

CHAPTER 660

AN ACT in relation to parks, recreation and historic preservation, constituting chapter thirty-six-b of the consolidated laws, and repealing article twenty-five of the executive law, article fifteen and parts one through twelve, fourteen and fifteen of article sixteen of the conservation law, title one of article eight of the public authorities law, and chapter eight hundred sixty-six of the laws of nineteen hundred thirty, entitled "An act to provide for the development of the Saratoga Springs reservation as a state health resort, creating for such special purpose a temporary state commission, to be known as the Saratoga Springs commission, providing for its organization and duration, defining its powers and duties and making an appropriation therefor"

Became a law May 31, 1972, with the approval of the Governor. Passed by a majority vote, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

PARKS, RECREATION AND HISTORIC PRESERVATION LAW

TITLE A

SHORT TITLE; DEFINITIONS

Article

1. Short title; definitions (§§ 1.01-1.03)

TITLE B

ORGANIZATION AND GENERAL POWERS, FUNCTIONS AND DUTIES OF OFFICE OF **PARKS, RECREATION AND HISTORIC PRESERVATION**

3. Office of parks, recreation and historic preservation;
commissioner (§§ 3.01-3.25)
5. State council of parks and recreation (§§ 5.01-5.09)
7. Park regions and regional park and recreation commissions
(§§ 7.01.-7.13)
9. Palisades interstate park commission (§§ 9.01-9.09)
11. State board for historic preservation (§§ 11.01-11.09)

TITLE C

PARKS, RECREATION AND HISTORIC PRESERVATION

13. General provisions (§§ 13.01-13.31)
14. Historic Preservation (§§ 14.01-14.12)
15. Park and recreation land acquisition bond acts

(§§ 15.01-15.13)

- 17. Outdoor recreation development bond act (§§ 17.01-17.11)
- 19. Historic sites (§§ 19.01-19.11)
- 19-A. Property held by the office of parks, recreation and historic preservation (§§ 19.13-19.29)
- 20. New York State park preserve system (§§ 20.01-20.03)

TITLE D

SNOWMOBILES

- 21. General provisions (§§ 21.01-21.07)
- 25. Control provisions (§§ 25.01-25.29)

TITLE E

ENFORCEMENT; PENALTIES; STATE AID

- 27. Enforcement; penalties; state aid (§§ 27.01-27.17)

TITLE F

MISCELLANEOUS

- 29. Miscellaneous (§§ 29.01-29.15)

TITLE G

HERITAGE AREAS

- 31. General provisions (§§ 31.01-31.03)
- 33. New York State Heritage Areas Advisory Council
(§§ 33.01-33.03)
- 35. New York State System of Heritage Areas (§§ 35.01-35.15)
- 39. Niagara River Greenway Commission (§§ 39.01-39.19)

TITLE A

SHORT TITLE; DEFINITIONS

ARTICLE 1

SHORT TITLE; DEFINITIONS

Section 1.01 Short title.
1.03 Definitions.

§ 1.01 Short title. This chapter shall be known as the "parks, recreation and historic preservation law" and may be cited as "PRHPL".

§ 1.03 Definitions. Whenever used in this chapter, unless a different meaning clearly appears from the context:

1. "Office" shall mean the state office of parks, recreation and historic preservation.

2. "Commissioner" shall mean the state commissioner of parks, recreation and historic preservation.

3. "Council" shall mean the state council of parks, recreation and historic preservation.

4. "Regional park, recreation and historic preservation commission" shall mean a regional park, recreation and historic preservation commission as described in section 7.03.

5. "Person" shall mean any individual, partnership, public or private corporation, political subdivision (including a school district), department, bureau or division of the state or a government agency, association, firm, trust, estate, joint-venture or any other legal entity whatsoever.

6. "Region" or "park region" shall mean a park region as established by the provisions of section 7.01.

7. "Municipality" shall mean a city, county, town or village, or an improvement district within a city, county, town or village or within any combination thereof.

8. "Governing body" shall mean:

- (a) in the case of a town, the town board;
- (b) in the case of a county outside the city of New York, the county board of supervisors or other elective governing body;
- (c) in the case of a city, the local legislative body thereof.
- (d) in the case of a village, the board of trustees or other elective

governing body;

(e) in the case of an improvement district, the official body or board having responsibility for the conduct of the affairs of such district.

9. "Improvement district" shall mean an improvement, assessment or special district.

10. "Property" shall mean real or personal property.

11. "Real property" shall mean lands, improvements and structures thereon, rights, franchises and interests therein, lands under water and riparian rights, and any and all interests in lands less than full title, including, without limitation, temporary or permanent easements (including scenic or conservation easements), divided or undivided interests, rights of way, uses, leases, licenses, and any other estate, interest or right in lands, legal or equitable.

12. "Personal property" shall mean any property, or interest therein, other than real property.

14. "Historic site" shall mean any real property, buildings or structures acquired or designated by the commissioner pursuant to his historic preservation powers, functions and duties, and those historic sites continued pursuant to the provisions of sections 13.01 and 19.05.

15. "Traffic" shall mean traffic as defined in section one hundred fifty-two of the vehicle and traffic law.

16. "Highway" shall mean a highway as defined in section one hundred eighteen of the vehicle and traffic law.

17. "Parkway" shall mean a highway heretofore or hereafter acquired or constructed by the department, a regional park commission or any state park or parkway authority for the purpose of access to state parks, which is listed in the regulations of the commissioner pursuant to section 13.03.

18. "Vehicle" shall mean a vehicle as defined in section one hundred fifty-nine of the vehicle and traffic law.

TITLE B

ORGANIZATION AND GENERAL POWERS, FUNCTIONS AND DUTIES OF OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

ARTICLE 3

OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION; COMMISSIONER

Section 3.01 Declaration of policy.

3.02 Guiding principles.

3.03 Office; commissioner.

3.05 Offices.

3.07 Organization of office; officers and employees.

3.09 General functions, powers and duties.

3.11 Designation of deputies or agents.

3.13 Subpoenas.

3.15 Statewide park and recreation plan.

3.16 Operational safety plans.

3.17 Acquisition and disposition of property.

3.19 Acquisition of property by eminent domain.

3.21 Limitation on use of Connetquot river state park water
resources.

3.23 New York state conservation corps.

3.25 Adopt-a-beach stewardship program.

§ 3.01 Declaration of policy. The state of New York is abundant in natural, scenic and other recreational resources, which for over a century have educated, edified, uplifted and delighted our citizens. The establishment and maintenance of a statewide system of parks, recreation and historic preservation are hereby declared to be policies of the state;

It is further declared that the general welfare of each citizen of the state is enhanced and promoted by giving further recognition to the magnificent state park, recreation and historic site system which is now in existence;

It is further declared that the individual's sense of purpose, well being, and identity are fostered and strengthened through parks, recreation and historic preservation programs;

It is further declared that local, state and national programs for parks, recreation and historic preservation must be coordinated and that such coordination is logically a state function;

It is further declared that the natural, ecological, historic, cultural and recreational resources within the state park, recreation and historic site system are integral components of the state's environment and contribute substantially to the quality of that environment and to the quality of our lives;

It is further declared that the stewardship of the natural, ecological, historic, cultural and recreational resources within the state park, recreation and historic site system is a primary responsibility of the state;

It is further stated that these purposes can best be served by continuing the office of parks, recreation and historic preservation in accordance with the terms of this chapter.

§ 3.02 Guiding principles. The office shall operate and maintain the state park, recreation and historic site system to conserve, protect and enhance the natural, ecological, historic, cultural and recreational resources contained therein and to provide for the public enjoyment of and access to these resources in a manner which will protect them for future generations.

§ 3.03 Office; commissioner. The office of parks, recreation and historic preservation is hereby continued in the executive department. The head of the office shall be the commissioner of parks, recreation and historic preservation, who shall be appointed by the governor, by and with the advice and consent of the senate, and hold office at the pleasure of the governor.

§ 3.05 Offices. The principal office of the office of parks, recreation and historic preservation shall be in the county of Albany.

§ 3.07 Organization of office; officers and employees. 1. Notwithstanding any inconsistent provisions of law, the commissioner may, from time to time, create, abolish, transfer and consolidate divisions, bureaus, boards, commissions and other units within the office as he may determine necessary for the efficient operation of the office, subject to the approval of the director of the budget, except that the council of parks, recreation and historic preservation, the several regional park, recreation and historic preservation commissions and the state board on historic preservation shall be continued as provided in this chapter.

2. The commissioner may appoint such deputies, directors, assistants and other officers and employees as may be needed for the exercise and performance of his powers, functions and duties and may prescribe their powers and fix their compensation within the amounts appropriated therefor.

§ 3.09 General functions, powers and duties. The office by and through the commissioner, shall:

1. Acquire and establish historic sites and objects and, except within the sixth park region, state parks, parkways and state recreational facilities.

2. Operate and maintain, either directly, or by contract, lease or license, such historic sites and objects, parks, parkways and recreational facilities.

2-a. Be empowered to encourage investment by the private sector for the provision of equipment and capital improvements for concession facilities operated at historic sites and, except within the sixth park region, state park and recreation facilities by entering into concession license agreements for extended periods not to exceed twenty years in total; provided that any such agreement for a period in excess of ten years must be approved by the director of the budget and must provide for a total capital investment of no less than one million dollars over the contract term. Such extended term shall be for the purpose of assuring a concessionaire of adequate protection against loss of investment in structures, fixtures, equipment, supplies and other improvements, and the length of such term shall have a direct relationship to the period required to amortize the investment. The bid prospectus submitted to prospective bidders shall contain specific information concerning the nature of the capital improvements or equipment to be provided by the successful bidder.

2-b. Be empowered, in addition to any other provision of law authorizing the leasing of property under its jurisdiction, to lease the Gideon Putnam hotel, Lincoln, Washington, Roosevelt I and Roosevelt II bathhouses and provide for reasonable rights of access, utilities and parking located within the boundaries of the Saratoga Spa state park, for reasonable consideration and for a term not to exceed forty years. Such extended term shall be for the purpose of assuring a lessee of adequate protection against loss of investments in structures, fixtures, equipment, supplies and other improvements, and the length of such term shall have a direct relationship to the period required to amortize the investment. Any such lease shall be entered into only after a finding by the commissioner that such action will encourage investment by the private sector in maintaining and preserving buildings listed on or eligible for the state register of historic places, established pursuant to section 14.07 of this chapter, and is compatible with public enjoyment and participation in adjacent park facilities. In addition,

such lease shall contain terms and conditions as the commissioner shall deem necessary to assure preservation and maintenance of the historic quality of any such property, the compatible uses with adjacent park lands and facilities, and otherwise to protect the public interest.

* 2-c. Be empowered, in addition to any other provision of law authorizing the leasing of property under its jurisdiction, to lease Hyde hall historic site and provide for reasonable rights of access, utilities and parking located within the boundaries of the Glimmerglass state park for a term not to exceed thirty years. Such extended term shall be for assuring a lessee of adequate protection against loss of investments in renovations performed on the Hyde hall historic site. Any such lease shall be entered into only after a finding by the commissioner that such action will encourage investment by the private sector in maintaining, preserving and restoring buildings listed on the state register of historic places, established pursuant to section 14.07 of this chapter, and is compatible with public enjoyment and participation in adjacent park facilities. In addition, such lease shall contain terms and conditions as the commissioner shall deem necessary to assure preservation and maintenance of the historic quality of any such property, the compatible uses with adjacent park lands and facilities, and otherwise to protect the public interest.

* NB Repealed January 1, 2047

2-d. Be empowered, in addition to any other provision of law authorizing the leasing or licensing of property under its jurisdiction, to encourage investment by the private sector for the provision of equipment and capital improvements at historic sites, state park and recreation facilities by entering into lease or license agreements for an extended term not to exceed forty years at the following: in the first park region, for services provided at the observation tower, and for buildings and structures commonly known as the Cave of the Winds building, the Top of the Falls Restaurant, the administration building, the visitor center, the Goat Island center, the snack bar at the Cave of the Winds, the current police building, the original Prospect Point elevator building, the lower landing snack bar and the Schoellkopf Museum, including improvements to structures and facilities appurtenant thereto at Niagara Reservation State Park, the site of the former

casino, the former commission house and the eighty-slip boat marina within the boundaries of Beaver Island state park and the structures known as the navy barracks, the post theater, the officers' club and the commandant's house within Fort Niagara state park, buildings and structures at Deveau Woods state park, and buildings and facilities within Knox Farm state park; in the second park region, the building known as Minturn Mansion within Long Point on Lake Chautauqua state park; in the third park region, for buildings and structures commonly known as the Glen Iris Inn, the Pioneer Museum, the Pinewood Lodge, the Prospect house, the Lauterbrunnen house, the Lower Falls restaurant building, the pool concession stands, the North Entrance visitor center, the administration building, the Commission house and the Stone building, including improvements to structures and facilities appurtenant thereto at Letchworth State park; in the fourth park region, the structures known as the caretaker's house and garage within the Buttermilk Falls state park, and the construction and operation of full service marinas and associated concessions, at Sampson state park and at Seneca Lake state park; in the seventh park region, the structure known as the brick cottage and associated outbuildings at John Jay Homestead state historic site, the structure known as the Hoyt House and the barns at Ogden Mills and Ruth Livingston Mills state park, the outbuildings at Olana state historic site and the building commonly known as the Staatsburg School in Margaret Lewis Norrie state park; in the eighth park region, for buildings and structures commonly known as the Bear Mountain Inn, the A. K. Morgan Overlook Lodge, the Cliff house, the Hilltop lodge, the Summit lodge, the Echo lodge, the Beaver lodge and the Spring lodge, including improvements to structures and facilities appurtenant thereto at Bear Mountain State Park; in the ninth park region, the main house at Caumsett state historic park preserve, the Boardwalk Restaurant at Jones Beach state park and the buildings and structures at Nissequogue state park; in the eleventh park region, the structure known as La Tour house, the former bottling plant and dormitory for adaptive reuse, and property for the development of a golf course and related facilities within Saratoga Spa state park. Any such lease or license may provide for reasonable rights of access, utilities and parking located within the boundaries of the respective park or historic site. Such extended term shall be for the purpose of assuring a

lessee or licensee adequate protection against loss of investments in developing, renovating, improving, furnishing and equipping such properties, and the length of the term of any such lease or license shall have a direct relationship to the period required to amortize the investment. Any such lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such lease or license will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such lease or license shall contain terms and conditions as the commissioner shall deem necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent park lands and facilities; and otherwise to protect the public interest. The bid prospectus submitted to prospective bidders shall contain specific information concerning the nature of the capital improvements or equipment to be provided by the successful bidder. Revenues from the lease or license of property pursuant to this section shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law.

* 2-e. Be empowered, in addition to any provision of law authorizing the leasing of property under its jurisdiction, to enter into a cooperative agreement, lease or license within the ninth park region, for parklands, parkway rights-of-way and structures at Cold Spring Harbor, including a library and environmental center. Any such cooperative agreement, lease or license may be for a term not to exceed one hundred years and provide for reasonable rights of access, utilities and parking in association with such facilities. Any such cooperative agreement, lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such agreement or lease will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such agreement or lease shall contain terms and conditions as the commissioner shall deem necessary to address environmental

concerns, including any historic and recreational resources of such property; the compatible uses of adjacent parklands and facilities; and otherwise to protect the public interest. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law, as added by section one hundred thirty-two of chapter fifty-five of the laws of nineteen hundred ninety-two.

* NB There are 2 sub 2-e's

* 2-e. Be empowered, in addition to any provision of law authorizing the leasing of property under its jurisdiction, to enter into a cooperative agreement, lease or license to develop, operate and maintain for athletic fields and recreational facilities, parkland located within the twelfth park region to be known as East River State Park. Any such cooperative agreement, lease or license may be for a term not to exceed fifty years and provide for reasonable rights of access, utilities and parking in association with such facilities. Any such cooperative agreement, lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such agreement or lease will encourage investment by the private sector in restoring, preserving and maintaining such properties. In addition, such agreement or lease shall contain terms and conditions as the commissioner shall deemed necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent park lands and facilities; and otherwise to protect the public interest. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law.

* NB There are 2 sub 2-e's

2-f. Cooperate with the office of probation and correctional alternatives by identifying appropriate worksites where persons performing community service as part of a criminal disposition may be assigned to provide cleanup and other maintenance services in order to preserve and enhance the state's natural beauty and human-made scenic

qualities. Such sites may include but are not limited to the state's shorelines, beaches, parks, roadways, historic sites and other natural or human-made resources.

2-g. Be empowered, in addition to any provision of law authorizing the leasing or licensing of property under its jurisdiction, to enter into a cooperative agreement, lease or license with the board of education of the school district of the city of Niagara Falls for parklands, parkway rights-of-way, buildings, structures and facilities within the first park region at DeVeaux Woods State Park for use by the school district as administrative offices, maintenance warehousing and related facilities. Such cooperative agreement, lease or license may be for a term not to exceed fifty years and shall provide for reasonable rights of access, utilities and parking in association with such facilities.

Any such cooperative agreement, lease or license shall be entered into only after a finding by the commissioner that such action is compatible with public enjoyment and participation in adjacent park facilities, and in the case of structures listed on or eligible for the state register of historic places, that such cooperative agreement, lease or license will provide for and encourage preserving and maintaining such properties.

In addition, such cooperative agreement, lease or license shall contain terms and conditions such as the commissioner may deem necessary to address environmental concerns, including any historic and recreational resources of such property; the compatible uses of adjacent parklands and facilities; and otherwise to protect the public interest.

Such cooperative agreement, lease or license may provide for the school district to make capital improvements to the property, including improvements to those spaces to be occupied by the office, and for the joint use of some or all of the buildings, structures and facilities between the school district of the city of Niagara Falls and the office of parks, recreation and historic preservation as well as sharing of capital costs for the improvements made to the buildings, structures and facilities, in which case payments to the office pursuant to such

agreement, lease or license by the school district shall be offset by expenses incurred by such school district in making capital improvements or in maintaining the designated building, structures and facilities for the term of any such cooperative agreement, lease or license. Revenues from any such agreement or lease of property shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law, as added by section one hundred thirty-two of chapter fifty-five of the laws of nineteen hundred ninety-two.

2-h. Be empowered, in addition to any other provision of law authorizing the leasing of certain property under its jurisdiction, to establish a resident curator program to encourage investment, restoration and occupancy of at-risk structures by authorizing the leasing of such at-risk structures on a competitive basis pursuant to the issuance of a request for proposal announced publicly including on the office website, for residential use only, as a single family dwelling, to individuals to be known as "resident curators" for terms of up to forty years in exchange for the resident curator assuming liability and financial obligation associated with the rehabilitation, maintenance and use of such buildings and any other property, real or personal, included in the lease. For the purposes of this subdivision, the term "at-risk structure" shall mean a house, building or other roofed structure under the jurisdiction of the office that is or has become functionally isolated from the direct public service mission of the office such that such structure is vacant and at risk of undergoing progressive deterioration and/or functional abandonment because of fiscal or other circumstantial difficulties. The length of the term of leases executed pursuant to this subdivision shall relate to the investment to be made by the resident curator which will be required to rehabilitate and maintain the at-risk structure for residential occupancy. The amount of rent to be charged, which may be nominal, shall be based on an assessment of fair market value taking into account the projected cost of rehabilitating the at-risk structure invested by the resident curator. Any lease executed pursuant to this section shall: require the resident curator to comply with all laws, rules and regulations and maintain appropriate insurance coverage associated with

the rehabilitation, maintenance and use of the leased premises; prohibit the resident curator from using the leased premises except in accordance with criteria to be determined per established rule; prohibit the resident curator from using the leased premises as security for any debt, or from assigning or subletting the premises except as authorized by the commissioner. Upon termination of any lease executed pursuant to this section, full use and enjoyment of the property reverts automatically to the state. No lease entered into in the resident curator program shall result in the displacement of any currently employed worker or loss of position, including the partial displacement such as reduction in the hours of non-overtime labor, wages or employee benefits, the diminishment of benefits, or seniority rights provided to such employee in the civil service law, or result in the impairment of existing collective bargaining agreements. The Commissioner shall consult with the state board for historic preservation, established pursuant to section 11.03 of this title, prior to entering into a resident curator lease for any at risk structure, including those eligible for listing on the state and national registers of historic places. The commissioner shall adopt a plan identifying at risk structures within state parks and historic sites, and shall adopt rules and regulations for the resident curator program, which shall include, but not be limited to, criteria for selecting responsible resident curators, criteria for establishing length of terms for leases, criteria for determining the amount of rent to be charged to resident curators which may be nominal factoring in the capital investment required to rehabilitate and maintain the leased premises and determining appropriate uses and restrictions on use of leased premises in the resident curator program, including whether and under what circumstances public access is appropriate to property in the resident curator program. This plan, as well as the rules and regulations, shall be presented to and approved by the state board for historic preservation prior to their adoption.

3. Encourage, facilitate and coordinate the planning and implementation of parks, recreational and historic preservation activities and programs of state agencies.

4. Cooperate in the planning, organization, development and operation of municipal and private park, recreational and historic preservation projects and programs.

5. Provide for the health, safety and welfare of the public using facilities under its jurisdiction.

6. Encourage, promote and engage in cooperative recreational, educational, historic and cultural activities, projects and programs undertaken by any federal, state or local governmental agency or private philanthropic or non-profit interest for the benefit of the public.

7. Undertake surveys or analyses deemed appropriate for the performance of the functions, powers and duties of the office through office personnel or consultants, or in cooperation with any public or private agencies.

7-a. Promulgate a comprehensive plan for the establishment of a state-wide trails system. For the purposes of this subdivision "trails" shall include footpaths, bike ways, snowmobile trails, horse trails, cross country ski trails, roads and other rights-of-way suitable for hiking, strolling, cycling, horseback riding, skiing and other means of motorized and non-motorized travel for recreational purposes and shall include combinations and systems of trails, including connecting and side trails, and trails leading to scenic and recreational areas. The commissioner, with the approval of the director of the budget, may, within the appropriations made available by the legislature, purchase such abandoned railroad rights-of-way as can be used in the comprehensive plan, and make improvements where necessary, in order to make them suitable and available for use as trails.

8. Adopt, amend or rescind such rules, regulations and orders as may be necessary or convenient for the performance or exercise of the functions, powers and duties of the office.

9. Enter into contracts with any person and do all things necessary or convenient to carry out the functions, powers and duties of the office.

