills are paid after the secretary of the board certifies payment to the auditor.

### **35.21 JOINT RECREATION DISTRICTS**

Political subdivisions that are jointly providing recreational facilities under agreements as provided for in Section 755.16 of the Revised Code may establish a joint recreation district by resolution (ORC 755.14(C)).

This power is different from the joint provision of recreation facilities as discussed in section 35.06 of this chapter because the joint recreation district is an entirely independent district with independent authority to submit property tax levies and bond issues. Under the joint provision of recreation facilities procedure, tax levies and bond issues must be implemented by each individual governmental unit.

### **35.22 BOARD OF TRUSTEES**

The governing board of a joint recreation district is the joint recreation district board of trustees. The number of trustees is determined in the resolutions establishing the district, however, each participating subdivision must have representation. Once created, it has all the powers of legislative authorities under Section 755.12 to 755.18 of the Revised Code. The board of trustees must either appoint one of its members as fiscal officer or employ a person to serve in this position.

### **35.23 EXPANSION OF JOINT RECREATION DISTRICT**

Additional political subdivisions may join in a joint recreation district by petitioning the board of trustees for membership. If the district does not impose a tax, the petition simply has to be approved by the board of trustees. If the district has a tax levy in effect the subdivision that wants to join must be approved by the board of trustees and obtain approval of the tax levy by the electors of the petitioning subdivision (ORC 755.181).

### **35.24 TAXATION AND BONDING AUTHORITY**

A joint recreation board of trustees may directly submit a tax levy for recreation purposes to the electors of the district. There is no limit on the amount of the levy and it may be for a continuing period of time (ORC 5705.19(H) and 5705.01(C)). The board of trustees can also issue bonds and notes following the procedures of Chapter 133 of the Revised Code.

### **35.25 CONVERSION FROM TOWNSHIP PARK DISTRICTS**

Section 1545.041 of the Revised Code provides a method for converting a township park district into a park district organized under Chapter 1545 of the Revised Code, provided that no such park district exists in the county in which the township park district is located.

The conversion is initiated by a resolution of the township board of park commissioners, which includes:

1. The name of the township park district seeking conversion.
2. The name of the proposed park district.
3. An accurate description of the territory to be included in the proposed new park district.
4. An accurate plat or map of the proposed new park district.

The resolution may also contain provisions for a tax levy for the operation and maintenance of the proposed new park district.

The resolution, when adopted, must be certified to the board of elections no later than 75 days before the primary or general election. Only those persons who reside in the territory of the proposed new district may vote on the question of conversion. If the conversion is approved by at least a majority of those voting, it is effective January 1 of the following year. The board of the township park district becomes the board of the new park district, and assumes all of the powers and responsibilities of a board of park commissioners formed under Chapter 1545 of the Revised Code.

**TABLE 35-1**

**SELECTED RECREATION POWERS OF COUNTY COMMISSIONERS**

<b>DESCRIPTION OF AUTHORITY</b>	<b>ORC SECTION</b>
To provide for the organization and maintenance of social and civic centers.	307.26
To sell, lease, or transfer land to non-profit senior citizens organizations for a variety of purposes, including recreational	307.092
To allow the use of land or buildings under the control of the county for a public library	307.03
To provide funds for the use of veterans organizations to help pay expenses of Memorial Day. The amount per organization has been increased from \$200 to \$300 (HB 158, effective 10/10/91)	307.66
To assist in making improvements to county fairground buildings and grounds	1711.15
To construct, maintain, equip and furnish memorials to commemorate the services of veterans	345.01
To lease state owned lands for management, operation, and maintenance for conservation and recreational purposes	1501.02