10. Encourage, promote and provide recreational opportunities for residents of urban as well as suburban and rural areas.

11. When designated by the governor, act as the state agent for the receipt and administration of any federal grant or advance of funds for the assistance of any project, program or activity related to the functions, powers and duties of the office, where the designation of a state agent is required under federal law or regulation, regardless of whether the project, program or activity is undertaken by the office or another person.

12. Conduct hearings and prepare transcripts and records thereof, appoint hearing officers, administer oaths, subpoena witnesses and take depositions with respect to any matter under the jurisdiction or control of the office.

13. Bring or defend such actions, suits or proceedings as the commissioner may deem necessary or proper to perform any of the powers, functions and duties of the office.

14. Exercise and perform such other functions, powers and duties as shall have been or may be from time to time conferred or imposed by or pursuant to law.

15. Enhance the natural resources within the state park, recreation and historic site system by providing habitat for various wildlife species including endangered and threatened species of fauna through practices such as ecological restoration, wetland conservation and the planting of trees, shrubs and herbaceous plants indigenous to the area which act as food and protective cover for fauna. Selection of plant species or communities of species shall take into consideration the natural, ecological, historic, archeological, aesthetic, and public use resources in the immediate areas as well as the management goals of the park or site.

16. Enter into contracts or other agreements with not-for-profit

corporations or foundations to provide, either in whole or in part, for the operation, maintenance or other services for any park, recreational facility, historic site or program. The office may provide facilities for such corporations and foundations to conduct fund-raising activities for the support of such parks, facilities, sites and programs.

17. In consultation with the New York state biodiversity research institute created pursuant to section two hundred thirty-five-a of the education law, within amounts appropriated therefor, by January first, nineteen hundred ninety-five conduct a review of lands currently in state-ownership and under the office's jurisdiction to identify lands and waters that harbor plants, animals, and ecological communities that are rare in New York state.

18. Identify, protect, manage, and conserve important ecological and natural resources, including plants, animals and ecological communities that are rare in New York state, located on state parks, parkways, historic sites, recreational facilities and other lands under the jurisdiction of the commissioner.

19. Offer for sale advertising and corporate sponsorship space in various publications of the office and offer for sale informational and promotional material related to programs, operations, facilities and resources under the jurisdiction of the office. Any proceeds realized from the sale of advertising or corporate sponsorship space or informational or promotional materials shall be deposited in the patron services account of the miscellaneous special revenue fund and shall be used by the office to defray the cost of development and publication of informational and promotional material.

19-a. Prior to offering for sale to the public any merchandise, goods, commodities or food service at parks, recreation facilities, historic sites or other facilities under the jurisdiction of the office, make a written finding that the private sector is unable or unwilling to provide such merchandise, goods, commodities or food service under agreement with the office and under such terms and conditions as the commissioner determines are fair and reasonable to the state and

necessary to serve the public interest. Any proceeds realized from the sale of such merchandise, goods, commodities or food service shall be deposited in the patron services account of the miscellaneous special revenue fund and shall be used by the office to defray the cost of operating and maintaining such parks, recreation facilities and historic sites.

20. Provide for the display of the POW/MIA flag wherever the flag of the United States of America is on display at state parks, historic sites, and recreational facilities.

21. Develop, in consultation with the commissioner of health, informational signs and brochures alerting patrons of the dangers of overexposure to the sun and its relationship to skin cancer. The information on such signs and in such brochures shall include methods by which an individual may help prevent exposure to the sun and lessen his or her risk of contracting skin cancer. Such signs and informational brochures shall be placed in appropriate locations at the discretion of the commissioner.

22. Be empowered to enter into an agreement with the New York state thruway authority, which shall allow the office to utilize an electronic toll collection system for the collection of any entrance fee or parking fee at any historic site, park or recreational facility.

23. Establish and implement a program for the collection of recyclable materials that are discarded in state parks, state historic sites and state recreational facilities. Such recyclable materials shall include, but not be limited to, metal, plastic, glass and paper. In each such park, historic site and recreational facility the office shall install bins for the collection of recyclable materials. The office shall regularly collect and provide for the recycling of the recyclable materials collected.

24. Encourage and promote farmers' markets which offer for sale farm and food products, as such terms are defined in section two hundred sixty of the agriculture and markets law, at state parks when such

farmers' market does not harm the natural environment or integrity of the park. Such promotion shall include but not be limited to:

(a) posting information on the office's website pertaining to locations and times of operation for such farmers' markets held in state parks;

(b) identifying opportunities to expand farmers' markets to additional state park locations; and

(c) coordinating with other state agencies, including but not limited to empire state development and the department of agriculture and markets, to further the goals of this subdivision.

§ 3.11 Designation of deputies or agents. Whenever the office or commissioner is granted any power, function or duty under the provisions of this chapter or other law, such power, function or duty may be exercised by the commissioner or by any employee of the office, or board or commission therein, designated by the commissioner for such purpose.

§ 3.13 Subpoenas. The issuance and enforcement of a subpoena issued by the commissioner shall be governed by the civil practice law and rules, except that no employee of the office shall be entitled to special mileage or fees for the service of such subpoena. The commissioner shall not be required to issue a subpoena if such subpoena may be issued by counsel for the party requesting such subpoena.

§ 3.15 Statewide park and recreation plan. 1. The office shall formulate, maintain and from time to time revise a statewide park and recreation plan.

2. The office shall submit such plan and periodic revisions of such plan to the department of state and the governor. The department of state shall review such plan and such revisions and shall submit a report thereon, together with such recommendations as it may deem appropriate, to the governor. Such plan and revisions shall become effective upon approval by the governor and shall serve thereafter as a

guide for the development, protection and management of parks and recreation facilities.

2-a. Such plan and revision shall include the results of a survey of local park and recreation programs throughout the state that identify local park or recreation services which are unique, innovative or budget-effective and which may be readily adaptive to other localities. The findings from each such survey shall be maintained by the office until such subsequent revision and shall be readily available to local governments and their parks and recreation agencies.

2-b. Such plan shall describe the existing natural, ecological, historic, cultural and recreational resources within the state park, recreation and historic site system. It shall also identify any threats to the quality of these resources and the types of actions that will be taken to eliminate or substantially reduce such threats.

3. In formulating such plan and any such revisions, the office may:

(a) Conduct one or more public hearings;

(b) Consult with and cooperate with (i) officials of departments and agencies of the state having duties and responsibilities concerning parks and recreation; (ii) officials and representatives of the federal government, of neighboring states and of interstate agencies having duties and responsibilities relating to parks and recreation in this state; (iii) officials and representatives of local government in the state; (iv) officials and representatives of science, industry, education (v) persons, organizations and groups, public, or private, utilizing, served by, interested in or concerned with parks and recreation of the state; and

(c) Request and receive from any department, division, board, bureau, commission or other agency of the state or any political subdivision thereof or any public authority such assistance and data as may be necessary to enable the office to carry out its responsibilities under this section.

§ 3.16 Operational safety plans. 1. The office shall develop and

approve operational safety plans prior to the deployment of any employee in hazardous conditions. The plan shall include, but not be limited to, a comprehensive risk assessment identifying potential hazards associated with the deployment, mitigation measures to address identified risks, detailed information on team composition including roles and responsibilities, identification of an on-site authorized person responsible for overseeing operations, a clear chain of command for decision-making during the deployment, emergency contact information for all team members, and, to the extent applicable, evacuation procedures. The plan shall require that any employee check in with the incident commander or safety officer for incident specific procedures prior to taking any action at the incident location. The commissioner or the commissioner's designee shall review and approve all operational safety plans to ensure compliance with established safety standards, verify that the employees being deployed are adequately trained for their roles, and confirm that the operation is essential under hazardous conditions.

2. For the purposes of this section:

(a) "hazardous conditions" shall mean any situation that poses a significant risk to the health and safety of personnel, including but not limited to natural disasters, extreme weather, and other emergency situations.

(b) "Deployment" shall mean the organized assignment of employees that requires coordination beyond the scope of routine job duties.

3. When deployment occurs in coordination with one or more other entities, and the office is not the lead response agency, the office shall make reasonable efforts to ensure that employees are provided with the incident specific operational safety plan developed by the lead agency and/or incident commander.

4. Nothing in this section shall be construed to limit or delay the ability of employees to perform routine job duties or respond to imminent threats to life or property.

§ 3.17 Acquisition and disposition of property. 1. Notwithstanding any other provision of law, the commissioner may acquire such property as may be necessary for the purposes and functions of the office, within the amounts appropriated or available therefore. Such property may be acquired pursuant to the provisions of the eminent domain procedure law, or by purchase, lease, exchange, grant, condemnation, gift, devise, bequest, or by any other lawful means. No real property shall be so acquired unless the title thereto is approved by the attorney general. Notwithstanding the provisions of section eleven of the state finance law, the commissioner may accept a conditional grant, gift, devise or bequest with the approval of the director of the budget. Title to real property which is acquired shall be taken in the name of and be vested in the people of the state of New York.

2. Notwithstanding the provisions of the state finance law, or of any other law, the commissioner is hereby authorized to receive, hold and administer property, and the income thereof, acquired by grant, gift, devise or bequest, either absolutely or in trust. The commissioner may establish a special fund or funds consisting of monies so acquired and may administer and expand such monies in accordance with the terms and conditions of such grants, gifts, devises or bequests.

§ 3.19 Acquisition of property by eminent domain. 1. Whenever the commissioner deems it necessary to acquire property pursuant to the eminent domain procedure law, he shall cause to be made an accurate acquisition map as provided in said law. The acquisition map shall be made from an accurate survey of the property to be so acquired or in or to which any easement or estate less than full title is to be acquired specifying the particular nature and extent thereof, except that whenever a duly certified map or description of the property, easement or estate less than full interest to be acquired is available as a matter of public record, then in that event such map or description may be used by the commissioner to prepare the acquisition map. Upon the approval of the acquisition map by the commissioner, which shall be endorsed thereon, he shall acquire such property, easements, interests or rights in accordance with the provisions of the eminent domain

procedure law.

2. If the commissioner shall determine, prior to the filing of the acquisition map in the office of the clerk or register of the county, as provided in the eminent domain procedure law, that changes, alterations or modifications of such map as filed in the office should be made, he or she shall direct the preparation of a new map or direct that changes be made on the original tracing of such map, with a notation indicating such changes. Upon approval of such amended map by the commissioner, it shall be filed in the main office of parks, recreation and historic preservation as the original map was filed and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

3. If the commissioner shall determine, prior to the filing of a copy of the acquisition map in the office of the county clerk or register as provided in the eminent domain procedure law, that such map should be withdrawn, he or she shall file a certificate of withdrawal in the office and department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be cancelled and all rights thereunder shall cease and determine.

5. If, at or after the vesting of title to such property in the people of the state of New York in the manner provided in the eminent domain procedure law, the commissioner shall deem it necessary to cause the removal of an owner or other occupant from such property, he may cause such owner or other occupant to be removed therefrom by proceeding in accordance with section four hundred five of said law. The proceeding shall be brought in the name of the commissioner as agent of the state. If any person proceeded against shall contest the petition by an answer, the attorney general shall be notified, and he thereafter shall represent the petitioner in the proceedings. No execution shall issue for costs, if any, awarded against the state or the commissioner, but they shall be part of the costs of the acquisition and be paid in like manner. Proceedings may be brought separately against one or more of the owners or other occupants of a property, or one proceeding may be brought against all or several of the owners or other occupants of any

or all property within the territorial jurisdiction of the same justice or judge; judgment shall effect or be made for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

6. No agreement made by the commissioner in accordance with the provisions of section three hundred four of the eminent domain procedure law shall be binding upon the state of New York unless the attorney general shall certify that the person or persons claiming the amount so agreed upon be entitled thereto. Payment shall be made upon audit and warrant of the comptroller of the amount so agreed upon from monies appropriated for such purposes.

7. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the commissioner upon forms prescribed by him and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from monies appropriated for the acquisition of property under this section.

8. (a) The commissioner, with the approval of the director of the budget, shall establish and may from time to time amend rules and regulations authorizing the payment of the following expenses and losses incurred by the displaced owners or occupants of a property acquired pursuant to this section as a result of such acquisition:

(i) actual reasonable and necessary moving expenses; and

(ii) actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation on such property, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the commissioner; and

(iii) actual reasonable expenses in searching for a replacement business or farm; and

(iv) actual and reasonable expenses necessary to reestablish a displaced farm operation, not-for-profit organization, or small business at its new site but not to exceed the maximum amount provided for in the regulations.

(b) Such regulations may provide in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only, such regulations shall provide that the term "business" includes any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. Such regulations may also provide for payments to utilities for the relocation of their facilities under such circumstances and in such amounts as the commissioner may determine.

(c) Any person eligible for the payments authorized by paragraph (a) of this subdivision who is displaced from a residential property may, in lieu of such payments, elect to accept an expense and dislocation allowance, determined in accordance with a schedule prepared by the commissioner and made a part of such rules and regulations.

(d) Any person eligible for the payments authorized by paragraph (a) of this subdivision, who is displaced from a business or farm operation and who is eligible under criteria established by the department may, in lieu of such payments, elect to accept a fixed relocation payment, except that such payment shall be not less than the minimum nor more than the maximum amount provided for in the regulations. However, a person whose sole business at the property so acquired is the rental of such property to others shall not qualify for payment under this paragraph.

(e) Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by the commissioner and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid

out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. No payment shall be made under this subdivision for any cost, expense, difference or other amount for which payment was previously made.

(f) The regulations necessary to implement this subdivision shall be consistent with the applicable provisions of section thirty of the highway law, as the same may from time to time be amended, and regulations issued thereunder.

9. (a) Authorization is hereby given to the commissioner to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired by eminent domain who are entitled thereto, as determined by the commissioner. The commissioner, with the approval of the director of the budget, may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision.

(b) In the case of residential property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such supplemental relocation payment to such owner shall not exceed the maximum amount provided for in the regulations. Such payment shall include the following elements:

(i) the amount, if any, which when added to the acquisition payment equals the average price, established by the commissioner, required to obtain a comparable replacement dwelling for such displaced owner, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling; and

(ii) the amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of the comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such property. Any such compensating interest payment shall, notwithstanding the provisions

of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the requirements of such section; and

(iii) an amount which will compensate such displaced owner for reasonable expenses incurred for evidence of title, recording fees and other closing costs incident to the purchase of the comparable replacement dwelling, but not including prepaid expenses.

(c) Any supplemental relocation payment made pursuant to paragraph (b) of this subdivision shall be made only to a displaced owner who purchases and occupies a comparable replacement dwelling within one year subsequent to the date on which such owner is required to move from the dwelling acquired pursuant to this section or the date on which such owner receives from the state final payment for such acquired dwelling, whichever occurs later. The commissioner may extend such period for good cause; provided however, that any payment shall be based on the costs of relocating the displaced person to a comparable replacement dwelling within one year of such extended date. The regulations may provide that advance payment of such payments may be made in hardship cases.

(d) In the case of residential property acquired pursuant to this section from which an owner or tenant, not otherwise eligible to receive a supplemental relocation payment pursuant to the provisions of paragraph (b) of this subdivision, is displaced from dwelling thereon which has been actually and lawfully occupied by such owner or tenant for not less than ninety days immediately prior to (i) the initiation of negotiations for the acquisition of such property or (ii) such other event as regulations may prescribe when the displacement is not a direct result of such acquisition, such supplemental relocation payment to such owner or tenant shall not exceed the maximum amount provided for in the regulations. Such payment shall be the amount which is necessary to enable such owner or tenant to lease or rent for a period not to exceed the maximum time specified in the regulations, a comparable replacement dwelling but such amount shall not exceed the maximum amount specified in the regulations. Such payments may be made in periodic installments as determined by the commissioner. Any person eligible for a supplemental relocation payment under this paragraph may elect to use such payment for the down payment, including reasonable expenses incurred by such owner or tenant for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement

dwelling, but not including prepaid expenses, on the purchase of a comparable replacement dwelling, except such payment shall not exceed the maximum amount provided for in the regulations.

(e) Application for payment under this subdivision shall be made to the commissioner upon forms prescribed by the commissioner and shall be accompanied by such information and evidence as the commissioner may require. Upon approval of such application, the commissioner shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. No payment shall be made under this subdivision for any cost, expense, difference or other amount for which payment was previously made.

(f) The regulations necessary to implement this subdivision shall be consistent with the applicable requirements of section thirty of the highway law, as the same may from time to time be amended, and regulations issued thereunder.

10. Expenses incurred in the acquisition of the property, including the cost of making surveys, preparing descriptions and maps, appraisals, title searches, service and publication of notices, and expenses incurred in proceedings for the removal of owners or occupants, shall be deemed to be part of the cost of the acquisition of such real property and shall be paid accordingly out of any moneys appropriated for the acquisition of such property.

11. The state of New York shall be liable for any damages to any real property caused by the making of surveys, test pits, test borings or other investigations pursuant to section four hundred four of the eminent domain procedure law. Such damages may be recovered and adjusted and paid in the same manner as provided in this section with respect to compensation for real property acquired by eminent domain.

12. The owner of any real property acquired by eminent domain may present to the court of claims, pursuant to section five hundred three of the eminent domain procedure law a claim for the value of such property appropriated and for legal damages caused by such

appropriation, as provided by law for the filing of claims with the court of claims. Awards and judgments of the court of claims shall be paid in the same manner as awards and judgments of that court for the acquisition of lands generally and shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of such real property.

13. If the commissioner shall determine subsequent to the appropriation of a temporary easement in any real property that the purposes for which such easement right was acquired have been accomplished and that the exercise of such easement is no longer necessary, he shall make his certificate that the exercise of such easement is no longer necessary and that such easement right is therefore terminated, released and extinguished. The commissioner shall cause such certificate to be filed in the office of parks, recreation and historic preservation and a copy thereof certified by the commissioner to be filed in the office of the clerk or register of each county in which the property affected, or any part thereof, is situated. On the filing of such certified copy of such certificate with such clerk or register, it shall be his duty to record the same in his office in the books used for recording deeds and to index the same against the name of the people of the state of New York, as grantors. On the filing and recording of such certificate in the office of such clerk or register, all rights acquired by the state under such temporary easement shall cease. The commissioner shall cause a further certified copy of such certificate, with notice of the filing thereon in the office of parks, recreation and historic preservation and of the filing and recording of a certified copy thereof in the office of the clerk or register, to be mailed to each owner of the property affected, as certified by the attorney general, if the place of residence of such owner is known.

14. The commissioner, may make arrangements with respect to any lands heretofore or hereafter acquired by him, whereby such lands may continue to be occupied and used by the former owners, their tenants or assigns or by any other party from a date specified in said agreement until the state requires and obtains actual physical possession of such lands,

provided that during the period of such occupancy, such lands shall remain on the assessment rolls of the municipality, school districts and other districts in which they are located and shall be subject to real estate taxes and assessments in the same manner as privately owned lands. The right of a former owner, tenant, assignee or other party to occupy and use such lands shall be conditioned on the prompt payment of the full amount of such taxes and assessments, with interest and penalties, if any, and compliance with the provisions of section three hundred five of the eminent domain procedure law, if applicable. The state shall not be liable for real estate taxes or assessments on such lands during such a period. A copy of any such agreement shall be filed with the county clerk of the county in which such lands are located. Nothing herein contained shall be construed to limit the authority of the commissioner to accept conditional grants, bequests or devises of property under other provisions of this chapter.

§ 3.21 Limitation on use of Connetquot river state park water resources. No person shall extract any surface or ground water within the boundaries of the Connetquot river state park, except for public use within the park.

§ 3.23 New York state conservation corps. 1. A New York state conservation corps (hereafter referred to as the "corps") within the office is hereby established for the following purposes:

- a. To protect air, fish, forest, land, water and wildlife;
- b. To help maintain and improve botanical gardens, historic sites, libraries, museums, parks, parkways, refuges, trails, zoos and other recreational investments;
- c. To aid agricultural, fishing, forestry and tourist industries;
- d. To provide jobs and job training for young unemployed men and women, especially from disadvantaged backgrounds, to act as a stepladder

to permanent employment;

e. To foster co-operation among civilian and governmental agencies in order to educate the public about state resources;

f. To reinforce the "I Love New York" campaign;

g. To take advantage of the capital investment in facilities and equipment already in place from the programs of youth and young adult and civilian conservation corps paid for by federal dollars;

h. To educate the participants about our natural environment and cultural heritage, teach first aid and disaster procedures, and to otherwise encourage them to further their education; and

i. To do such other projects which provide disaster relief, increase energy conservation, improve fire prevention, beautify highways, control insects and rodents, upgrade public lands, and revitalize urban areas.

2. The office is authorized to provide for the use of state appropriations as are available for such purposes:

a. To coordinate corps participants in doing projects on land owned by the state or by a municipality or by an Indian nation, or activities taking place at nonproject sites when appropriate; and

b. To enter into agreements with any municipal corporation, state agency, not-for-profit organization or Indian nation which will agree to do projects consistent with this section.

3. The corps shall consist of the following components:

a. Summer: for youth enrollees, aged fourteen--eighteen;

b. Seasonal: for unemployed young adult enrollees, aged sixteen--twenty-four;

c. Non-residential: for young adult enrollees, aged sixteen--twenty-four;

d. Residential: for young adult enrollees, aged eighteen--twenty-five;

e. Volunteer: for interested persons of any age who are members of an organized group which has proper leadership and insurance;

f. Crew Leader: for young adults, aged eighteen and over;

g. Staff: for adults, aged twenty-one and up, who are needed for the few positions enrollees or crew leaders cannot fill; and

h. Director: for adults, aged twenty-five and up, who are in charge of local or state projects, residential camps, or overall program of corps.

4. The following minimum standards and requirements shall apply for all projects funded pursuant to the provisions of this section:

a. Enrollees and crew leaders shall be paid at rates set by the office, and may have incentive steps up to twice the rate of the federal minimum wage;

b. The distribution of projects should as much as practicable reflect the population of the state as a whole, the usage of qualifying sites, the population of and unemployment rates among the target age group, except for special needs arising from disasters caused by man and/or nature;

c. Applicants for summer and seasonal enrollee positions shall be chosen for interview by random methods;

d. Local operators shall match funds received from the state by providing for twenty percent local share of project costs consisting of cash or in kind services;

e. No participant in the corps shall displace or be substituted for

existing employees;

f. No individual may be an enrollee in the corps for more than twenty-four months of accumulated service;

g. All residential camps shall be operated by the office;

h. Projects will receive preference which provide for the most long term benefits to the public, meaningful work, work experiences, and are labor intensive;

i. A corps member must be a citizen or lawful permanent resident or lawfully admitted noncitizen;

j. Applicants for seasonal enrollee positions shall be unemployed;

k. Special consideration shall be given to the recruitment of enrollees who are economically, socially, physically, and educationally disadvantaged;

l. Volunteers may not be used for hazardous duties or law enforcement work;

m. Program funds may be expended to provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, recruiting, training and supervision;

n. Volunteers shall not be deemed to be employees, except for tort claims relating to compensation for work injuries;

o. The corps may do work at federal sites;

p. The corps will help support the empire state games, the state fair, and other events consistent with this section;

q. The corps will help the department of commerce, the Olympic regional development authority, the Adirondack park agency, and local

agencies in their tourist development activities;

r. The office shall whenever possible coordinate program activities with other youth sections of the office, department of labor, department of environmental conservation, the division for youth, agencies or programs operating pursuant to the Federal job training partnership act, department of social services, department of education, and local youth agencies;

s. Of the sums appropriated to carry out this section for any fiscal year from state and/or federal and/or private sources:

(i) not less than fifty percent shall go to local governments and not-for-profit groups,

(ii) not less than ten percent shall be spent on summer component,

(iii) not less than twenty-five percent of state projects shall be operated by the department of environmental conservation,

(iv) not less than ten percent of state projects shall be operated by Indian nations;

(v) not less than fifty percent of state projects shall be operated by the office;

t. Educational opportunities for corps participants shall be enhanced by:

(i) the provision of training and reference materials, both internal and from other state or federal sources,

(ii) arranging with educational institutions for the awarding of academic credit for competencies developed,

(iii) encouraging corps members to continue studies during non-working hours to complete high school equivalency diploma or college courses or job skill training;

u. The office shall coordinate educational, recruiting and training materials of the corps with the departments of education, environmental conservation and labor and the division for youth; and

v. The corps shall take advantage of the services available from the state university of New York, local community colleges and school boards

and the University of New York.

5. The office may accept supplementary public and private funds to assist in meeting the costs of operating the corps.

6. The commissioner shall prepare an annual report on the corps and submit such report to the legislature.

7. The office shall promulgate such rules and regulations as are necessary and appropriate and shall establish the corps as a separate bureau within the office.

8. The commencement of the corps and other provisions under this section shall be contingent upon the availability of federal and/or state moneys appropriated for such purposes.

§ 3.25 Adopt-a-beach stewardship program. 1. The commissioner may enter into stewardship agreements with any person or persons for the purposes of preserving, maintaining, or enhancing a state-owned beach, shoreline area or portion thereof in accordance with the policies of this chapter.

2. The stewardship agreement shall provide that the beach or shoreline area be preserved and maintained in its natural state or managed to enhance or restore the natural values it provides, consistent with the provisions of this chapter. Activities may include: remediating vandalism and storm damage, picking up litter and trash, establishing or maintaining access or nature trails, providing interpretive services for school groups and other citizens, and otherwise providing positive benefits to the beach or shoreline area.

3. Stewardship agreement with any person or persons may provide for assistance of personnel, facilities and supplies of the office for the purposes of supporting appropriate activities under such stewardship agreement, in accordance with the provisions of this chapter.

4. The office shall establish procedures by which a person or persons may apply for a stewardship agreement, and shall be responsible for working with such persons to identify specific sections of a state-owned beach or shoreline area and specific activities deemed appropriate for such stewardship agreement. The office may consider factors such as safety, environmental sensitivity, need, cost and other factors deemed relevant in determining which beach or shoreline areas or activities may be eligible or appropriate for a stewardship agreement.

5. The office shall provide recognition of the stewardship activities by appropriate signage on or near the adopted beach or shoreline area, and may provide recognition by such other measures as it may determine to be appropriate, including but not limited to press releases, certificates, and newsletters.

6. The stewardship agreement may be modified in scope or altered in any other manner at the sole discretion of the office, not inconsistent with the provisions of this section. The person or persons shall have the option of renewing the agreement subject to the approval of the office and the continuation by the office of the adopt-a-beach stewardship program. The office may immediately remove the signs and it may terminate the agreement upon thirty days notice, if in its sole judgment it finds and determines that the person or persons are not meeting the terms and conditions of the agreement.

7. Notwithstanding any inconsistent provision of law, the state and its employees shall not be liable for damages suffered by any person resulting from the actions or activities of such volunteers.

ARTICLE 5

STATE COUNCIL OF PARKS AND RECREATION

Section 5.01 Council.

5.03 Chairman; officers.

5.05 Meetings.

5.07 Office.

5.09 Powers, functions and duties.

§ 5.01 Council. There shall continue to be in the office a state council of parks and outdoor recreation, to be hereafter called the state council of parks, recreation and historic preservation. The commissioner shall be a member of the council and shall coordinate the functions and activities of the office with those of the council. In addition, the council shall consist of the commissioner of environmental conservation, the chairmen of the several regional park, recreation and historic preservation commissions, the chairman of the state board on historic preservation and the president of the Palisades interstate park commission if such president is a resident of the state of New York, and otherwise a resident member of such commission who shall be designated by the members of such commission who are residents of this state. No member of the council or his representative shall receive any compensation for his services as such, but each member or his representative shall be entitled to receive his actual and necessary expenses in performing the duties of his office.

§ 5.03 Chairman; officers. The governor shall designate a chairman and vice-chairman from among the members of the council, exclusive of the commissioners of environmental conservation and parks, recreation and historic preservation, to hold such offices at his pleasure. The council may provide for its organization and appoint such other officers from among its members as it deems appropriate.

§ 5.05 Meetings. The council shall hold regular meetings at least four times a year at such times and places as it may direct, and special meetings when authorized and called as prescribed in its by-laws. Members of the council may be represented at its meetings by a commissioner of their respective commissions, or a deputy or assistant commissioner of their respective departments.

§ 5.07 Office. The commissioner shall provide such suitable office

space for the council as may be required.

§ 5.09 Powers, functions and duties. The council shall:

1. Review the policy, budget and statewide plans of the department, and make appropriate recommendations regarding their amendment or adoption.
2. Submit reports to the governor, not less than once each year, concerning progress in the area of state parks, recreation and historic preservation, including recommendations for the future, and covering such other matters as the council may deem appropriate.
3. Act as a central advisory agency on all matters affecting parks, recreation and historic preservation.
4. Recommend, from among its members and for the governor's consideration, a chairman and vice-chairman.
5. Adopt such by-laws as may be required for the organization of the council and the conduct of its affairs.

ARTICLE 7

PARK REGIONS AND REGIONAL PARK AND RECREATION COMMISSIONS

Section 7.01 Park regions.

- 7.03 Regional park, recreation and historic preservation commissions.
- 7.05 Commission members; chairmen.
- 7.07 Organization; officers.
- 7.09 Meetings.
- 7.11 Powers and duties of commissions.

§ 7.01 Park regions. The state shall be divided into twelve park regions as follows:

1. The first region shall consist of the counties of Erie and Niagara and so much of the county of Cattaraugus as is contained between the present boundary line of Cattaraugus and Erie counties and a line running parallel with such boundary line and two miles south of such boundary line.

2. The second region shall consist of the counties of Chatauqua, Allegany, and Cattaraugus, except such part of Cattaraugus county as is included in the first park region.

3. The third region shall consist of the counties of Orleans, Genesee, Monroe, Wyoming and Livingston.

4. The fourth region shall consist of the counties of Wayne, Ontario, Steuben, Chemung, Schuyler, Yates, Tioga, Tompkins, Seneca and Cayuga, except the watershed of Skaneateles lake.

5. The fifth region shall consist of the counties of Oswego, Onondaga, Madison, Cortland, Chenango, Otsego, and Broome, the watershed of Skaneateles lake and those portions of the counties of Herkimer, Oneida and Delaware lying outside the Adirondack or Catskill parks.

6. The sixth region shall consist of the counties of Hamilton and Essex and those portions of the counties of Saint Lawrence, Lewis, Oneida, Clinton, Franklin, Herkimer, Fulton, Ulster, Saratoga, Warren, Washington, Greene, Delaware and Sullivan lying within the Adirondack or Catskill parks as defined in section 9-0101 of the environmental conservation law.

7. The seventh region shall consist of the counties of Columbia, Dutchess, Putnam and Westchester.

8. The eighth region shall consist of the counties of Orange and Rockland and those portions of the counties of Sullivan and Ulster lying outside the Catskill park.

9. The ninth region shall consist of the counties of Nassau and Suffolk.

10. The tenth region shall consist of the county of Jefferson and those portions of the counties of Lewis, Clinton, Franklin and Saint Lawrence lying outside the Adirondack park.

11. The eleventh region shall consist of the counties of Albany, Rensselaer, Schenectady, Schoharie, Montgomery and those portions of the counties of Warren, Washington, Fulton, Saratoga and Greene lying outside the Adirondack or Catskill parks.

12. The twelfth region shall consist of the counties of Kings, Queens, New York, Bronx and Richmond.

§ 7.03 Regional park, recreation and historic preservation commissions. Subject to the provisions of this chapter, the several regional park commissions shall be continued as regional park, recreation and historic preservation commissions, as follows:

1. The first region: the Niagara Frontier state park, recreation and historic preservation commission.

2. The second region: Allegany state park, recreation and historic preservation commission.

3. The third region: the Genesee state park, recreation and historic preservation commission.

4. The fourth region: the Finger Lakes state park, recreation and historic preservation commission.

5. The fifth region: the Central New York state park, recreation and historic preservation commission.

6. The seventh region: the Taconic state park, recreation and historic

preservation commission.

7. The ninth region: the Long Island state park, recreation and historic preservation commission.

8. The tenth region: the Thousand Island state park, recreation and historic preservation commission.

9. The eleventh region: the Saratoga Springs commission and the Capital district state park commission, as the Saratoga-Capital district state park, recreation and historic preservation commission.

10. The twelfth region: the state park, recreation and historic preservation commission for the city of New York.

§ 7.05 Commission members; chairmen. 1. Subject to the provisions of subdivision two, each of the regional park, recreation and historic preservation commissions shall consist of a board of seven members, appointed by the governor with the advice and consent of the senate, for terms of seven years. Members shall be citizens and residents of the state, and at least five members of each commission shall reside in the park region which the commission serves. The chairman of each commission shall be designated by the governor from among the members, and shall hold such office at the pleasure of the governor. Members of such commissions shall not receive any compensation, but shall be entitled to their actual and necessary expenses in performing the duties of their office.

2. Notwithstanding the provisions of subdivision one, the additional provisions below shall govern the appointment of members of the following commissions:

(a) Niagara Frontier state park, recreation and historic preservation commission. At least two members shall reside in Niagara county and at least three shall reside in Erie county.

(b) Genesee state park, recreation and historic preservation commission. At least two members shall reside in each of Monroe and

Wyoming counties, and at least one shall reside in each of the other counties in the third park region.

(c) Taconic state park, recreation and historic preservation commission. At least two members shall reside in Westchester county; the seventh member shall be the person holding the office of chairman of the Westchester county parks, recreation and conservation board, or the person holding a similar position in any agency or board which is a successor thereto or to the park functions thereof.

(d) Long Island state park, recreation and historic preservation commission. The commission shall consist of nine members. At least two members shall reside in Nassau county and two in Suffolk county; all members shall reside within the counties of Nassau and Suffolk.

(e) Thousand Islands state park, recreation and historic preservation commission. All members shall reside in the tenth park region.

(f) Saratoga-Capital district state park, recreation and historic preservation commission. The commission shall consist of nine members, at least six of whom shall reside in the eleventh region.

(g) State park, recreation and historic preservation commission for the city of New York. The commission shall consist of nine members. All members shall reside in the city of New York; provided however, that one member shall be the person holding the office of commissioner of parks and recreation of the city of New York, or the person holding a similar position in any agency or board which is a successor thereto or to the park functions thereof.

§ 7.07 Organization; officers. Each commission may provide for its own organization and appoint such other officers from among its members as it deems appropriate.

§ 7.09 Meetings. Each commission shall hold regular meetings at least four times a year at such times and places as it may direct, and special meetings when authorized and called as prescribed by its rules.

§ 7.11 Powers and duties of commissions. Each regional park,

recreation and historic preservation commission shall:

1. Act as a central advisory agency on all matters affecting parks, outdoor recreation and historic preservation within the park region it serves.

2. Represent and convey to the commissioner and council citizen viewpoints as to the programs and needs of the park region it serves.

3. Maintain close liaison with officials of the office having administrative jurisdiction over the park region which it serves, and advise such officials on local policy, operational and budgetary matters.

ARTICLE 9

PALISADES INTERSTATE PARK COMMISSION

Section 9.01 Continuation of commission.

9.03 Office.

9.05 Powers, functions and duties.

9.07 Acquisition of property.

9.09 Employees.

§ 9.01 Continuation of commission. The Palisades interstate park commission, as established by compact between the states of New York and New Jersey authorized by chapter one hundred seventy of the laws of nineteen hundred thirty-seven, shall continue in the office with the powers, functions and duties prescribed in this article. The commission shall continue to have the immediate custody, jurisdiction, management and control of all lands, parks or parkways in this state which it now has under its jurisdiction and control.

§ 9.03 Office. The commission shall have and maintain a suitable office where its maps, plans, documents, records and accounts shall be kept, subject to public inspection at such times and under such

reasonable regulations as the commission shall determine.

§ 9.05 Powers, functions and duties. In addition to the powers, functions and duties conferred upon it by compact, the commission, subject to the approval of the commissioner, shall, within the eighth park region:

1. Acquire and establish parks and recreational facilities and services.
2. Operate and maintain park and recreational facilities and services.
3. Provide for the health, safety and welfare of the public using facilities under its jurisdiction.
4. Appoint such employees, including members of the regional state park police for the eighth region, as may be necessary to carry out its powers, functions and duties.
5. Provide or operate, or provide by lease, concession, exclusive or non-exclusive privilege, or otherwise, for the operation of such facilities, including hotels, restaurants, stands, booths, amusements, docks and any and all means of transportation to, from or in parks and facilities under its jurisdiction, for the use and enjoyment of such parks and facilities by the public and for increasing public access thereto.
6. Lay out, construct and maintain roads, pathways, ways and parkways upon, across and over real property under its jurisdiction, or between and connecting any such roads, pathways, ways and parkways with other public roads or parkways outside such real property, and acquire any real property which is necessary or desirable for such park purposes, pursuant to the provisions of section 9.07.
7. Adopt, amend or rescind such rules, regulations or orders as may be necessary or convenient for the exercise or performance of the

functions, powers and duties of the commission, provided, however, no rule, regulation or order affecting traffic or navigation shall be effective unless authorized by the commissioner.

8. Exercise and perform such other functions, powers and duties as may be conferred or imposed by or pursuant to this chapter or other provision of law.

9. Do all other things which are necessary or desirable in carrying out its functions, powers and duties including wherever possible, the provision of habitat for various wildlife species including endangered and threatened species of fauna through practices such as ecological restoration, wetland conservation and the planting of trees, shrubs and herbaceous plants indigenous to the area which act as food and protective cover for fauna on those lands under the jurisdiction of the commission. Selection of plant species or communities of species shall take into consideration the natural, ecological, historic, archeological, aesthetic, and public use resources in the immediate areas as well as the management goals of the park or site.

§ 9.07 Acquisition of property. The commission shall have the power to acquire property for park and recreation purposes within the eighth park region, with the approval of the commissioner, in the same manner and to the same extent as provided for acquisitions by the commissioner under sections 3.17 and 3.19 of this chapter. Title to any real property so acquired shall be taken in the name of the commission. Title of, and jurisdiction and control over any real property so acquired shall be vested in the commission in the same manner as for real property presently owned by it, unless otherwise provided by law. Nothing herein contained shall be construed to affect the rights of the state of New York in any property heretofore acquired by the commission.

§ 9.09 Employees. 1. The commission shall have the power to take any action necessary for securing and maintaining the benefits of the public retirement systems of this state for its employees in this state and for

such purpose employees of the commission to the extent to which the compensation paid for their services is derived from funds appropriated by this state shall be deemed to be employees of this state and eligible for membership in the appropriate retirement system whether residents of this state or of the state of New Jersey, to the extent otherwise qualified.

2. For the purposes of eligibility for participation in the state health benefit plan under article eleven of the civil service law and for survivor's benefits for active and retired state employees, employees of the commission, to the extent to which the compensation paid for their services is derived from funds appropriated by this state, shall be deemed to be employees of this state and qualified for such participation and benefits. For the purpose of determining their rights under the workers' compensation law of this state, employees of the commission employed wholly or partly in this state shall be deemed to be employees of this state provided, however, that the amount of any payment made under such compensation law to an employee of the commission employed only partly in this state shall be only in such proportion as the amount of his or her salary paid by the state of New York shall bear to his or her total salary.

3. Employees of the commission whose salary is paid in full from funds appropriated by the state shall be deemed to be employees of the state in the classified civil service of the state under the provisions of the civil service law. Commission employees not deemed to be state employees hereunder shall be employees of the commission.

ARTICLE 11

STATE BOARD FOR HISTORIC PRESERVATION

Section 11.01 Declaration of policy; purpose.

11.03 State board for historic preservation.

11.05 Organization.

11.07 Meetings.

11.09 Powers, functions and duties.

§ 11.01 Declaration of policy; purpose. The existence of irreplaceable historic resources which give character and distinction to our communities and to the state are threatened by the forces of change. Accordingly, it is necessary and desirable to coordinate historic preservation.

Such historic preservation should involve, among others, historians, architects, educators, planners, realtors, public and private agencies at all levels of government and in the private sector, and should involve all levels of government.

The state government should assist local government and cooperate with the national government for such purposes.

It is the purpose of this chapter to continue and encourage historic preservation programs and activities and to vest responsibility for the coordination of such programs and activities in the commissioner of parks and recreation.

§ 11.03 State board for historic preservation. There is hereby established within the office a state board for historic preservation to consist of the commissioner of education, the commissioner of environmental conservation, the secretary of state, the chairman of the state council on the arts, the chairman of the council and eight members appointed by the governor, with the advice and consent of the senate, for terms of four years. A majority of the members shall be qualified, by education and experience, in the fields of history, architecture, archeology and other related professional disciplines. No member shall receive any compensation, but shall be entitled to his actual and necessary expenses in performing the duties of his office.

§ 11.05 Organization. 1. The governor shall designate a chairman from among the members of the board appointed by him, to hold such office at his pleasure. The board may provide for its organization and appoint

such other officers from among its members as it deems appropriate.

2. The commissioner, upon the approval of the board, shall appoint staff within amounts made available by appropriation to serve the board. The staff shall assist with the organization and implementation of the board's duties; serve as a liaison between the commissioner and board; inform the board of all developments germane to its duties and perform other duties required of the board through provisions of article fourteen of this chapter and any other laws affecting the board.

§ 11.07. Meetings. The board shall hold regular meetings at least four times a year at such times and places as it may direct, and special meetings when authorized and called as prescribed by its by-laws or by the commissioner. At meetings of the board, the commissioner of education, the commissioner of environmental conservation, the secretary of state, the chairman of the state council on the arts and the chairman of the council may be represented by other officers or employees of the state designated by them for such purpose.

§ 11.09 Powers, functions and duties. The board shall:

1. Advise the commissioner and the council on policy matters affecting historic preservation and the historic sites system and on priorities among historic preservation opportunities.

2. Provide expert consultation to the commissioner on historic site management, development and interpretation.

3. Review and make recommendations to the commissioner on the nomination of properties of national, state or local significance for inclusion in the national register or state register.

4. Review and advise the commissioner on the statewide comprehensive survey and plan for historic preservation.

4-a. Review and make recommendations to the commissioner on grant applications and use of federal and state grants-in-aid in the state.

4-b. Consult with the commissioner and review and comment in writing upon projects that they select, reviewed pursuant to section one hundred six of the national historic preservation act of 1966 and section 14.09 of this chapter, upon environmental impact assessments or statements or as otherwise provided by law on actions where it appears that any aspect of the action may or will cause any change, beneficial or adverse, in the quality of the historic, architectural, archeological or cultural character that qualifies an historic or cultural place for listing on the state register.

5. Adopt such by-laws as may be required for the organization of the board and the conduct of its affairs.

6. Perform such other functions relating to historic preservation and historic sites as may be requested by the commissioner.

9-a. To effectuate the purposes of this section, the board may request from any department, board, bureau, commission or other agency of the state, and the same are authorized and directed to provide, such cooperation and assistance, services and data as will enable the board properly to carry out its powers and duties thereunder.

TITLE C

PARKS, RECREATION AND HISTORIC PRESERVATION

ARTICLE 13

GENERAL PROVISIONS

- Section 13.01 Transfer of parks, parkways and other property.
- 13.03 Listing of state parks, parkways, recreation facilities
 and historic sites.
- 13.04 Assemblyman Herman D. Farrell, Jr. state park.
- 13.05 Caleb Smith State Park.

- 13.06 Consents to public utilities; licenses and easements.
- 13.07 Signs and advertising structures restricted.
- 13.09 Solicitation restricted.
- 13.10 Littering and dumping on park lands prohibited.
- 13.11 Real property abutting parks or parkways.
- 13.13 Regulation of boating and water sports.
- 13.14 Closure of lands owned, held or administered by the office.
- 13.15 Fees and deposits; refunds.
- 13.16 Annual vehicular access fee.
- 13.17 Regional state park police.
- 13.18 Three-year vehicular access fee.
- 13.19 Free use of campsites.
- 13.20 Five-year vehicular access fee.
- 13.21 Limitation on park and parkways in city of New York.
- 13.23 Land and water conservation fund; state agent.
- 13.25 State reservation at Saratoga Springs.
- 13.27 Hudson-Mohawk urban cultural park.
- 13.28 Lyme and tick-borne disease warning signs.
- 13.29 Sojourner Truth commemorative marker.
- 13.30 Reimbursement for expenditures necessitated by negligent, willful or reckless conduct.
- 13.31 Permits for activities near certain funeral events.
- 13.31*2 Oil and gas drilling in Allegany state park.

§ 13.01 Transfer of parks, parkways and other property.

Notwithstanding the provisions of any other law, the custody and control of all property heretofore acquired by or under the jurisdiction of any regional park commission, as defined in section 7.03, or the Saratoga Springs commission and the New York State historic trust, are hereby transferred to the office. The office shall have all of the powers with respect to such property as were possessed by the office, the several regional park commissions, the Saratoga Springs commission and the New York State historic trust on the day preceding the effective date of this act, in addition to any powers provided under the provisions of this chapter.

§ 13.03 Listing of state parks, parkways, recreation facilities and historic sites. 1. The commissioner shall, by regulation, maintain a current listing and description of all state parks, parkways, recreation facilities and historic sites under the custody and control of the office, other state agency, authority or other instrumentality of the state, which are now in existence or hereafter shall be acquired.

2. As used in this article, "state agency" shall mean the Palisades interstate park commission or the department of environmental conservation.

§ 13.04 Assemblyman Herman D. Farrell, Jr. state park. Notwithstanding any other law to the contrary, the state park known as Riverbank state park located on the upper west side of Manhattan on the banks of the Hudson river shall after the effective date of this section be known as Assemblyman Herman D. Farrell, Jr. state park and shall be suitably marked in a manner to be prescribed by the commissioner.

§ 13.05 Caleb Smith State Park. Notwithstanding any inconsistent provision of law to the contrary, on and after the effective date of this section the state park on the Nissequogue river known as the Nissequogue State Park shall be known as the Caleb Smith State Park and shall be suitably marked, in a manner to be prescribed by the commissioner.

§ 13.06 Consents to public utilities; licenses and easements. Notwithstanding any other provision of law, no railroad, bus line, telephone or telegraph company, gas, power or light company, pipe line company or other public utility shall have the right to pass over, through or under any property acquired by the office or other state agency for park, recreational or historic preservation purposes, except by written consent, in the form of a license or easement, granted by the

commissioner, or such state agency, and then only under such regulations and restrictions as the commissioner or such state agency shall deem proper. The commissioner or other state agency shall have the right to grant to any person or the federal government a license or an easement for any public purpose or to construct or maintain sewers, water, petroleum products, gas lines and electric transmission facilities within, under or across such property, upon such terms and conditions and under such regulations and restrictions as the commissioner or such state agency shall deem just and proper.

§ 13.07 Signs and advertising structures restricted. 1. In order to conserve the natural beauty of and the investment of the state in state parks and parkways by preserving and regulating them for public uses, for the resort of the public for recreation, transportation, pleasure, air, light and enjoyment by keeping them in good order for the welfare of society, and to prevent the unrestricted use of signs and advertising structures and devices immediately adjacent to them, no person shall erect or maintain within five hundred feet of the border of any state park or parkway any advertising sign or advertising structures or devices of any kind, except under written permit from the office or state agency charged with responsibility for the maintenance of such park or parkway. The provisions of this section shall not apply to signs erected or maintained upon property in connection with a business conducted thereon, provided that such signs have an area of not more than twenty-four square feet, do not extend more than fifteen feet above the ground level, and are placed on the fronts of buildings.

2. The provisions of this section shall apply to all parkways constructed within the limits of a city with state funds or federal highway aid. In the event that jurisdiction is transferred pursuant to law from the office or state agency to a municipal park commission or department, the provisions of this section shall remain effective as to such parkways, and shall thereafter be enforced by the local park commissioner, commission or public authority to whom the jurisdiction is transferred.

3. In addition to any fine or penalty provided by this chapter, the attorney-general may institute any proper action, suit or proceeding to prevent, restrain, correct or abate a violation of this section or to cause the removal of any sign, advertising structure or device erected or maintained in violation of the provisions of this section.

§ 13.09 Solicitation restricted. No person engaged in the business of transporting passengers for hire to or through any state park or offering guide or other services for a fee to visitors to any state park shall engage in any of the following practices:

1. The giving of false or misleading information concerning state parks or hotel, tourist home, cabin, or other tourist accommodations, or their rates, facilities or services.

2. The giving of false or misleading information concerning travel routes or conditions of travel, bridges, bridge facilities or bridge rates, parking accommodations, business establishments of service or interest to such visitors, including the facilities, services and rates of other sightseeing services.

3. The halting on the highways leading to state parks or on the streets of cities, towns or villages in the vicinity of state parks, of motor vehicles or pedestrians, for the purpose of soliciting or inducing them to purchase the transportation or services offered.

4. The wearing of police-type caps, uniforms or parts of uniforms, badges or insignia which convey the impression that such solicitor is a police officer or has authority by law to require motorists to obey his signal or direction to stop.

5. The use of the term "official" on a privately operated information stand or by a sightseeing service conducted for private gain unless the operator of such stand or service shall have been licensed or duly authorized to operate such stand or conduct such service by the office or state agency having jurisdiction of such park, or by the county or

city in which such operations are conducted.

§ 13.10. Littering and dumping on park lands prohibited. 1. No person shall throw, deposit, dump, litter or otherwise leave on lands under the jurisdiction of the office any rubbish, trash or other waste material, or enter upon any lands under the jurisdiction of the office with the intent to do so, except that this provision shall not apply to the deposit of rubbish, trash or other waste material generated as a result of the lawful use of such lands and deposited in an approved receptacle.

2. Nothing in this section shall be construed as prohibiting the reasonable use of ash, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet.

3. Any person who violates the provisions of subdivision one of this section shall be guilty of a violation, and, upon conviction, shall be punished by a fine of not more than five hundred dollars. In addition, such violator shall be liable to a civil penalty of not more than seven hundred fifty dollars for each day during which such violation continues.

4. In addition to the penalties provided in subdivision two of this section, any person convicted of a violation of subdivision one of this section may be ordered by the court to remove the rubbish, trash or waste materials and to restore the land affected by the violation to its condition prior to the violation, insofar as such restoration is possible. Such restoration shall be conducted pursuant to a plan approved by the commissioner and/or the court. In the event that the violator fails to comply with the provisions of such plan, the violator shall be liable to the state for the costs of such restoration as a civil penalty.

5. Any civil penalty provided for by this section shall be recoverable in an action instituted by the attorney general, at the request of the commissioner, in any court of competent jurisdiction.

§ 13.11 Real property abutting parks or parkways. 1. If the acquisition of real property for park, parkway, historic preservation or recreational purposes by the office or a state agency results in abutting premises being cut off from access to a public road, or if because of such acquisition it is desirable for public convenience to provide marginal or service roads near or adjacent to such acquired property, the office or state agency so acquiring is authorized to acquire such additional real property as may be necessary to provide such abutting premises with means of ingress and egress to a public road or to provide such marginal or service roads. The location of such additional real property and the nature and extent of the title to be acquired therein shall be such as in the discretion of the commissioner or state agency, as the case may be, as shall best serve the interest of the state.

2. The office or state agency so acquiring is authorized to construct upon such real property, out of funds appropriated, a suitable access, service or marginal road, and is further authorized to enter into an agreement with the owner of the abutting premises as to his right of entry thereupon and with said owner or with any municipality as to the future maintenance thereof, and to transfer title and jurisdiction thereover to such municipality. Nothing herein contained shall be construed to repeal any specific limitation upon the powers and duties of the office or any state agency.

§ 13.13 Regulation of boating and water sports. Except when prohibited by the laws of the United States, the commissioner or other state agency may, by rule or regulation, regulate water sports and the operation, speed and mooring of boats in or upon any waters or waterways in the reservations and parks under the jurisdiction of the office or such state agency. Such rules and regulations shall also apply to any waters offshore from any bathing beach within the jurisdiction of the office or such state agency, and to any waters offshore of Jones Beach state park, Robert Moses state park and Orient Beach state park, but not to exceed a distance of one thousand feet from the shore line. Any regulation of the

Palisades interstate park commission, adopted hereunder, shall not be effective until approved by the commissioner.

§ 13.14 Closure of lands owned, held or administered by the office. 1.

Except as provided in subdivision five of this section, not less than six months before the proposed permanent closure of a park or historic site owned, held or administered by the office, the commissioner shall issue a draft report that provides the justification and rationale for such closure including, but not limited to:

(a) a full description of the real property;

(b) the purposes that the park or historic serves to the people of the state;

(c) an analysis of the potential harm to such real property from vandalism, lack of management and maintenance, and other impacts from the lack of regular oversight by the office;

(d) the impact of such proposed closure on the entire real property system owned and operated by the office; and

(e) such other factors that are particularly relevant to the real property and its function as state land.

2. Not less than four months before the proposed permanent closure of public access to such park or historic site, the commissioner shall provide public notice of and conduct one or more public hearings in the impacted area of the proposed closure. Notice of any such hearing shall be in the environmental notice bulletin. Each public hearing shall accept written statements in lieu of an oral presentation.

3. Upon conclusion of the public hearings on a closure, the commissioner shall issue a final report which includes the response on all issues raised at the hearings and information entered into the hearing record. Such final report shall be posted on the website of the office.

4. The commissioner shall issue and submit to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the senate cultural affairs and tourism committee and the chair

of the assembly, parks, arts and sports development committee a findings statement on each proposed closure that provides the justification for such closure or, in the alternative, the information that supports the continued operation of the real property.

5. The requirements of this section shall not apply to seasonal park closures, temporary closures due to inclement weather or as reasonably necessary to effectuate repairs, maintenance or capital improvements, or temporary limits on public access for routine operational reasons, such as public safety or other emergencies.

§ 13.15 Fees and deposits; refunds. 1. The office or other state agency having jurisdiction of any state park, parkway, recreational facility or historic site may establish fees or other charges for the use thereof, or for the furnishing of special services with respect thereto.

2. Notwithstanding any other provision of law, the office or such state agency may promulgate regulations requiring cash deposits from patrons of state parks and other facilities as security to protect state property against loss or damage, or to limit the extent or duration of the use of facilities, or to guarantee compensation to the state for facilities rented or engaged. Such regulations shall establish the conditions under which such deposits shall be forfeited. Such deposits, not paid in consideration for services rendered or facilities used, shall not be considered as receipts and may be returned by the office or such state agency to the depositor upon satisfaction of all provisions for which the deposit was taken. Upon the forfeiture of any such deposit, the deposit shall become a part of the receipts of the office or such state agency. Moneys that have been paid for services to be rendered or for facilities to be used may be refunded within one year from the receipt thereof if the commissioner or state agency shall determine that the services have not been rendered or that conditions beyond the control of the patron will prevent his use of the facilities. Such refund, after audit by the comptroller shall be paid from any moneys in the custody of the office or such state agency received

pursuant to this section.

3. The fees and other charges of any nature made for the use of state parks, other state recreational facilities and historic sites under the jurisdiction of the office or any other state agency shall not hereafter be decreased without the approval of the director of the budget.

4. No regulation, rule or order of the Palisades interstate park commission which establishes a fee, charge or deposit pursuant to this section shall be effective until approved by the commissioner.

5. (a) The office or other state agency having jurisdiction of any state park, parkway, recreational facility or historic site may enter into agreements with one or more financing agencies to provide for the acceptance by such office or other state agency of credit cards as a means of payment of fees for the use of its facilities or for the furnishing of special services with respect thereto. Any such agreement shall govern the terms and conditions upon which a credit card proffered as a means of payment of such fees shall be accepted or declined and the manner in and conditions upon which the financing agency shall pay to the office or other state agency the amount of such fees paid by means of a credit card pursuant to such agreement. Any such agreement may provide for the deduction by such financing agency of any fees for the services provided by such financing agency from fees collected by it. The office or other state agency having jurisdiction of any state park, recreational facility or historic site must accept cash payment from patrons, and is prohibited from requiring that any patron utilize a credit card as a means of payment of fees for the use of its facilities or for the furnishing of special services at any state park, recreational facility or historic site.

(b) For the purposes of this subdivision, the following terms shall have the following meanings:

(1) "Credit card" shall mean any credit card, credit plate, charge plate, courtesy card, debit card or other identification card or device issued by a person to another person which may be used to obtain a cash advance or a loan or credit or to purchase or lease property or services on the credit of the person issuing the credit card or a person who has

agreed with the issuer to pay obligations arising from the use of a credit card issued to another person.

(2) "Financing agency" shall mean any agency defined as such in subdivision eighteen of section four hundred one of the personal property law.

6. The office may establish a fee or fees for its processing and review of applications for the certification of the rehabilitation of historic buildings and the approval of rehabilitation expenditures and related work pursuant to subsection (pp) of section six hundred six of the tax law. All revenues from these fees shall be deposited by the comptroller in the miscellaneous special revenue fund to be credited to the agency's patron services account and shall be used to support the office's historic preservation program. Nothing in this subdivision shall be construed to limit the ability of a local landmark commission established pursuant to section ninety-six-a or one hundred nineteen-dd of the general municipal law or a local government certified pursuant to section 101(c)(1) of the national historic preservation act to establish and charge fees for its processing and review of applications for the certification of the rehabilitation of historic buildings and the approval of rehabilitation expenditures.

§ 13.16 Annual vehicular access fee. 1. Notwithstanding any other provision of law to the contrary, the office or other state agency having jurisdiction of a state park or recreational facility shall establish an annual vehicular access fee which shall run from April first of each year to March thirty-first of the following year, entitling the holder thereof to a pass for vehicular admission without additional fee to any state park or recreational facility which has a vehicular access fee. Such annual fee shall be consistent with the fee schedule for each particular year established pursuant to section 13.15 of this chapter and shall be approved by the director of the budget.

2. The pass for vehicular access shall be available at regional park headquarters and such other places as the office or such other state agency shall designate. Holders of such pass shall receive a decal to

be placed on the side window of a vehicle for purposes of identification. Such decal shall have the emblem of the beaver thereon.

3. Such pass for vehicular access shall not be available to the owner or operator of an omnibus operated for a commercial purpose, unless such omnibus is operated by or pursuant to an agreement with a public or private nonprofit agency for the purpose of transporting persons to or from a state park for a recreational experience.

4. If it is demonstrated that the use of the pass for vehicular access in particular parks or recreational facilities is contrary to the public interest, the office or such other state agency having jurisdiction, may prohibit its use in such particular parks or recreational facilities by rule or regulation.

5. The office or other state agency having jurisdiction shall promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

§ 13.17 Regional state park police. 1. All members of any police force of a regional state park commission, as heretofore constituted, shall, unless transferred by or pursuant to any other provision of law, continue to be members of the park police force of their respective regions, in the office.

2. Any member who shall complete twenty-five years of total service as a member of the New York regional state park police on or after April first, nineteen hundred sixty-six but who has not attained sixty-two years of age at the time of completion of such period of service, shall be separated from such service upon attaining such age.

3. Any member who shall attain sixty-two years of age on or after April first, nineteen hundred sixty-six, but who has not completed twenty-five years of such total service at the time of attaining such age, shall be separated from such service upon completing such period of service.

4. Any member appointed on or after April first, nineteen hundred sixty-five shall be separated from such service upon attaining sixty-two years of age.

5. The provisions of subdivisions two, three and four of this section shall not apply to the commanding officer or chief of any police force of a park region, nor to any member who has not elected and is not required to contribute in accordance with sections three hundred eighty-three or three hundred eighty-three-a of the retirement and social security law.

§ 13.18 Three-year vehicular access fee. 1. Notwithstanding any other provision of law to the contrary, the office or other state agency having jurisdiction of a state park or recreational facility shall establish a three-year vehicular access fee which shall run from April first of the year of issuance to March thirty-first of the third year following such issuance, entitling the holder thereof to a pass for vehicular admission without additional fee to any state park and recreational facility which has a vehicular access fee. Such three-year fee shall be consistent with the fee schedule established pursuant to section 13.15 of this article and shall be approved by the director of the budget.

2. The pass for vehicular access shall be known as the "Three-Year Empire Passport". The pass shall be available at regional park headquarters and such other places as the office or other state agency shall designate. Such pass, having an emblem of the bluebird thereon, shall be available in a form prescribed by the office.

3. Such pass for vehicular access shall not be available to the owner or operator of an omnibus operated for a commercial purpose, unless such omnibus is operated by or pursuant to an agreement with a public or private nonprofit agency for the purpose of transporting persons to or from state parks for a recreational experience.

4. If demonstrated that the use of the pass for vehicular access in particular parks or recreational facilities is contrary to the public interest, the office or such other state agency having jurisdiction may prohibit its use in such particular parks or recreational facilities by rule or regulation.

5. The office or other state agency having jurisdiction of a state park or recreational facility shall promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

§ 13.19 Free use of campsites. 1. Notwithstanding the provisions of any other law, any person who is blind, non-ambulatory, or an amputee or any veteran or member of a Gold Star family shall be permitted to use any of the public campsites, parks and other public places of recreation in this state, upon the same terms and conditions as apply to the general public, but without the payment of any fees or other charges for the use of such campsites, parks and other public places of recreation.

2. For the purposes of this section (a) "veteran" shall mean a resident of this state who is: (i) a veteran as such term is defined in section one of the veterans' services law; or (ii) a person who has served on active duty for the state as a member of the state organized militia as defined in subdivision nine of section one of the military law and who was discharged or released therefrom under conditions other than dishonorable; or (iii) a person who has served on active duty in the uniformed services of the United States or on active duty for the state as a member of the organized militia and has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; and

(b) "member of a Gold Star family" shall mean a resident of this state who is a gold star parent as defined in section twenty-six of the veterans' services law, the spouse or domestic partner, or the

biological, step, or legally adopted minor child of a veteran whose death qualified the parent for an annuity.

§ 13.20 Five-year vehicular access fee. 1. Notwithstanding any other provision of law to the contrary, the office or other state agency having jurisdiction of a state park or recreational facility shall establish a five-year access fee which shall run from April first of the year of issuance to March thirty-first of the fifth year following such issuance, entitling the holder thereof to a pass for vehicular admission without additional fee to any state park and recreational facility which has an access fee. Such five-year fee shall be consistent with the fee schedule established pursuant to section 13.15 of this article and shall be approved by the director of the budget.

2. The pass for vehicular access shall be known as the "Five-Year Empire Passport". The pass shall be available at regional park headquarters and such other places as the office or such other state agency shall designate. Such pass, having an emblem of the brook trout thereon, shall be available in a form prescribed by the office.

3. Such pass for vehicular access shall not be available to the owner or operator of an omnibus operated for a commercial purpose, unless such omnibus is operated by or pursuant to an agreement with a public or private nonprofit agency for the purpose of transporting persons to or from state parks for a recreational experience.

4. If demonstrated that the use of the pass for vehicular access in particular parks or recreational facilities is contrary to the public interest, the office or such other state agency having jurisdiction may prohibit its use in such particular parks or recreational facilities by rule or regulation.

5. The office or other state agency having jurisdiction of a state park or recreational facility shall promulgate such rules and regulations as may be necessary to carry out the provisions of this section.

§ 13.21 Limitation on park and parkways in city of New York. The department shall not establish or operate any park or parkway heretofore established or operated by the city of New York, and the office shall not acquire for its purposes any land, or establish or operate a park or parkway thereon, dedicated or acquired or attempted to be dedicated or acquired by the city of New York for park or parkway purposes, or located in the Rockaway peninsula, west of Riis park and the Marine parkway bridge, in the county of Queens.

§ 13.23 Land and water conservation fund; state agent. 1. Office designated as state agent. The office is hereby designated to represent and act for the state in dealing with the federal secretary of the interior and other appropriate federal officers, agencies and authorities in connection with the federal land and water conservation fund act of nineteen hundred sixty-five and acts amendatory or supplemental thereto.

2. Powers of the office as state agent. The office, as agent of the state as herein provided, is hereby authorized and empowered:

(a) On behalf of the state or any agency thereof, to apply to any appropriate agency or officer of the federal government for participation in or the receipt of federal aid pursuant to such federal act, and to make such agreements with the federal government or any appropriate agency or officer thereof, not inconsistent with law, as may be necessary as a condition precedent to receiving such federal aid for a project, provided that the office shall not make a commitment or enter into any agreement pursuant to this paragraph until the director of the budget certifies that sufficient funds are available for meeting the state share, if any, of the cost of the project.

(b) On behalf of any municipality eligible under federal law or regulation, to enter into and administer such agreements with the federal government or any appropriate agency or officer thereof as may be necessary as a condition precedent for receiving such federal aid for a project, provided that such municipality give necessary assurances to

the office, in the form of a written agreement, that such municipality has available sufficient funds to meet its share of the cost of the project, and that the project will be operated and maintained at its expense for the required public use.

3. Custody and payment of funds. (a) The department of taxation and finance is hereby designated as the custodian of all federal funds allotted to the state pursuant to such federal act, and such funds shall be payable only on the audit and warrant of the state comptroller on the certificate of the commissioner, or the commissioner of environmental conservation for projects undertaken by the department of environmental conservation, in accordance with a certificate of approval of availability issued by the director of the budget.

(b) An agreement with a municipality pursuant to paragraph (b) of subdivision two of this section may provide for an advance in the first instance, when funds are appropriated and available therefor, of an amount equal to the federal share of the cost of a local project subject to full reimbursement being made to the state by the federal government. Whenever the federal government shall subsequently disallow or disapprove any portion or all of the federal aid advanced by the state, such municipality shall reimburse the state in full for all expenditures advanced by the state which have not theretofore been reimbursed by the federal government. If such municipality shall fail to repay the state within one year after notice of such disapproval or disallowance, the state comptroller shall cause to be withheld from state assistance to which such municipality would otherwise be entitled, an amount sufficient to reimburse the state in full, and shall credit the same to the capital construction fund in repayment of such advance.

(c) In the event that any appropriations are made to the office or the department of environmental conservation from the capital construction fund for the payment in the first instance by the state of the federal share of the cost of a project, the state comptroller shall be authorized to receive from the federal government an amount of money equal to the amounts of money expended by the state from such appropriations made for such first instance payments and to deposit the same to the credit of the capital construction fund so that the state shall be reimbursed for the full amount of any and all such first

instance payments from such appropriations.

4. Allocation of monies. The monies allocated to the state pursuant to such federal act, during each federal fiscal year, shall be apportioned by the commissioner of parks, recreation and historic preservation, with the approval of the director of the budget, between the state and its political subdivisions as the need may appear, provided that the projects of the political subdivisions qualify for federal assistance pursuant to such federal act and any rules and regulations which may be adopted by the commissioner.

§ 13.25 State reservation at Saratoga Springs. In addition to the powers, functions and duties conferred upon him by other provisions of this act, the commissioner shall, with respect to the state reservation at Saratoga Springs:

1. Have the care, custody and control of said reservation, including all minerals, waters and gases thereon.

2. Make reasonable provisions for the free drinking of such waters by the public.

3. Grant leases or concessions for the use of any portion of such property, including real property.

4. Regulate the sale of any waters or gases of the reservation.

5. Adopt and register, where appropriate, such trademarks or trade names as may be necessary or desirable with respect to such waters or gasses, and take such action as may be required to protect the use of such trademarks or trade names.

6. Take such action as may be necessary or desirable to prevent the adulteration of such waters or gases.

§ 13.27 Hudson-Mohawk urban cultural park. The area at the confluence of the Hudson and Mohawk Rivers encompassed in the cities of Troy, Cohoes and Watervliet, the villages of Waterford and Green Island and the towns of Waterford and Colonie shall be known as the Hudson-Mohawk urban cultural park in recognition of the unique and significant urban resources and cultural heritage encompassed by those communities. For purposes of interpretation, conservation and enhancement of the historic, cultural, economic, natural and architectural resources of the Hudson-Mohawk area, the Hudson-Mohawk urban cultural park commission is hereby designated as an appropriate entity to cooperate with the office and other state agencies.

§ 13.28 Lyme and tick-borne disease warning signs. Within one hundred twenty days of the effective date of this section, the office shall perform an assessment of state parks, including trails, to determine where it is appropriate to install signage to warn park users of possible Lyme and tick-borne infections. The assessment shall include, but shall not be limited to, considerations related to the installation of signage in areas of new or increased contact with ticks reported to the office, and, in consultation with the state department of health, an evaluation of any relevant data on tick-borne diseases. Such assessment shall be updated every three years, or earlier as deemed necessary by the office and a summary of such assessment shall, within sixty days of completion, be posted by the office on its website. The office shall thereafter install and maintain signs at all state-managed parks, including, but not limited to, trail entryways and campgrounds, as necessary based on such assessment, warning individuals that ticks may be found in such areas and may result in Lyme disease or other tick-borne diseases. Such office may use models already in use throughout the state when determining the design for such signage. For the purposes of this section, "trail" shall include footpaths, bike ways, snowmobile trails, horse trails, cross country ski trails, roads and other rights-of-way suitable for hiking, strolling, cycling, horseback riding, skiing and other means of motorized and non-motorized travel for recreational purposes and shall include combinations and systems of trails, including connecting and side trails, and trails

leading to scenic and recreational areas located within and maintained by the office.

§ 13.29 Sojourner Truth commemorative marker. The office shall erect and maintain a bronze and bluestone commemorative marker on the grounds of the Ulster county court house in Kingston, New York honoring the achievements and highlighting the events in the life of Sojourner Truth.

§ 13.30 Reimbursement for expenditures necessitated by negligent, willful or reckless conduct. In addition to any other remedy which may exist, a person whose negligent, willful or reckless conduct results in an expenditure by the office for the purpose of effectuating a rescue shall be liable for the amount of such expenditure and shall reimburse the office therefor. The attorney general may institute any proper action, suit or proceeding to recover the amount owed to the office as provided in this section and any such amount so recovered shall be deposited in the state treasury to the credit of the general fund. For purposes of this section, reckless conduct shall mean a failure to exercise reasonable care, reasonable caution or the foresight of a reasonably prudent and careful person, with a deliberate disregard for the consequences of such conduct.

*** § 13.31 Permits for activities near certain funeral events.** 1. For the purposes of this section:

(a) "Demonstration" shall mean a pre-planned gathering of twelve or more persons who are invited or organized by an organizer to convene for the purpose of a public exhibition including a procession, parade, protest, picket, march or rally on public property concerning and in the vicinity of a funeral event.

(b) "Funeral event" shall mean a wake, funeral, burial or memorial service conducted within thirty days after the death of the person who is the subject of such event.

(c) "Organizer" shall mean the person or organization that plans or coordinates a demonstration for which a permit may be required pursuant

to this section.

2. The commissioner may promulgate regulations to require that a permit be obtained for a demonstration that will take place in a state park, state parkway or other state property, within one thousand feet of a funeral event, and during or within one hour before or after such funeral event. The existence and requirements of such lawful regulations shall be prominently posted in a public area of the office or headquarters of each park under the jurisdiction of the state department of parks and recreation and shall also be posted on any website established or available for the use of the office. Such regulations may require:

(a) An organizer of such a demonstration to apply for a permit concerning such demonstration provided, however, that such permit application process shall be available for a reasonable period before such funeral event is actually scheduled to begin.

(b) Upon filing such an application, the office shall promptly review such application and, if the application satisfies the requirements of this subdivision as well as any additional requirements the commissioner may, by lawful regulation, impose, then the office shall issue to the organizer a permit under this subdivision. In such event, the permit shall specify, expressly and in detail, the time and place and any lawful restrictions that may be imposed regarding such demonstration. If such permit application is denied, the office shall issue a written denial that specifies in detail the manner in which the application is deficient, together with the procedure by which the organizer may obtain timely reconsideration of such determination under this subdivision.

(c) The permit issued by the office under this subdivision may, in accordance with applicable law, specify reasonable restrictions on the time, place and manner of the demonstration for which the permit is issued.

(d) The commissioner may require the organizer to pay a reasonable fee with the permit application in order to reduce administrative and processing costs.

3. Any person who, after proper notice and opportunity for an adjudicatory hearing, is found to have intentionally organized and

conducted a demonstration within one thousand feet of a funeral event without first having obtained a required permit under this section shall be subject to a civil penalty of up to five hundred dollars for the first such violation determined to have been committed, up to one thousand dollars for a second such violation determined to have been committed within three years of the first such violation, and up to two thousand dollars for a third such violation determined to have been committed within such three year period. The state police power and that of its localities may be employed to provide adequate public safety and protection at such a funeral event and the procession to or from such funeral event.

* NB There are 2 § 13.31's

*** § 13.31 Oil and gas drilling in Allegany state park.** 1. Legislative findings and declaration. The legislature finds and declares that Allegany state park harbors unique and irreplaceable natural and scenic resources and provides an extensive variety of recreational and educational opportunities for New York residents and visitors. The park is located in a geologically distinct, unglaciated area with unique terrestrial, freshwater and old growth forest ecosystems that warrant special protection, and is home to numerous rare, threatened and endangered species of plants and wildlife. The park's sixty-five thousand acres are the largest tract of intact, unfragmented forest land in the western half of the state, including mature second-growth as well as extensive old-growth forests. These features are an invaluable and irreplaceable part of the state's natural heritage which the state is obligated to preserve for future generations.

The legislature further finds and declares that a unique circumstance exists in Allegany state park whereby private entities control subsurface oil and gas rights beneath portions of the park. Ownership of such subsurface oil and gas rights was severed and retained in private ownership prior to the acquisition and creation of the park by the state of New York in the early twentieth century. It is the purpose of this section to ensure that any exploration, drilling, or production associated with privately-controlled oil and gas rights within Allegany

state park, including all activities necessary to obtain access to subsurface oil and gas, be undertaken with the strictest possible oversight to minimize adverse impacts on the park's natural, scenic, and recreational resources and the public's access to them and enjoyment thereof. It is intended that the provisions of this section be liberally construed and applied in furtherance of this purpose.

The legislature finds and declares that the provisions of this section have been enacted pursuant to the statutorily-mandated duty of the office to provide for the health, safety and welfare of the public using facilities under its jurisdiction. The legislature finds that the provisions of this section constitute reasonable restrictions upon the exercise of privately-controlled oil and gas rights in furtherance of the state's sovereign power and duty to hold public parklands in trust for the benefit of the people of the state.

2. Surface access permit. No drilling, road building, clearing of vegetation, or other activity in furtherance of the exploration or production of privately-controlled oil or gas rights beneath state owned land within Allegany state park shall be undertaken except pursuant to the terms of a surface access permit issued by the office pursuant to this section. An application for such permit shall be filed with the office concurrent with the application to the department of environmental conservation for a permit to drill an oil or gas well and shall include at a minimum:

- (a) proof satisfactory to the office of the applicant's legal right to recover oil or gas resources beneath state owned land, including copies of title reports and, where applicable, leases with title holders, and a boundary survey completed by a licensed surveyor of the affected area;

- (b) a map identifying the proposed location of each oil or gas well for which an application for a drilling permit has been submitted to the department of environmental conservation;

- (c) a general description of the proposed oil or gas exploration and production activities;

- (d) identification of the amount of water needed and its sources;

- (e) a detailed description of all surface disturbance associated with the proposed exploration and production of oil or gas, including but not

limited to the location and specifications of all roads proposed to be constructed, all proposed well drilling locations, and the location and amount of proposed tree and vegetation removal, and the methods to be used in such activities;

(f) a description of how produced oil or gas will be transported out of the park, including a detailed description of the construction and location of all proposed transmission lines;

(g) an estimate of the amount of waste products by type expected to result from construction, exploration and production and a description of how such waste will be handled and disposed of;

(h) a description of the methods to be used to control stormwater flow and erosion;

(i) distances from streams of proposed work, identification of affected streams and methods of stream crossings, if any;

(j) estimated number, species and diameter of trees to be removed and method of removal;

(k) a detailed description and timeline of steps that will be taken to reclaim the affected surface area and restore it to its previous natural condition once drilling and production activities have ceased. Such description shall describe interim restoration activities that shall occur immediately after each well has been drilled and any associated transmission lines have been installed, as well as final restoration activities that shall occur after production has ceased;

(l) a comprehensive inventory of plant and animal species, ecological communities, wetlands, and surface streams within the area, as determined by the office, that may be affected by proposed drilling locations, road construction, transmission lines, and any other activities associated with proposed exploration and production activities, and an analysis of the potential adverse impacts on such species, ecological communities, wetlands, and surface streams; and

(m) a description of historic, archeological and cultural resources potentially affected by proposed exploration, production, road building, and transmission lines.

3. Surface access permit conditions. Any surface access permit granted by the office pursuant to this section shall include the following terms and conditions:

(a) The office may limit the number of well sites, the location of well sites, and the amount of cleared area associated with each well site in order to mitigate adverse impacts to natural, ecological, scenic, and recreational resources.

(b) No liquid or solid wastes shall be collected or stored in open pits nor disposed of or released within the park.

(c) The office may limit the construction and the location of access roads in order to mitigate adverse impacts to natural, ecological, scenic, and recreational resources. All new roads shall be designed to the minimum possible width and shall be constructed to avoid or minimize the potential for erosion and other adverse impacts. All trees cut or removed as part of road construction and well site clearing activities shall remain the property of the office.

(d) In order to protect the health and safety of park visitors and employees and to minimize adverse impacts on public recreational uses of the park, the office may restrict the seasons that the permittee may undertake road construction, well drilling, and associated activities on state owned lands. The office may also designate the park roads the permittee shall use for vehicle access into and through the park, and may restrict seasons or times that the permittee may exercise vehicle access on park roads open to the public.

(e) The permit shall include such conditions on the management of forest resources, and construction and maintenance of access roads, well sites and transmission lines, as the office deems necessary to protect park resources.

(f) The permittee shall be required to establish and maintain a fund sufficient to reimburse the office for the costs of an on-site monitor, who shall be hired by and report to the office, who shall be physically present during all land clearing, road construction, well drilling, installation and maintenance of transmission lines, well maintenance, well closure, and restoration activities undertaken by the permittee to assure compliance with all required permits and applicable state and federal laws and regulations.

(g) The permittee shall be required to establish and maintain a fund sufficient to reimburse the office for the costs of consultants retained by the office to conduct:

- (1) sampling of groundwater, surface water, wetlands, and soil;

(2) monitoring to detect any adverse impacts to sensitive species of plants and animals and ecological communities; and

(3) inspections to detect any non-native invasive plant or animal species that are introduced into the park as a result of the permittee's activities.

The office shall determine the areas to be subject to such sampling, monitoring, and inspections, which shall be undertaken annually, or more frequently if determined appropriate by the office, until the permittee has concluded oil and gas exploration and production activities and completed the restoration requirements established in paragraph (i) of this subdivision.

(h) The permittee shall be required at its expense to take corrective actions to eliminate any adverse impacts resulting from the permitted activity to the park's roads, facilities and infrastructure, or to the park's groundwater, surface water, wetlands, soil, natural resources, plant and animal species and ecological communities.

(i) The permittee shall be required to obtain financial security in an amount sufficient to restore to their previous natural condition all areas affected by the permittee's ground disturbance, clearing, drilling, road construction, and installation of transmission lines, after oil and gas exploration, drilling, and production activities have concluded. Restoration shall include but not be limited to a requirement that the permittee remove and reforest all roads and cleared areas.

(j) The permit shall include requirements for the amount and type or types of insurance to be procured and maintained by the permittee.

(k) The office shall include any additional permit conditions it deems necessary to avoid or minimize impacts on the park's recreational, scenic and natural resources and to protect the health and safety of park visitors and employees.

4. Other requirements. The requirements of this section shall be in addition to, and shall not replace or affect, any other requirements for the exercise of oil and gas drilling rights, including but not limited to requirements set forth in article twenty-three of the environmental conservation law or other applicable state or federal laws, permits, orders, or regulations. Nothing in this section shall affect or

supersede the application of article seven of the public service law to the siting of a major utility transmission facility as defined therein.

5. Environmental review. The office will serve as lead agency for review pursuant to article eight of the environmental conservation law for all actions involving exploration and production of privately-controlled oil and gas resources beneath state owned lands within Allegany state park, including applications for a permit pursuant to this section. In conducting such review, the office shall evaluate all potential impacts of proposed well drilling, road construction, clearing of vegetation, and other related activities in terms of consistency with the agency's mission as set forth in section 3.02 of this chapter.

6. Enforcement. Any violation of a term or condition of a surface access permit granted pursuant to this section shall be grounds for revocation thereof. In addition, any party acting in violation of such a permit, and any party engaging in oil or gas exploration, drilling, or production activity without having obtained a permit as required by this section, shall be subject to injunction and liable for a civil penalty of not more than ten thousand dollars for each day of such violation, obtainable in an action brought by the attorney general upon referral by the commissioner or on his or her own initiative.

7. Compensation of lost revenue. In the event that any spill or release of oil, gas, or other substance produced or transported in Allegany state park by, or on behalf of, any person receiving a permit under this section results in the temporary closing of all or part of Allegany state park, such person shall be liable to compensate the office for any lost revenue or park user fees resulting from the closure. Such compensation of lost revenue shall be in addition to any other costs or penalties imposed under applicable laws, regulations, or permit conditions.

8. Rules and regulations. The commissioner is authorized to adopt rules and regulations necessary or desirable to effectuate the provisions of this section.

* NB There are 2 § 13.31's

ARTICLE 14

HISTORIC PRESERVATION

Section 14.01 Declaration of policy.

14.03 Definitions.

14.05 Statewide historic preservation program.

14.07 State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan.

14.09 State agency activities affecting historic or cultural property; notice and comment.

14.11 Historic business preservation registry.

14.12 New York state two hundred fiftieth commemoration commission.

§ 14.01 Declaration of policy. The legislature determines that the historical, archeological, architectural and cultural heritage of the state is among the most important environmental assets of the state and that it should be preserved. It offers residents of the state a sense of orientation and civic identity, is fundamental to our concern for the quality of life, and produces numerous economic benefits to the state. The existence of irreplaceable properties of historical, archeological, architectural and cultural significance is threatened by the forces of change. It is hereby declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation to accomplish the following purposes:

1. To promote the use, reuse and conservation of such properties for the education, inspiration, welfare, recreation, prosperity and enrichment of the public;

2. To promote and encourage the protection, enhancement and perpetuation of such properties, including any improvements, landmarks, historic districts, objects and sites which have or represent elements

of historical, archeological, architectural or cultural significance;

3. To encourage and assist municipalities to undertake preservation programs and activities;

4. To foster civic pride in the beauty and accomplishments of the past through cooperation with municipalities and local organizations;

5. To preserve and enhance the state's attractions to tourists and visitors.

§ 14.03 Definitions. When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Agency preservation officer" means the commissioner, director or chairperson of any state department, agency, board, commission, public benefit corporation or public authority, or his representative identified in accordance with the provisions of subdivision two of section 14.05 of this article.

2. "Board" means the state board for historic preservation.

3. "Chairman" means the chairman of the state board for historic preservation.

4. "Historic preservation" means for the purposes of this article and notwithstanding any other provision of law, the study, designation, protection, restoration, rehabilitation and use of buildings, structures, historic districts, areas, and sites significant in the history, architecture, archeology or culture of this state, its communities or the nation.

5. "Historic and/or cultural place or property" means any building, structure, district, area, site or object including underground and underwater sites, that is of significance in the history, architecture,

archeology or culture of the state, its communities or the nation.

6. "Historic district" means any area which: (a) has a special character or special historical, archeological, architectural, or cultural value; or (b) represents one or more periods or styles of architecture typical of one or more eras; and (c) causes such area, by reason of such factors, to constitute a distinct section.

7. "Municipality" for the purpose of this article only means any county, city, town or village.

8. "Municipal official" means the chief executive officer of any municipality or his or her designated representative.

9. "National register" means the national register of historic places authorized by the National Historic Preservation Act of 1966.

10. "Registered property" means any historic place or property within the boundaries of the state nominated by the commissioner for listing on the national register of historic places or listed on the New York state register of historic places established pursuant to section 14.07 of this article.

11. "State agency" means any state department, agency, board or commission of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

12. "State register" means the state register of historic places established pursuant to section 14.07 of this article.

§ 14.05 Statewide historic preservation program. 1. The commissioner shall continue and advance a statewide historic preservation program which shall include:

(a) Surveying and inventorying historic places and properties for nomination to the national register and state register of historic places; and

(b) Continuing planning activities to foster the preservation and management of historic properties as living parts of our communities and the effective representation of historic preservation in state environmental planning activities; and

(c) Administering a program of grants with funds available from the federal government and funds appropriated by the state for the purpose of assisting local and regional preservation programs or projects preserving historic properties for public benefit; and

(d) Assisting and encouraging local governments and private agencies and individuals to expand and advance their historic preservation programs and activities; and

(e) Educating the public by increasing awareness and pride in historic and cultural resources and the opportunities for continuing use and adaptive reuse of historic properties.

2. For the purpose of implementing and coordinating the statewide historic preservation program established pursuant to the provisions of this article and such other provisions of law which may be applicable, every state agency shall have a preservation officer who as defined in this article shall serve as liaison to the commissioner on matters affecting historic preservation in relation to properties within their respective jurisdictions. For the purposes of this article, the responsibility of an agency preservation officer shall extend to all property owned by or held on behalf of the people of the state by the agency of which he is an officer. Each agency preservation officer may delegate the liaison role created pursuant to this article by submitting the name of the designee or designees, in writing, to the commissioner. For the purpose of implementing and coordinating the statewide historic preservation program pursuant to the provisions of this article and such other provisions of law which may be applicable to local government programs for the preservation, restoration and maintenance of the historical, architectural, archeological and cultural environment, the chief executive officer or the designee of such officer or each municipality in the state shall serve as liaison to the commissioner on matters affecting historic preservation in relation to properties within such officer's respective jurisdiction.

3. The commissioner may prepare and distribute informational material and conduct informational meetings and other sessions for agency preservation officers and municipal officials appropriate to the promotion of state and local preservation activities and the proper fulfillment of their liaison role.

4. Each agency preservation officer shall and municipal officials may: cooperate with the commissioner concerning the conduct of a comprehensive survey of historic resources which shall be used in the compilation of a comprehensive inventory of historic property; advise the commissioner concerning state and local historic preservation policy and programs, and assist the commissioner in the preparation of reports.

§ 14.07 State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan. 1. State register of historic places.

(a) The commissioner, in consultation with the board, shall establish a listing of sites, districts, structures, buildings, areas or objects above or below the surface of the earth whether on land or in the waters of the state, together with any designated improvements thereon, significant in the history, architecture, archeology or culture of the state, its communities or the nation. Such listing shall constitute the New York state register of historic places. All historic places within the state listed on or nominated by the commissioner for inclusion on the national register of historic places before or after this article becomes law shall be deemed to be listed on the state register.

(b) The commissioner, with the advice of the board, shall establish the procedures and the criteria for listing on the state register consistent with the criteria established for listing on the national register and for classifying whether such places are primarily of national, state or local significance. The criteria for listing on the national register which shall be used as a guide for listing on the state register are as follows:

The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings,

structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. that are associated with events that have made a significant contribution to the broad patterns of our history; or

B. that are associated with the lives of persons significant in our past; or

C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. that have yielded, or may be likely to yield, information important in prehistory or history. Such procedures shall include opportunity for the public to make proposals for listing on the state register, the notification in advance of the listing to the agency preservation officers and/or municipal official having jurisdiction over the property and for the mailing of notification of pending action to the owner or owners of record of the property, if privately owned, at their last known address; provided however, that if one listing affects more than one property owner or where the owner or owners cannot be ascertained, the publishing of notice of pending listing in a newspaper of general circulation in the area where the property is located shall constitute adequate notice. Such procedures shall also provide for timely review and consideration of listing places on the state register which the United States Secretary of the Interior has designated as eligible for the national register. When a proposal for listing with sufficient supporting documentation is made by a municipal official, local historic preservation board or commission or a member of the public, a decision on listing the proposed property with an appropriate finding supporting the decision shall be issued in writing by the commissioner not more than one hundred eighty days after such proposal is received by the commissioner.

(c) If the municipal official of any municipality with jurisdiction

over any property or the owner or owners of such property, other than that included upon or nominated for inclusion upon the national register of historic places prior to the effective date of this article, advises the commissioner in writing within fifteen days of mailing or publishing of notification that the municipality or owner questions the eligibility of the proposed property, the commissioner shall postpone the listing until the municipality or owner has the reasonable opportunity to present a written statement to the commissioner and the board.

(d) The benefits and protections of this article upon any listing on the state register shall accrue in full force and effect from the date of its listing. Within forty-five days after the listing of any property on the state register, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. With respect to all properties deemed to be listed on the state register because they were listed on or nominated to the national register before this article became law, within a reasonable time after this article becomes law, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. Such notice shall include the registered properties' classification as primarily of national, state or local significance. The commissioner shall also cause notice of the listing to be published in a newspaper of general circulation in the area where the property is located. Such publication of notice shall be in lieu of the personal notice hereinabove required in instances where one listing affects more than one property owner and in instances where the owner or owners of the listed property cannot be ascertained.

(e) No place may be removed from the state register unless it is determined by the commissioner, after consultation with the board, that the qualities that gave it significance and for which it was initially listed no longer exist.

(f) The commissioner shall, upon request, provide information on the places listed on the state register and on sites included in the statewide inventory maintained by the office pursuant to the provisions of subdivision two of this section to any person making a written request for such information, with the exception of sites that may be

damaged by unauthorized investigators if their location be generally publicized. Notwithstanding the provisions of any other law, information on such archeological sites may be withheld from the public at the discretion of the commissioner in consultation with the commissioner of education and will be released, where appropriate, in a format approved by such commissioners. The commissioner may establish a reasonable fee for the preparation, duplication and mailing of requested information.

(g) The commissioner shall include in the state register all places he determines to be of significance after consultation with the board. In making the listing the commissioner shall indicate whether the place is primarily of national, state or local significance.

2. Statewide inventory of historic property. (a) The commissioner, with the assistance of the agency preservation officers of all state departments, agencies, boards, commissions, public benefit corporations and public authorities shall prepare and maintain an inventory of all property owned by the state, public benefit corporations or public authorities, which may qualify for nomination to the national register of historic places and/or listing on the state register of historic places. In addition, the commissioner in cooperation with municipal officials, shall prepare and maintain an inventory of all other property publicly and privately owned which may qualify for nomination to the national register and listing on the state register.

(b) The commissioner shall consult with the commissioner of education and consider information from surveys of archeological sites prepared by such department. The commissioner of education shall cooperate with the commissioner by continuing to expand, maintain and review the department of education's inventory of archeological sites and provide information thereon to the commissioner.

(c) The commissioner shall assist and encourage private organizations and groups in undertaking surveys, studies and inventories of historic places and cultural resources.

(d) These inventories shall constitute the statewide inventory of historic places and shall be represented on appropriate maps of the entire inventory. Inclusion of a historic place on the inventory shall not by itself be deemed to be a determination by the state of such place's significance for purposes of section 15 (a) of Public Law 89-574

as subsequently amended. The commissioner shall regularly review this inventory and, with the advice of the board, select sites for listing on the state register and for nomination to the national register and make recommendations to the commissioner of the office of general services of buildings on the inventory which have available space deemed suitable for state use.

3. Statewide comprehensive historic preservation plan. The commissioner, in consultation with the board, shall prepare a statewide comprehensive historic preservation plan. This plan may include proposals for the preservation and use of registered property. The annual state plan submitted to the Heritage Conservation and Recreation Service in the United States Department of Interior may substantially be used in preparing this plan. The agency preservation officers shall cooperate and municipal officials may cooperate with the commissioner in the promulgation of plans and proposals in relation to historic places within their respective jurisdictions. The commissioner shall update the plan annually. The commissioner shall annually notify every agency preservation officer and municipal official of the availability of the state plan or the annual update and a copy of the annual plan or update shall be sent to every agency preservation officer and municipal official requesting such a plan or update.

4. From funds available from the federal government for historic preservation purposes which may be used for reimbursement as hereinafter provided, and funds appropriated by the state for the purpose of assisting local and regional preservation programs including funds for survey and planning, the commissioner may provide reimbursement to municipalities and private organizations which undertake surveys and studies of historic places and cultural resources, prepare local historic preservation reports or otherwise assist the commissioner in carrying out his historic preservation responsibilities.

§ 14.09 State agency activities affecting historic or cultural property; notice and comment. 1. As early in the planning process as may be practicable and prior to the preparation or approval of the final

design or plan of any project undertaken by a state agency, or prior to the funding of any project by a state agency or prior to an action of approval or entitlement of any private project by a state agency, the agency's preservation officer shall give notice, with sufficient documentation, to and consult with the commissioner concerning the impact of the project if it appears that any aspect of the project may or will cause any change, beneficial or adverse, in the quality of any historic, architectural, archeological, or cultural property that is listed on the national register of historic places or property listed on the state register or is determined to be eligible for listing on the state register by the commissioner. Generally, adverse impacts occur under conditions which include but are not limited to (a) destruction or alteration of all or part of a property; (b) isolation or alteration of its surrounding environment; (c) introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting; or (d) neglect of property resulting in its deterioration or destruction. Every agency shall fully explore all feasible and prudent alternatives and give due consideration to feasible and prudent plans which avoid or mitigate adverse impacts on such property. In the event that the agency has filed or will file with the department of environmental conservation, with respect to that contemplated project, a draft environmental impact statement pursuant to the provisions of article eight of the environmental conservation law, it shall provide a copy thereof to the commissioner and the chairman of the board and shall also supply such further information as the commissioner may request. This section shall not apply to a state project that is necessary to prevent an immediate and imminent threat to life or property.

2. The commissioner shall undertake a review and make comment within thirty days of receipt of notice, with sufficient documentation, of a proposed project as to whether or not such proposed project may have an adverse impact on any property that is listed on the national register of historic places or on the state register or is determined to be eligible for the state register by the commissioner. The comment shall be put on file and shall be available to the public on request. If it is determined that a project may have an adverse impact on such property,

the commissioner shall so notify the agency in writing. Upon receipt of such notification from the commissioner, the agency shall immediately contact the commissioner for the purpose of exploring alternatives which would avoid or mitigate adverse impacts to such property consistent with the policy and provisions of this article and other provisions of law relating to historic preservation. To the fullest extent practicable, it is the responsibility of every state agency, consistent with other provisions of law, to avoid or mitigate adverse impacts to registered property or property determined eligible for listing on the state register by the commissioner. In order to avoid inconsistency or duplication in review functions, the commissioner shall establish procedures in accordance with other provisions of this section whereby reviews conducted under this section are coordinated with the reviews of project or plan proposals under other provisions of law and regulation. When a project is being reviewed pursuant to section one hundred six of the national historic preservation act of 1966, the procedures of this section shall not apply and any review or comment by the commissioner and the board on such project shall be within the framework or procedures of the section one hundred six review. The commissioner shall issue an annual report outlining state agency actions on which comment had been requested or issued under this section. Proposed alternatives and results of the review process shall be included in said annual report.

§ 14.11 Historic business preservation registry. 1. Purpose. A registry of historic businesses in the state shall be established for the purpose of recognizing that historic community-serving businesses are valuable cultural assets that serve as examples of the rich and diverse history of the communities in the state. Such registry shall also serve as a tool for providing educational and promotional assistance to historic businesses to encourage their continued viability and success.

2. Establishment. The office shall establish and maintain a registry of historic businesses in the state and maintain an online registry which includes the name, address and a list of products and/or services

offered by each historic business that has been accepted into the registry.

3. Eligibility. A historic business must first be nominated by an assembly member, senator, the governor or the lieutenant governor. Nominations are limited to ten per elected official per term. An elected official shall not nominate a business if they, or a close family member, including a spouse, children, siblings or parents, own or have a major investment stake in such business.

4. Application. (a) After a business is nominated pursuant to subdivision three of this section, such business shall submit a completed application for final approval. Such application shall be created by the office and shall include the following requirements:

(i) The business shall have operated in the state for fifty or more years with no break in operations exceeding two years. The business may have operated in more than one location, but shall have operated in the same municipality for a minimum of fifty years.

(ii) The business has contributed to the municipality's history and/or identity of such municipality.

(iii) The business is committed to maintaining the physical features and traditions that define such business, including but not limited to, craft, culinary or art forms.

(b) The office, upon receipt of a nomination and accompanying application, shall make a determination of whether the applicant meets the requirements necessary to be accepted into such registry. The nominating elected official and the applicant shall be notified by the office if such applicant is not accepted into the registry and shall explain the reasons for the determination of ineligibility.

*** § 14.12 New York state two hundred fiftieth commemoration commission.** 1. As used in this section, the following terms shall mean and include:

(a) "Commission" means the New York state two hundred fiftieth commemoration commission created by subdivision two of this section.

(b) "Heritage organization" means a historic site, historical society,

battlefield, historic park, history-based museum, friends groups, library, archive, academic institute, historical anniversary organization, historical awareness group or Native American cultural center whose mission is to preserve and promote the history of a locale, region, people, or the entirety of the state.

2. (a) The office shall create the New York state two hundred fiftieth commemoration commission. From the effective date of this section until December thirty-first, two thousand thirty-three, such commission shall develop plans to promote and coordinate activities to commemorate the two hundred fiftieth anniversary of the American Revolution. Such plans may include:

(i) including heritage organizations as the focal points for the commemoration;

(ii) coordinating forums across the state to seek ideas from the public on the commemoration including how New Yorkers, Americans and those from other countries may celebrate such anniversary;

(iii) coordinating activities with civic, educational and heritage organizations to develop public interest and involvement in the planning and development of the commemoration;

(iv) promoting and encouraging educational outreach programs using media and technology including electronic communications to achieve national and international impact;

(v) coordinating the planning of commemorative events for all interested communities throughout the state;

(vi) inviting other interested states and nations to participate in programs and events for the commemoration;

(vii) coordinating and promoting the holding of meetings, conferences, seminars and conventions in interested communities using such anniversary as an attraction and theme;

(viii) coordinating and promoting the holding of community engagement and educational events in interested communities using such anniversary as an attraction and theme;

(ix) seeking funding from private individuals, foundations and corporations to support capital improvements, preservation and conservation needs associated with events and sites commemorating such anniversary;

(x) coordinating and cooperating with state entities and tourist promotion agencies, as defined in article five-A of the economic development law;

(xi) coordinating and cooperating with local, state and federal entities including those relating to heritage area promotion and any federal commission created to participate in planning and development of such anniversary observance; and

(xii) setting goals and benchmarks for the work of the commission.

(b) The commission may coordinate and consult with the New York state military museum and veterans research center, Saratoga national historical park, Champlain Valley National Heritage Partnership, Erie Canalway National Heritage Corridor, Maurice D. Hinchey Hudson River Valley National Heritage Area, Niagara Falls National Heritage Area, Humanities New York, Association of Public Historian of New York State, the Preservation League of New York State, national historic landmarks, national historic landmark stewardship organizations and any other organizations it deems necessary in the development, planning, promotion and coordination of activities to commemorate the two hundred fiftieth anniversary of the American Revolution.

(c) The commission may coordinate and consult with each of the following: the Cayuga Nation, the Oneida Indian Nation, the Onondaga Indian Nation, the Saint Regis Mohawk Tribe, the Seneca Nation of Indians, the Shinnecock Indian Nation, the Stockbridge-Munsee Community Band of Mohican Indians, the Tonawanda Band of Seneca, and the Tuscarora Nation.

(d) The commission shall consist of twenty-one voting members to be appointed as follows:

(i) the commissioner or his or her designee;

(ii) the commissioner of the department of education or his or her designee;

(iii) the president and chief executive officer of empire state development or his or her designee;

(iv) the commissioner of the office of general services;

(v) the secretary of state or his or her designee;

(vi) chair of the New York state tourism advisory council or his or her designee;

(vii) chair of the council for the arts or his or her designee;

(viii) director of the canal corporation or his or her designee;

(ix) four members shall be appointed by the governor, three members shall be appointed by the temporary president of the senate, three members shall be appointed by the speaker of the assembly, one member shall be appointed by the minority leader of the senate and one member shall be appointed by the minority leader of the assembly, to the extent practicable, these appointments shall include a representative from each of the ten regional economic development councils; and

(x) the New York state historian.

(d) To the extent practicable, such appointees shall have a professional background in one or more of the following fields: local government historian, academic historian, museum professional, social studies teacher or professor, tourism professional, archeologist, anthropologist, or other expertise in the field of New York state history and/or historic preservation, or professional or volunteer fundraising experience.

(e) The commissioner and the commissioner of the department of education shall be co-chairpersons of the commission. Vacancies in the membership of the commission shall be filled in the same manner provided for original appointments.

(f) A majority of the members of the commission shall constitute a quorum.

(g) The members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

(h) The commission shall hold a meeting at least once each quarter.

3. The commission shall have the power:

(a) to prepare, publish and disseminate information or reports to highlight for state agencies, local governments, and the general public issues, problems, and opportunities relevant to the two hundred fiftieth anniversary of the American Revolution;

(b) to assist local governments and other appropriate organizations to plan commemorations of the two hundred fiftieth anniversary of the American Revolution, and to do this, as far as possible, through cooperation and through technical assistance, including planning assistance, citizen education and participation assistance, and

assistance in preparation of grant applications to other entities;

(c) to apply for and receive funds from the federal and state government;

(d) notwithstanding any inconsistent provision of law, to solicit and accept gifts for the purpose of furthering the objectives of the commission pursuant to this section;

(e) to conduct historical, economic and cultural studies;

(f) to conduct education programs;

(g) to assist individuals, corporations, heritage organizations and other public entities on ways to protect and promote the heritage resources of the state;

(h) to prepare an annual report on the conduct of its activities which shall be delivered to the governor, temporary president of the senate, and the speaker of the assembly by January first;

(i) to serve a coordinating role in utilizing the capabilities of other organizations to carry out the duties prescribed in this section; and

(j) to exercise and perform such other powers and duties as shall have been or may be conferred by law.

4. (a) The commission shall develop a strategic plan, which shall recommend plans for commemorating the state's role in the founding of the nation and the ensuing two hundred fifty years of history.

(b) The strategic plan shall be consistent with existing management plans for resources included in the plan.

(c) Such strategic plan may include, but shall not be limited to, a survey or inventory of the following, together with the establishment of management priorities thereof: (i) historic, cultural and other heritage resources; (ii) scenic resources; and (iii) educational and recreational resources.

(d) By December thirty-first, two thousand twenty-two, the commission shall vote to finalize the recommendation contained in the strategic plan. A copy of the strategic plan shall be provided to the governor, the temporary president of the senate and the speaker of the assembly.

(e) The commission may propose amendments to the strategic plan described in this subdivision as they are deemed to be necessary and appropriate.

5. To effectuate the purposes of this section, the commission may request from any department, board, bureau, commission or other agency of the state, and the same are authorized to provide, such cooperation and assistance, services and data as will enable the commission to properly carry out its functions pursuant to this section.

6. In administering the provisions of this section, the commission may make, within the limitations of appropriations available thereof, grants to heritage organizations towards the costs of a project recommended in the plan. The commission may submit letters of support for grant applications submitted by an organization for projects or programs recommended in the plan.

* NB Repealed December 31, 2033

ARTICLE 15

PARK AND RECREATION LAND ACQUISITION BOND ACTS

Section 15.01 Allocation of monies.

15.03 Manner of acquisition.

15.05 Standards for acquisition.

15.07 Municipal regulations; limitations.

15.09 Restriction on alienation.

15.11 Temporary use by former owners.

15.13 Acquisitions in sixth region.

§ 15.01 Allocation of monies. 1. The moneys received by the state from the sale of bonds sold pursuant to the park and recreation land acquisition bond acts of nineteen hundred sixty and nineteen hundred sixty-two shall be expended for the following purposes in the following amounts, as heretofore established:

(a) For the acquisition of real property for state park purposes, thirty million dollars (\$30,000,000.00);

(b) For the acquisition of real property for other than state park or municipal park purposes, to provide additional opportunities for outdoor recreation, including public camping, fishing, hunting, boating, winter

sports, and, wherever possible, to also serve multiple purposes involving the conservation and development of natural resources, including the preservation of scenic areas, watershed protection, forestry and reforestation, twenty million dollars (\$20,000,000.00);

(c) For state aid in the amount of seventy-five percent of the cost of acquisition of real property for parks by cities other than the city of New York, or by improvement districts within cities other than the city of New York, twelve million dollars (\$12,000,000.00);

(d) For state aid in the amount of seventy-five percent of the cost of acquisition of real property for parks by the city of New York, or by improvement districts therein, seventeen million dollars (\$17,000,000.00);

(e) For state aid in the amount of seventy-five per cent of the cost of acquisition of land for parks by counties, towns and villages, or by improvement districts therein, twenty-one million dollars (\$21,000,000.00).

(f) Notwithstanding the provisions of paragraphs (c) and (e) of this subdivision, in the case of neighborhood parks established or expanded pursuant to paragraph (c) of subdivision three of section 15.05, such total unencumbered on subsequent unencumbered sum as of July first, nineteen hundred seventy-six, reserved out of the funds provided in paragraph (c) of this subdivision shall be expended for state aid in the amount of seventy-five percent of the cost of acquisition of real property for neighborhood parks by any cities other than the city of New York, counties, towns or villages, or by improvement districts therein pursuant to paragraph (b) of subdivision two of section 15.03.

2. The unused or unobligated balance of any amount to be expended pursuant to subdivision one of this section for a specific purpose may be allocated by the governor, upon the recommendation of the commissioner, to one or more other purposes set forth in such subdivision, provided that the amount to be expended for any one purpose shall not be reduced or increased by more than thirty per cent. Such allocation of any unused or unobligated balance shall be evidenced by the certificate of the governor filed with the state comptroller and the director of the budget.

3. For the purpose of computing the grant of aid made by the state to a municipality, the cost of acquisition shall be not more than the amount set forth in the application for state aid made by the municipality and approved by the commissioner pursuant to subdivision two of section 15.03, plus any direct incidental costs approved by the state comptroller.

§ 15.03 Manner of acquisition. 1. Lands acquired by the state pursuant to this article shall be acquired by the office pursuant to sections 3.17 and 3.19 or, in the sixth park region, by the department of environmental conservation, as provided by law. The moneys appropriated for such purposes shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner.

2. No real property shall be acquired by a municipality pursuant to this article unless such acquisition shall have been approved by (a) the commissioner of environmental conservation, in the case of real property within the sixth park region; or (b) the commissioner, on the recommendation of the state commissioner of housing and community renewal, in the case of neighborhood parks established pursuant to paragraph (c) of subdivision three of section 15.05; or (c) by the commissioner, in the case of all other acquisitions. Upon such approval, and with the approval of the governing body thereof, a municipality may acquire such real property with the aid funds made available by this article for municipal park purposes, by purchase, agreement or in any other manner provided by law for the acquisition of real property for public purposes by such municipality. The state share of the cost of such lands shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner and the entire cost may be paid in the first instance by the state as an advance subject to subsequent reimbursement of the share of the municipality. In addition to any other legal method of financing its share of the cost of acquisition of such lands, a municipality may raise such share by general tax upon all taxable real property located therein or by special tax or assessment upon the real property benefited thereby, or partly by such general tax and partly by such special tax or assessment, in

accordance with applicable laws relating to the payment of the cost of real property acquired by such municipality for park use. In the event a municipality shall fail to pay its share of the cost of acquisition of such lands within six months of the certification to the municipality by the state comptroller of the amount of such cost, the state comptroller shall cause to be withheld from the state assistance funds to which such municipality would otherwise be entitled, a sum sufficient to reimburse the state for any amount remaining unpaid, together with interest on any such unpaid amount at the rate of three per cent per annum from the date of such certification. Moneys so withheld shall be credited against the amount of principal and interest payable by such municipality for its share of the cost of acquisition of such lands.

§ 15.05 Standards for acquisition. 1. Lands acquired for state park purposes pursuant to this article shall be for additions to existing state parks or for the establishment of new state parks of substantial acreage.

2. Lands acquired for state or municipal parks pursuant to this article shall consist of predominately open or natural lands, including lands under water or forested lands, in or near urban or suburban areas, or suitable to serve the recreation needs of the expanding populations of growing metropolitan regions, or desirable to preserve the scenery or natural resources thereof.

3. Lands acquired by a municipality shall be:

(a) for establishing new parks of not less than fifty acres each in area, or

(b) for expanding existing parks to not less than fifty acres each by the addition of not less than twenty-five acres to such a park, except that upon certification by the governing body of a city or a village that insufficient areas of eligible land exist within said city or village to permit the establishment or expansion of parks in accordance with such minimum standards, the commissioner may make specific exceptions to these minimum standards of area, provided that no new park thus established, or existing park thus expanded shall contain less than

twenty-five acres, or

(c) for establishing or expanding existing neighborhood parks convenient to densely-populated areas pursuant to such rules and regulations as the state commissioner of housing and community renewal, with the approval of the commissioner, shall prescribe.

4. Lands acquired for other than state or municipal park purposes shall consist of lands desirable for outdoor recreation, including public camping, fishing, hunting, boating, winter sports, and wherever possible, to also serve multiple purposes involving the conservation and development of natural resources, including the preservation of scenic areas, watershed protection, forestry and reforestation.

§ 15.07 Municipal regulations; limitations. A municipality which acquires lands with funds made available pursuant to this article may establish reasonable rules and regulations to insure proper administration and development of such lands, provided that no rule or regulation restricting the use of such lands to the residents of the municipality shall be effective without the express approval of the commissioner.

§ 15.09 Restriction on alienation. Lands acquired by a municipality with the aid of funds made available pursuant to this article shall be retained by the municipality and shall not be disposed of or, except as provided in Section 15.11, used for other than public park and related purposes without the express authority of an act of the legislature.

§ 15.11 Temporary use by former owners. 1. The commissioner, or the governing body of a municipality with the approval of the commissioner, may make agreements with respect to any lands acquired pursuant to this article by the state or by such municipality, respectively, whereby such lands may continue to be occupied and used by the former owners, their tenants or assigns, for a period not exceeding ten years from the date of acquisition of such lands, provided that during the period of such

occupancy, such lands shall remain on the assessment rolls of the municipality, school districts and other districts in which they are located and shall be subject to real estate taxes and assessments in the same manner as privately owned lands. The right of a former owner to occupy and use such lands shall be conditioned on the prompt payment of the full amount of such taxes and assessments, with interest and penalties, if any. Neither the state nor the municipality shall be liable for real estate taxes or assessments on such lands during such a period. A copy of any such agreement shall be filed with the county clerk of the county in which such lands are located. Nothing herein contained shall be construed to limit the authority of the commissioner to accept conditional grants, bequests or devises of property under other provisions of this chapter.

2. Notwithstanding anything contained in this article to the contrary, the governing body of any municipality, without the approval of the commissioner, may acquire lands pursuant to this article for the purposes contained in this article, without the aid of funds made available thereby, and upon such purchase may enter into an agreement for the use of such property as outlined in this section, subject, however, to the terms and conditions contained herein.

§ 15.13 Acquisitions in sixth region. As used in this article, the term commissioner shall mean the commissioner of parks, recreation and historic preservation or, for real property in the sixth region, the commissioner of environmental conservation.

ARTICLE 17

OUTDOOR RECREATION DEVELOPMENT BOND ACT

Section 17.01 Definitions.

17.03 Allocation of monies.

17.05 Approval and execution of projects.

17.07 Municipal regulations; limitations.

17.09 Restriction on alienation.

17.11 Municipalities; federal and state aid.

§ 17.01 Definitions. As used in this article, unless a different meaning clearly applies from the context:

1. "Marine project" shall mean a project undertaken pursuant to the provisions of the navigation law.

2. "Historic site project" shall mean a project undertaken by a municipality or the department of environmental conservation pursuant to any applicable provision of law or by the office pursuant to the provisions of this chapter, in order to develop or acquire lands, structures thereon and appurtenant objects associated therewith to protect the scientific, historic, cultural and architectural interest thereof and to make such lands available for public recreation.

3. "Park or forest recreation project" shall mean a project, other than a marine or historic site project, to develop or acquire real property for the purpose of increasing the suitability of such property for outdoor recreation, including but not limited to site improvement, and construction, reconstruction and improvement of structures, roads and parking facilities and facilities for any form of public outdoor recreation.

4. "Commissioner" shall mean the commissioner of parks, recreation and historic preservation or, for projects in the sixth region, the commissioner of environmental conservation.

§ 17.03 Allocation of monies. The monies received by the state from the sale of bonds sold pursuant to the outdoor recreation development bond act shall be expended pursuant to appropriations for (1) marine, (2) park, (3) historic site and (4) forest recreation projects, and for (5) municipal park projects in New York city and (6) municipal park projects outside New York City. The director of the budget shall certify to the state comptroller on the first day of April of each year that portion of the outdoor recreation development bond act authorization

estimated to be expended in the ensuing fiscal year for each of the above purposes in fulfillment of capital construction development appropriations, and proceeds of the sale of outdoor recreation development bonds shall be so allocated. Such certification may be amended from time to time by the director of the budget. The director of the budget shall file a copy of such certificate and each amendment thereof with the chairman of the senate finance committee, and the chairman of the assembly ways and means committee.

§ 17.05 Approval and execution of projects. 1. Marine projects. Marine projects shall not be undertaken pursuant to this article until approved by the commissioner. The monies appropriated for marine projects shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner.

2. Historic site projects. (a) State historic site projects, as authorized pursuant to law, may be undertaken pursuant to the provisions of this article.

(b) Historic site projects to be undertaken by a municipality shall be recommended to the commissioner by the governing body of the municipality and, when approved by the commissioner, may be undertaken by a municipality pursuant to any applicable provision of law.

(c) The state share of the cost of a municipal historic site project shall equal the lesser of (1) seventy-five per cent of the cost of the project, less any federal assistance received or to be received for the project or (2) fifty per cent of the cost of the project. For the purpose of determining the amount of the state share, the cost of a project shall not be more than the amount set forth in the application for a state share made by the municipality and approved by the commissioner pursuant to paragraph (b) of this subdivision, plus any direct incidental costs approved by the state comptroller.

(d) The state share of the cost of a project shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner and, when monies are appropriated and available therefor, the entire cost may be paid in the first instance by the state as an advance subject to subsequent reimbursement of the share of the

municipality.

3. State park projects. State park projects shall be undertaken by the office, pursuant to this chapter. The monies appropriated for such projects shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner of parks, recreation and historic preservation.

4. Forest recreation projects. Forest recreation projects may be undertaken by the department of environmental conservation, as authorized by law. The monies appropriated for such projects shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner of environmental conservation.

5. Municipal park projects. (a) Municipal park projects shall not be undertaken pursuant to this article until approved by the commissioner. Projects shall be recommended to the commissioner by the governing body of the municipality, and when approved by the commissioner may be undertaken by a municipality pursuant to any applicable provision of law.

(b) The state share of the cost of a municipal park project shall equal the lesser of (1) seventy-five per cent of the cost of the project, less any federal assistance received or to be received for the project and (2) fifty per cent of the cost of the project. For the purpose of determining the amount of the state share, the cost of a project shall not be more than the amount set forth in the application for a state share made by the municipality and approved by the commissioner pursuant to paragraph (a) of this subdivision, plus any direct incidental costs approved by the state comptroller.

(c) The state share of the cost of a project shall be paid on the audit and warrant of the state comptroller on the certificate of the commissioner and, when monies are appropriated and available therefor, the entire cost may be paid in the first instance by the state as an advance subject to subsequent reimbursement of the share of the municipality.

6. If the state shall advance a municipality's share of the cost of a project, pursuant to this section, the comptroller shall certify the

amount of the share so advanced to such municipality. If the municipality shall fail to repay such amount within six months of such certification, the state comptroller shall cause to be withheld from state assistance to which such municipality would otherwise be entitled, a sum sufficient to reimburse the state for any amount remaining unpaid, together with interest on any such unpaid amount at the rate of three per cent per annum from the date of such certification. Monies so withheld shall be credited against the amount of principal and interest payable by such municipality for its share of the cost of the project.

§ 17.07 Municipal regulations; limitations. A municipality which acquires or develops real property with funds made available pursuant to this article may establish reasonable rules and regulations to assure proper administration and development of such lands, provided that no rule or regulation restricting the use of such lands to the residents of the municipality shall be effective without the express approval of the commissioner.

§ 17.09 Restriction on alienation. Real property acquired or developed by a municipality with the aid of funds made available pursuant to this article shall not be sold or disposed of or used for purposes other than public park, marine, historic site or forest recreation purposes without the express authority of an act of the legislature.

§ 17.11 Municipalities; federal and state aid. 1. Whenever a municipality is applying for federal assistance for park and recreation acquisition and development funds from the federal government, pursuant to the open space acquisition, open space development, urban beautification, neighborhood facilities, navigation, beach erosion control, land and water conservation, outdoor recreation research, or similar programs, and state or local law is not conclusive as to the definition of "local governing body" for such purposes, such authority to make applications shall be vested in that body of the municipality

with authority to exercise all residual powers not otherwise allocated.

2. Whenever a municipality, acting through its local governing body, has agreed to file an application for federal or state funds for a particular program of park or recreation land acquisition or development, urban beautification, historic preservation, neighborhood facilities, navigation, beach erosion control, land and water conservation, outdoor recreation research, or similar programs, then the municipal body or official charged with responsibility for administering such program may, in the absence of law to the contrary, be delegated responsibility for filing the application, and signing grant-in-aid contracts if the application is approved.

ARTICLE 19 HISTORIC SITES

Section 19.01 Purpose.

19.03 Powers, functions and duties; commissioner.

19.05 Historic sites.

19.07 People's history project.

19.11 Functions of education department.

§ 19.01 Purpose. Certain historic sites heretofore have been established or designated by law. Pending further developments in the reorganization of the office, such sites are continued pursuant to the provisions of this article, subject to the commissioner's general powers of reorganization pursuant to section 3.07. Any historic sites hereafter shall be established or designated by the commissioner pursuant to the applicable provisions of this chapter.

§ 19.03 Powers, functions and duties; commissioner. In addition to the powers, functions and duties provided for in section 3.09, the commissioner shall:

1. Act as the liaison officer on historic preservation matters

pursuant to the provisions of any applicable federal law or regulation.

2. Develop and maintain a statewide comprehensive survey and plan for historic preservation.

3. Be authorized to establish and maintain a state register of historic sites and objects.

4. Cooperate with the department of education and the New York state freedom trail commission in the performance of their duties in connection with the freedom trail and underground railroad.

§ 19.05 Historic sites. The following historic sites heretofore acquired, established, or designated by law shall be continued in the office subject to the provisions of this article and chapter.

1. Bennington Battlefield.

2. Fort Crailo.

3. Philipse Manor Hall.

4. Sir William Johnson Mansion.

5. Schuyler Mansion.

6. Herkimer House.

7. Guy Park house and grounds.

8. Washington's headquarters.

9. John Jay homestead.

10. Senate house and senate house museum at Kingston.

11. Olana. The Olana historic site shall be transferred to and be continued in the office.

§ 19.07 People's history project. 1. The legislature hereby finds and declares that the history of New York state is replete with persons, sites, and events of both local and statewide importance that have heretofore been overlooked by mainstream, established history. The state's historical sites and history as it is taught in school and popularly recorded fail to take into consideration the multitude of peoples who have built this state, a state that has been significantly impacted by immigrant and ethnic populations of this country and home to the majority of social and economic movements of the last four hundred years. It is time to recognize those from every background who have contributed to the history of this state, and give new cause for pride and create new role models for all people. Recognizing such historical sites, events and persons will also contribute to tourism, especially special niche tourism, and consequently contribute to the economic development of the state, especially in areas that are underdeveloped economically and disadvantaged.

2. The commissioner shall establish within the office a people's history committee. The members of the committee shall be appointed by the commissioner and shall be representative of academic and professional historians, members of local historical societies and other such groups. Such members of the committee shall reflect the diversity of the residents of this state with regard to race, ethnicity, gender, language, and geographic residence. The members of the committee shall serve without compensation, but shall be allowed their actual and necessary expenses.

3. The commissioner shall establish a process whereby the people of the state may nominate persons, sites, and events of historical significance each year for inclusion in the people's history project who may be of local, regional, statewide or national significance. The committee, in consultation with local historians, historical societies, and other authorities, where appropriate, shall evaluate the merits of

such nominees, and may select up to ten persons, sites or events per year for inclusion in the people's history project. In its evaluation of the merits of nominees, such commission shall consider, including but not limited to, the following factors: the historical impact of such person, site or event, how such impact changed history, and the effect that such person, site or event had on the state and whether such person, site, or event that has been overlooked.

4. For nominees approved by the committee, suitable commemorative markers of selected sites may be erected at the appropriate location or locations as determined by the commissioner. The office shall maintain a website listing the persons, sites, and events selected by the committee, a description thereof, a map showing the locations thereof if applicable, and any other relevant information.

§ 19.11 Functions of education department. Upon the request of the commissioner, the following functions relating to identification, restoration and educational interpretation of historic sites and places of historic interest shall be performed by the education department:

1. Preparation of interpretative literature, the texts of signs and markers, exhibition, and other presentations designed to utilize the educational potential of historic sites.

2. Advising the office with respect to the custody, use, cataloguing, restoration and control of original documents and objects (such as furniture, paintings, equipment, records, drawings, manuscripts and maps) having unique historic significance. The office may assign to the education department, and the education department may accept, custody and control of any such original documents or objects.

3. Evaluation of the historic significance of historic sites, historic site development projects and places of historic interest; and advising the office with respect to the restoration, interpretation and use thereof. The office shall request the evaluation of the education department before approving the acquisition of an historic site or the

undertaking of an historic site development project.

4. Such other functions relating to the identification, restoration and educational interpretation of historic sites as may be agreed upon between the office and the education department.

ARTICLE 19-A
**PROPERTY HELD BY THE OFFICE OF PARKS,
RECREATION AND HISTORIC PRESERVATION**

Section 19.13 Definitions.

- 19.14 Notice by mail.
- 19.15 Notice by publication.
- 19.16 Basic notice requirements.
- 19.17 Clarifying title to property on loan.
- 19.18 Acquiring title to undocumented property.
- 19.19 Notice to international foundation for art research.
- 19.20 Property acquired from the office.
- 19.21 Stolen property.
- 19.22 Office's duty to lenders.
- 19.23 Lender's duty to the office.
- 19.24 Conservation of loaned property.
- 19.25 Office recordkeeping.
- 19.26 Limitations on actions against the office.
- 19.27 Limitations on actions by the office.
- 19.28 Acquisition of property by gift or bequest.
- 19.29 Deaccessioning.

§ 19.13 Definitions. As used in this article:

1. "Claimant" means a person who asserts ownership or some other legal right to undocumented property held by the office.
2. "Loan" means a deposit of property with the office not accompanied by a transfer to the office of title to the property.

3. "Lender" means a person whose name appears on the records of the office as the person legally entitled to, or claiming to be legally entitled to, property held by the office or, if deceased, the legal heirs of such person.

4. "Lender's address" means the most recent address for the lender shown on the office's records pertaining to the property on loan, or if the lender is deceased, the last known address of the legal heirs of such lender.

5. "Office" means the state office of parks, recreation and historic preservation and those facilities including historic sites as defined in section 1.03 of this chapter which: (a) are under the jurisdiction of the office; (b) are operated primarily for educational, cultural, scientific, historic, or aesthetic purposes; and (c) own, borrow, care for, exhibit, study, archive or catalogue property.

6. "Permanent loan" means a loan of property to the office for an unspecified period.

7. "Property" means any inanimate object, document or tangible object under the office's care which has intrinsic historic, artistic, scientific, or cultural value.

8. "Undocumented property" means property in the possession of the office for which the office cannot determine the owner by reference to its records.

9. "Deaccession" means the permanent removal or disposal of an object from the collection of the office by virtue of its sale, exchange, donation or transfer in accordance with the provisions of section 19.29 of this article.

10. "Conservation measures" means any actions taken to preserve or stabilize a property including, but not limited to, proper storage support, cleaning, proper lighting, and restoration.

§ 19.14 Notice by mail. A notice given by the office under this article must be mailed to the lender's last known address by certified mail, return receipt requested. Service by mail is complete if the office receives proof that the notice was received not more than thirty days after it was mailed.

§ 19.15 Notice by publication. 1. Notice may be given by publication if the office does not:

- (a) know the identity of the lender; or
- (b) know the address of the lender; or
- (c) receive proof that the notice mailed under section 19.14 of this article was received within thirty days of mailing.

2. Notice by publication must be given at least once a week for three consecutive weeks in a newspaper of general circulation in:

- (a) the county in which the property is held by the office; and
- (b) the county of the lender's last address, if known. The date of notice under this subdivision shall be the date of the third published notice.

§ 19.16 Basic notice requirements. In addition to any other information that may be required or seem appropriate, any notice given under this article must contain the following:

1. The name of the lender, if known.
2. The last address of the lender, if known.
3. A brief description of the property on loan.
4. The date of the loan, if known.
5. The name and address of the office.

6. The name, address, and telephone number of the person to be contacted regarding the property.

§ 19.17 Clarifying title to property on loan. Notwithstanding any other provisions of law regarding abandoned or lost property the office may, beginning five years from the date the lender last contacted the office, clarify title to property on permanent loan or loaned for an indeterminate period or a specified term that has expired. Proof of the date on which the lender last contacted the office may include previously sent registered letters or loan forms, returned envelopes, inventories and other documentary evidence. The procedure for clarifying title shall be as follows:

1. The office must give notice by mail to the lender that it wishes to clarify ownership rights in the property.

2. In addition to the information described in section 19.16 of this article, the notice shall be entitled "Notice of Termination" and must include a statement containing substantially the following information: "The records of the office of parks, recreation and historic preservation indicate that you have property on loan at (name of facility). The office is seeking to determine whether you wish (i) that the office return the property to you, (ii) that the property remain on loan to the office subject to annual renewal, or (iii) that the office retain the property permanently as its owner. Please contact (name of contact) in writing within one hundred twenty days, in order to advise the office as to which of the above alternatives you wish to follow."

3. If, no later than one hundred twenty days following receipt thereof, the lender does not respond to the notice of termination by submitting a written claim to the property on loan with verifying documentation the office shall send a second notice to the lender containing the following information: "On (date of first notice), the office of parks, recreation and historic preservation sent you a notice concerning property that, according to our records, has been loaned to the office. You have not responded to that notice, a copy of which is

enclosed, and the office will commence proceedings to acquire title to the property if you do not contact (name of contact), in writing within one hundred twenty days of receiving this second notice."

4. If the lender fails to respond to the second notice described in subdivision three of this section within one hundred twenty days of receipt, at the request of the commissioner, the attorney general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the office's right to such property. In a case in which there is no evidence that the notices previously sent by the office were received by the lender, upon application, the supreme court shall specify the method by which service shall be made upon the lender.

§ 19.18 Acquiring title to undocumented property. Notwithstanding any other provision of law regarding abandoned or lost property the office may acquire title to undocumented property held by the office for at least five years as follows:

1. The office must give notice by publication that it is asserting title to the undocumented property.

2. In addition to the information described in section 19.16 of this article, the notice shall be entitled "Notice of Intent to Acquire Title to Property" and must include a statement containing substantially the following information: "The records of the office of parks, recreation and historic preservation fail to indicate the owner of record of certain property in its possession. The office hereby asserts its intent to acquire title to the following property: (general description of property). If you claim ownership of this property, you must submit written proof of ownership to the office and make arrangements to collect the property. If you fail to do so within one hundred eighty days, the office will commence proceedings to acquire title to the property. If you claim an interest in the property but do not possess written proof of such interest, you should submit your name and address and a written statement of your claim to (name of contact), within one

hundred eighty days, in order to receive notice of any legal proceedings concerning the property. If you wish to commence legal proceedings to claim the property, you should consult your attorney.

3. If after one hundred eighty days following the last date of publication of such notice no claimant has responded thereto by submitting written proof of ownership of the property to the office, or if there is a dispute between the office and any claimant as to ownership of the property, at the request of the commissioner, the attorney general may make an application to the supreme court pursuant to article thirty of the civil practice law and rules for a declaratory judgment to determine the office's rights in the property.

§ 19.19 Notice to international foundation for art research. A copy of all notices required by section 19.17 or 19.18 of this article shall be sent, by certified mail, return receipt requested, to the International Foundation for Art Research, or any successor foundation or agency having similar purposes, on or before the date on which such notices are mailed or first published pursuant to the requirements of this article.

§ 19.20 Property acquired from the office. Any person who purchases or otherwise acquires property from the office acquires good title to such property if the office has acquired title in accordance with this article.

§ 19.21 Stolen property. The provisions of sections 19.17 and 19.18 of this article shall not apply to any property that has been reported as stolen to a law enforcement agency or to the Art Theft Archives of the International Foundation for Art Research, or any successor foundation or agency having similar purposes, no later than one year following the theft or discovery of the theft.

§ 19.22 Office's duty to lenders. 1. When the office accepts a loan of property, it shall inform the lender in writing of the provisions of this article. The office shall also give notice to all lenders of any change in the address, status or jurisdiction of the office.

2. The office shall give a lender, at the lender's address, prompt written notice by mail of any known injury to, or loss of, property on loan or of the need to apply conservation measures pursuant to section 19.24 of this article. Such notice shall advise the lender of his right, in lieu of the application of such conservation measures, to terminate the loan and, no later than thirty days after having received such notice, either retrieve the property or arrange for its isolation and retrieval. The office shall not be required to publish notice of injury or loss to any undocumented property.

§ 19.23 Lender's duty to the office. The owner of property loaned to the office is responsible for promptly notifying the office, in writing, of any change of address or change in the ownership of the property.

§ 19.24 Conservation of loaned property. 1. Unless there is a written loan agreement to the contrary, the office may apply conservation measures to property on loan to the office without giving formal notice or first obtaining the lender's permission if action is required to protect the property on loan or other property in the custody of the office or if the property on loan is a hazard to the health and safety of the public or the office staff, provided that:

(a) the office is unable to reach the lender at the lender's last known address or telephone number before the time the office determines action is necessary; or

(b) the lender either (i) does not respond to a request for permission to apply conservation measures made pursuant to section 19.22 of this article within three days of receiving the request or will not agree to the conservation measures the office recommends or (ii) fails to terminate the loan and either retrieve the property or arrange for its isolation and retrieval within thirty days of receiving the request.

If immediate conservation measures are necessary to protect the property or other property in the custody of the office or to protect the health or safety of the public or the office staff, the conditions set forth in paragraphs (a) and (b) of this subdivision shall not apply.

2. Unless provided otherwise in an agreement with the lender, if the office applies conservation measures to property under subdivision one of this section, and such measures were not required as a result of the office's own action or inaction, the office shall acquire a lien on the property in the amount of the costs incurred by the office, including, but not limited to the cost of labor and materials, and shall not be liable for injury to or loss of the property, provided that the office:

(a) had a reasonable belief at the time the action was taken that the action was necessary to protect the property on loan or other property in the custody of the office, or that the property on loan was a hazard to the health and safety of the public or the office staff; and

(b) exercised reasonable care in the choice and application of conservation measures.

§ 19.25 Office recordkeeping. The office shall maintain or continue to maintain, as the case may be and to the extent such information is available, a record of acquisition, whether by purchase, bequest, gift, loan or otherwise, of property for display or collection and of deaccessioning or loan of property currently held or thereafter acquired for display or collection; provided, however, that the records required to be maintained pursuant to this section need not be maintained for any field collected natural history specimen having the value of fifty dollars or less. Any such record shall: (i) state the name, address, and telephone number of the person from whom such property was acquired, or to whom such property was transferred by deaccessioning or loan, and a description of such property, its location, if known, and the terms of the acquisition or deaccessioning or loan, including any restrictions as to its use or further disposition, and any other material facts about the terms and conditions of the transaction; (ii) include a copy of any document of conveyance relating to the acquisition or deaccessioning or

loan of such property and all notices and other documents prepared or received by the office pursuant to the requirements of this article and sections 3.09 and 3.17 of this chapter; and (iii) be retained for a period of at least five years following the sale or deaccessioning of such property.

§ 19.26 Limitations on actions against the office. Notwithstanding the provisions of the civil practice law and rules or any other law, except for laws governing actions to recover stolen property:

1. No action against the office for damages arising out of injury to or loss of property loaned to the office shall be commenced more than three years from the date the office gives the lender or claimant notice of the injury or loss under section 19.22 of this article.

2. No action against the office to recover property shall be commenced more than three years from the date the office gives notice of its intent to terminate the loan under section 19.17 of this article or notice of intent to acquire title to undocumented property under section 19.18 of this article.

§ 19.27 Limitations on actions by the office. The procedures set forth in sections 19.14, 19.15, 19.16, 19.17, 19.18 and 19.19 of this article shall not be available to the office unless the office shall have fully complied with section 19.25 of this article. In the event that the office shall have failed to comply with such section, any action by the office shall be governed by the period of limitations that would have applied in the absence of this article.

§ 19.28 Acquisition of property by gift or bequest. 1. Prior to the acquisition of property by gift, the office shall provide the donor with a written copy of the appropriate facility collections policy, which shall include policies and procedures of the office relating to deaccessioning.

2. If the office has the knowledge of a planned bequest of any property prior to the death of the testator, the office shall provide the testator with a written copy of the appropriate facility collections policy, which shall include policies and procedures of the office relating to deaccessioning.

§ 19.29 Deaccessioning. Notwithstanding any other provision of law, the commissioner may donate a work of art or an historic or other object of personal property under the jurisdiction of the office to a public corporation. The commissioner may also dispose of such property directly pursuant to a process set forth in regulation which is consistent with subdivision three of section one hundred sixty-seven of the state finance law or may transfer such property with or without conditions to the office of general services, and the office of general services shall be authorized to accept such work of art or such object and dispose of such property in accordance with the provisions of section one hundred sixty-seven of the state finance law, or at a private sale. Such work of art or object shall only be donated, transferred or sold pursuant to this section provided that:

1. The commissioner determines such work of art or object to be surplus to the needs of the office or the public.

2. The work of art or object to be disposed of is first documented, recorded and offered to the New York state museum for use in its collections, and if not accepted within thirty days of such offer, it shall be offered for transfer to state agencies having a legislative mandate to acquire, exhibit, preserve and interpret works of art and historic objects. Proceeds derived from the deaccessioning of any property from the collections of the office shall be deposited into the state park infrastructure fund established pursuant to section ninety-seven-mm of the state finance law and shall be used only for the acquisition of collections and/or for the preservation, protection and care of the collections, including capital projects relating thereto.

ARTICLE 20

NEW YORK STATE PARK PRESERVE SYSTEM

Section 20.01 Purpose.

20.02 Powers, functions and duties; commissioner.

20.03 Cooperation of other agencies.

§ 20.01 Purpose. With the loss of natural areas through development, there is a critical need for the creation of a new designation of park land containing wildlife, flora, scenic, historical and archeological sites that are unique and rare in New York state. The commissioner may designate a system of park preserves to assure the protection of this heritage for future generations.

Furthermore, there is a need to create an additional park designation, to be known as park preservation areas, to identify and conserve portions of state parks, parkways, historic sites and recreational facilities that, although the entire facility does not qualify as a park preserve, nonetheless possess outstanding ecological values, including assemblages of flora and fauna that are unique or rare in the state. The commissioner may designate a system of park preservation areas to protect outstanding ecological values within facilities under the jurisdiction of the office that have not been designated park preserves. For administrative purposes, designated park preservation areas shall be considered a part of the park preserve system.

§ 20.02 Powers, functions and duties; commissioner. In addition to the powers, functions and duties provided for in section 3.09, the commissioner shall:

1. Conduct scientific and environmental studies to determine the selection of state parks, parkways, historic sites or recreational facilities that shall be designated park preserves as well as portions of parks that shall be designated park preservation areas.

2. Maintain the integrity of park land, flora, fauna, and scenic vistas; restore and maintain historical and archeological sites; and provide for the management of all unique, rare, threatened or endangered species of flora and fauna within designated park preserves and park preservation areas.

3. Provide personnel trained in the natural sciences, including but not limited to biology, botany, ecology, entomology, geology, and zoology, to staff such park preserves and park preservation areas and provide for the management of their educational and scientific utilization.

4. a. Construct necessary facilities including offices, roads, paths, environmental centers and parking areas, on no more than fifteen percent of the land area of each such state park, parkway, historic site or recreational facility that has been designated a park preserve.

b. Maintain portions of facilities that have been designated park preservation areas in their undeveloped state, limiting development within such areas to appropriate passive recreational facilities.

5. Establish environmental education classes to be conducted by naturalists for the public in cooperation with other governmental agencies.

6. Develop a written stewardship plan for each designated park preserve and park preservation area. Such plan shall include a description of stewardship activities required to monitor, protect and enhance the fauna, flora, scenic, historical, archeological and other resources that merited designation of the park preserve or park preservation area. Such plan shall also provide for passive recreational uses such as horseback riding, fishing, hiking, nature study, and photography provided that such uses are compatible with the long-term protection of the ecological and historical resources that merited designation of the park preserve or park preservation area.

7. To insure that the types and intensity of use of such park preserve

lands is commensurate with the goal of maintaining their ecological viability and balance, establish an admission control system by permit on either a group or individual and non-discriminatory basis pursuant to rules and regulations promulgated by the commissioner.

8. Prepare an environmental impact statement and conduct public hearings pursuant to article eight of the environmental conservation law prior to acting on any proposal to remove park preserve or park preservation area designation from any state park, parkway, historic site or recreational facility designated hereto.

9. Promulgate rules and regulations to effectively carry out the purposes of this article.

§ 20.03 Cooperation of other agencies. To effectuate the purposes of this article, the commissioner may request from any department, board, bureau, commission or other agency of the state, and the same are authorized and directed to provide, such cooperation and assistance, services and data as will enable the council properly to carry out its powers and duties thereunder.

TITLE D SNOWMOBILES

ARTICLE 21 GENERAL PROVISIONS

- Section 21.01 Legislative findings and purpose.
21.02 Snowmobile trail maintenance entities.
21.03 Jurisdiction of office.
21.05 Definitions.
21.07 Fee for snowmobile trail development and maintenance.

§ 21.01 Legislative findings and purpose. The legislature hereby

finds that it is in the public interest to register snowmobiles as recreational vehicles for the purpose of enforcement of reasonable provisions concerning their use and control; to encourage the sport of snowmobiling as a family activity; to promote the proper and safe use and operation of snowmobiles; to provide an adequate safety educational program for youthful operators; to limit the operation of snowmobiles upon public highways and private property without the consent of the owner; to protect and preserve the state's natural resources, including its wildlife, wild forests, waters and scenic and wilderness character; to reduce the effect on the environment of excess noise; to insure privacy of remote areas; and to afford opportunity for compatible enjoyment of various recreational activities on the state's lands and open spaces. It is the purpose of this title to promote the safe and proper use of snowmobiles for recreation and commerce in this state by encouraging their use and development and minimizing detrimental effects of such use upon the environment.

§ 21.02 Snowmobile trail maintenance entities. Snowmobile trail maintenance entities play an important role in the trail system. As general guidelines, to further promote the proper and safe operation of snowmobiles and the other purposes as set forth in section 21.01 of this article, snowmobile trail maintenance entities should strive to:

1. clearly mark and delineate state designated snowmobile trails for which they are responsible;
2. encourage riders to participate in available snowmobile educational programs to make riders aware of the inherent risks associated with the sport;
3. equip trail maintenance vehicles that they operate with such warning implements or devices as specified by law;
4. hold training sessions each season, for operators of trail maintenance equipment concerning the proper operation of such vehicles;

5. provide education for all other personnel charged with trail maintenance, inspection or patrol duties as to methods to be used for summoning aid in emergencies; and

6. maintain for public use trail area information showing the following: (a) the location of state designated trails; and (b) the status of each trail as open or closed. Nothing in this section shall create a legal duty or obligation beyond that which may already exist.

§ 21.03 Jurisdiction of office. The control and supervision of the use of snowmobiles shall be under the jurisdiction of the office.

§ 21.05 Definitions. As used in this article, unless the context requires otherwise:

1. "Governmental agency" shall mean any agency of the state of New York and all municipalities within the state.

2. "Executive officer" shall mean:

(a) In the case of a county, the county executive unless there is none, in which case it shall mean the county manager if there is one, or the chairman of the county legislative body if there is neither a county executive nor county manager.

(b) In the case of cities, the mayor, except in those cities having a city manager it shall mean such city manager.

(c) In the case of towns, the supervisor or presiding supervisor.

(d) In the case of villages, the mayor, except in those villages having a president or manager it shall mean such president or manager.

3. "Snowmobile" shall mean a self-propelled vehicle equipped with a motor, originally manufactured and designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or tracked cleats.

4. "Owner" shall mean any person having title to a snowmobile. If a

snowmobile is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such snowmobile, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession. A person holding only a security interest in a snowmobile shall not be deemed an owner unless such person also has possession of such snowmobile.

5. "Operate" shall mean to ride in or on, other than as a passenger, or use or control the operation of a snowmobile in any manner, whether or not said snowmobile is under way.

6. "Operator" shall mean every person who operates or is in actual physical control of a snowmobile.

7. "Register" shall mean the act of assigning a registration number to a snowmobile.

8. "Roadway" shall mean that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder.

9. "Highway" shall mean the entire width between the boundary lines of any way or place when any part thereof is open to the use of the public, as a matter of right, for the purpose of vehicular traffic.

10. "Shoulder" shall mean that portion of a highway which lies outside the paved or unpaved roadway immediately adjacent to the portion of the roadway which may be used by motor vehicles.

11. "Bank" shall mean a mound, pile or ridge of snow on the edge of a highway accumulated from natural snowfall or by snowplowing operations.

12. "Inside bank" shall mean the portion of a snowbank immediately adjacent to the shoulder of the roadway.

13. "Outside bank" shall mean the portion of a snowbank outside the crest thereof and farthest removed from the roadway.

14. "Cowling" shall mean the forward portion of the snowmobile usually surrounding the motor and clutch assembly.

15. "Dealer" shall mean a person engaged in the business of selling snowmobiles at wholesale or retail.

16. "Special event" shall mean an organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested.

17. "Snowmobile operator's certificate" shall mean a certificate issued by the commissioner evidencing that the holder thereof has successfully completed an approved course of instruction in snowmobile operation and safety as hereinafter provided.

18. "Authorized ambulance snowmobile" shall mean a snowmobile designated as such in writing and filed with the commissioner by the chief executive officer of any duly organized volunteer ambulance company, fire department, or paid fire department, operated by a member thereof and equipped with emergency lights as provided in subdivision four of section 25.17 of this chapter.

19. "Authorized police snowmobile" shall mean a snowmobile operated by a police or other peace officer while engaged in the performance of his official duties within the area of his territorial jurisdiction and equipped with emergency lights as provided in subdivision four of section 25.17 of this chapter.

20. "Authorized civil defense snowmobile" shall mean a snowmobile designated as such in writing and filed with the commissioner by the chief executive officer of a municipality and operated by a member of a civil defense organization of the municipality and equipped with emergency lights as provided in subdivision four of section 25.17 of this chapter.

21. "Operation as emergency vehicle." The operation or parking of an authorized ambulance, police or civil defense snowmobile, including attendant equipment, displaying one or more lighted, red or combination red or white lights which is revolving, rotating, flashing, oscillating or constantly moving light and which snowmobile is engaged in transporting a sick or injured person, pursuing an actual or suspected violator of the law or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm or other emergency but shall not include returning from such service.

§ 21.07 Fee for snowmobile trail development and maintenance. 1. A fee of one hundred twenty-five dollars is hereby imposed upon the resident, and one hundred twenty-five dollars upon the nonresident, owner of a snowmobile for the snowmobile trail development and maintenance fund to be paid to the commissioner of motor vehicles upon the registration thereof in addition to the registration fee required by the vehicle and traffic law, the payment of which fee hereby imposed shall be a condition precedent to such individual resident, individual nonresident or dealer registration.

* 2. Notwithstanding the fee as established in subdivision one of this section, an individual resident or nonresident registering a snowmobile who provides proof at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association, shall pay fifty-five dollars for each snowmobile for the snowmobile trail development and maintenance fund in addition to the registration required by the vehicle and traffic law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person.

* NB Effective until December 31, 2028

* 2. (a) Notwithstanding the fee as established in subdivision one of

this section, an individual resident or nonresident registering a snowmobile who provides proof at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association, shall pay fifty-five dollars for each snowmobile for the snowmobile trail development and maintenance fund in addition to the registration required by the vehicle and traffic law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, such person may contact the New York state snowmobile association, who shall secure such membership for such person.

(b) Notwithstanding the fee as established in subdivision one of this section and paragraph (a) of this subdivision, a fee of one hundred twenty-five dollars is hereby imposed upon the resident, and one hundred twenty-five dollars upon the nonresident, owner of a snowmobile manufactured more than thirty years prior to the current calendar year for the snowmobile trail development and maintenance fund to be paid to the commissioner of motor vehicles upon the registration thereof in addition to the registration fee required by the vehicle and traffic law, the payment of which fee hereby imposed shall be a condition precedent to such individual resident or individual nonresident registration. Provided, however, an individual resident or nonresident registering a snowmobile manufactured more than thirty years prior to the current calendar year who provides proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association, shall pay twenty dollars for each such snowmobile for the snowmobile trail development and maintenance fund in addition to the registration required by the vehicle and traffic law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, they may contact the New York state snowmobile association, who shall secure such membership for such person.

ARTICLE 25

CONTROL PROVISIONS

- Section 25.01 Rules and regulations.
- 25.03 Operation of snowmobiles; general.
- 25.04 Designation of certain trails.
- 25.05 Operation on highways.
- 25.07 Operation on other public lands.
- 25.09 Operation on highways and public lands; authorization by governmental agencies.
- 25.11 Special events.
- 25.13 Liability insurance.
- 25.17 Equipment.
- 25.18 Trail grooming equipment; requirements.
- 25.19 Operation by youthful operators.
- 25.21 Responsibility for operation by minors.
- 25.23 Duties and liability for negligence.
- 25.24 Operating a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while under the influence of alcohol or drugs.
- 25.25 Accidents; reports.
- 25.27 Service on nonresidents and certain residents, administrators or executors.
- 25.29 Suspension and revocation of certificates and permits.

§ 25.01 Rules and regulations. With a view of achieving maximum use of snowmobiles and minimizing the detrimental effect thereof upon the environment, the commissioner shall adopt rules and regulations relating to and including, but not limited to the following:

1. Use of snowmobiles insofar as fish and wildlife resources are affected.

2. Use of snowmobiles on public lands and waters under the

jurisdiction of the office.

3. Uniform signs or markers to be used by governmental agencies which are necessary or desirable to control, direct, or regulate the operation and use of snowmobiles. Such signs as may be designated for use on highways shall also be approved by the commissioner of transportation.

4. Specifications relating to equipment required for safety as provided in section 25.17.

5. Requirements for the protection of private property or interests therein occasioned by the use of snowmobiles.

6. Establishment of a comprehensive snowmobile information and safety education and training program, including provision for issuance of snowmobile safety certificates for operation of snowmobiles by youthful operators.

7. Granting of permits for and the conduct of special events as provided in section 25.11.

8. Administration and enforcement of the provisions of section 25.13, relating to insurance.

9. Such other matters as may be necessary or desirable to provide for the effective administration and enforcement of the provisions of this title.

§ 25.03 Operation of snowmobiles; general. It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

1. Imprudent speed. At a rate of speed greater than reasonable or proper under the surrounding circumstances provided, however, that in no case shall a snowmobile be operated at a speed in excess of fifty-five miles per hour upon public trails or lands, unless (a) participating in

a special event authorized by the commissioner pursuant to section 25.11 of this article or (b) engaged in operation as an emergency vehicle as defined in subdivision twenty-one of section 21.05 of this title.

2. Reckless operation. In a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or to cause injury or damage thereto.

3. Intoxication and drugs. While in an intoxicated condition or under the influence of narcotics or drugs as defined by section one hundred fourteen-a of the vehicle and traffic law.

4. Lights. (a) Between sunset and sunrise or when lights are required for safety without displaying at least one lighted head light and tail light.

(b) Operating other than as an emergency vehicle and displaying one or more lighted red or combination red or white lights which is revolving, rotating, flashing, oscillating or constantly moving light.

5. Railroad tracks. On the tracks of an operating railroad.

6. Plantings. In any tree nursery or planting in a manner which damages or destroys growing stock, or creates a substantial risk thereto.

7. On lands of another. On private property, except for operation as emergency vehicle, without the consent of the owner or lessee thereof. Any person operating a snowmobile upon lands of another in violation of this section shall stop and identify himself or herself upon the request of the landowner, the landowner's duly authorized representative or lessee, and, if requested to do so by said landowner, representative or lessee shall promptly remove said snowmobile from the premises.

8. Snowmobiles towing a sleigh, sled or toboggan. The towing of a sleigh, sled or toboggan, unless attached by a rigid support, connection or towbar.

9. Failure to stop and yield. In any place at any time failing to stop and yield to an authorized ambulance, civil defense, or police snowmobile or police vehicle being operated as an emergency vehicle and approaching from any direction.

9-a. Failing to yield to trail grooming equipment. Failure by the operator of a snowmobile upon any snowmobile trail to yield the right of way to the operator of trail grooming equipment upon such trail, whether such snowmobile operator is approaching or overtaking.

10. Failure and refusal to comply. In any place at any time failure or refusal to comply with any lawful order or direction of any police officer or other person duly empowered to enforce all laws of the state relating to snowmobiles.

§ 25.04 Designation of certain trails. The commissioner shall designate snowmobile trails which proceed along a New York state border and which, occasionally as dictated by terrain, cross into another state, in which such snowmobile is registered and shall publish such trail designation in the New York state register and other publications accessible to the snowmobiling public and shall make such designation available to law enforcement departments which have jurisdiction over such trails to enable the department, such law enforcement departments and the snowmobiling public to identify which trails in the state may be used by a nonresident without requiring a registration of their snowmobile in accordance with subdivision twelve of section twenty-two hundred twenty-two of the vehicle and traffic law.

§ 25.05 Operation on highways. It shall be unlawful for any person to drive or operate any snowmobile on a highway other than as follows:

1. Operation on thruway, interstate highways and controlled access state highways prohibited. Except in a snow emergency as so declared under the provisions of subdivision two of this section, snowmobiles shall not be operated on the state thruway or interstate and controlled

access state highways.

1-a. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for temporary snowmobile use a trail or portion of a trail listed in this subdivision within the right of way of a state route. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trail by snowmobiles to provide for the safe use of such route and the safe operation of snowmobiles on the trail. Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation. The following trails or portions thereof may be temporarily designated for snowmobile use pursuant to this subdivision:

(a) state route one hundred four between the western county line of Wayne county and the northern town line of the town of Hannibal in Oswego county; and

(b) state route three hundred seventy-four from the vicinity of route marker 374-7102-1331 at the intersection of state route three hundred seventy-four and state route twenty-two to the vicinity of route marker 374-7102-1250 in Cadyville near the intersection of state route three hundred seventy-four and state route three.

1-b. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for snowmobile use a trail within the right-of-way of state route three between state route one hundred four in the town of Hannibal and county route three in the town of Granby in Oswego county. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trail by snowmobiles to provide for the safe use of state route three and the safe operation of snowmobiles on the trail. Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation.

1-c. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for snowmobile use a trail within the right-of-way of state route eight in the town of Deerfield in Oneida county between mile marker/area locations route marker 8-2607-3237 and route marker 8-2607-3260. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trail by snowmobiles to provide for the safe use of state route eight and the safe operation of snowmobiles on the trail. Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation.

1-d. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for snowmobile use a trail within the right-of-way of state route twelve in the town of Boonville in Oneida county between reference marker 12-2604-3212 and 12-2604-3213 and a trail within the right-of-way of state route twenty-eight in the town of Boonville in Oneida county between reference marker 28-2607-1142 and 28-2607-1143. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trails by snowmobiles to provide for the safe use of state route twelve and state route twenty-eight and the safe operation of snowmobiles on the trails. Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation.

1-e. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for snowmobile use a trail within the right-of-way of state route two hundred nineteen in the town of Concord in Erie county between reference marker 219-5314-1121 and 219-5314-1127. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trail by snowmobiles to provide for the safe use of state route two hundred nineteen and the safe operation of snowmobiles on the trail.

Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation.

1-f. Notwithstanding the provisions of subdivision one of this section, the commissioner, with the concurrence of the commissioner of transportation, may designate for snowmobile use a trail within the right-of-way of state route nine hundred fifty-four-h in the village of Bemus Point in Chautauqua county between reference marker 17-5201-1282 and 17-5201-1286. The commissioner's designation shall include conditions, developed in consultation with the commissioner of transportation, on the use of such trail by snowmobiles to provide for the safe use of state route nine hundred fifty-four-h and the safe operation of snowmobiles on the trail. Designations made under this subdivision shall be effective for no longer than a period of one year and may be renewed with the concurrence of the commissioner of transportation.

2. Emergencies. (a) In an emergency, for the purpose of emergency travel only, during the period of time when and at locations where snow upon the highways renders travel by motor vehicles impractical, as so declared and permitted in the case of the state thruway by the thruway authority, in the case of other state highways by the state agency or authority having jurisdiction to regulate traffic thereon, and in the case of other highways by the chief executive officer of the municipality having jurisdiction over such highways.

(b) A snowmobile may also be operated on a highway otherwise closed to snowmobile travel in emergency situations when the specific travel for a specific purpose is authorized or directed by a peace or police officer, or a highway superintendent or executive officer of a county, town, city or village.

3. Highway crossings. On highways other than the thruway, interstate highways and controlled access highways, snowmobiles may take a direct crossing at any time of the day provided:

(a) The crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction

prevents a quick and safe crossing; and

(b) The snowmobile is brought to a complete stop before crossing the shoulder or main traveled way of the highway; and

(c) The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard; and

4. Culverts and bridges. Snowmobiles may be operated on highways other than the thruway, interstate and controlled access highways, when necessary to cross a bridge or culvert.

5. Unplowed highways. Snowmobiles may be operated on county, town, city or village highways, or portions thereof, during the periods when and at locations where the highway is customarily unplowed and unused during the winter months for vehicle travel. The governing body of a county, town, city or village shall designate those highways or portions thereof which are so customarily unplowed.

6. Outside banks. On highways other than the thruway, interstate and controlled access highways, snowmobiles may be operated on the outside banks.

7. Highways designated by governmental agencies. Snowmobiles may be operated on the following portions of highways, other than the thruway, interstate highways or controlled access state highways, which have been designated and posted as provided in section 25.09.

(a) Shoulders and inside banks. On the shoulders and inside banks of such highways or portions thereof so designated;

(b) Roadways. On roadways of such highways or portions thereof in case the outside banks or shoulders are determined by the governmental agency to be impassable or non-existent by reason of prevailing snow conditions or conditions of terrain;

(c) Access areas. On such highways, for a distance of not to exceed five hundred yards when in the determination of the governmental agency concerned it is otherwise impossible for snowmobiles to gain access to areas or trails adjacent to the highway, for the purpose only of gaining access to and from the areas of operation.

8. Limitation on highway operation. (a) No person shall so operate a snowmobile on any highway, when otherwise permitted, between sunset and sunrise except on the right side of such right of way and in the same direction as the highway traffic or the nearest lane of the roadway adjacent thereto.

(b) When operation on a roadway is permitted by any provision of this article, snowmobiles shall travel in single file, shall not ride tandem or abreast each other except in overtaking another snowmobile, and shall travel on the right side of the road in the same direction as the flow of vehicular traffic.

(c) No person shall operate a snowmobile on or across a highway while pulling a person on skis or drawing or towing a sleigh, sled or toboggan which carries or transports any person. No person on skis shall be pulled by, and no person shall ride on or in a sleigh, sled or toboggan which is being towed or traileed by a snowmobile on a highway.

(d) No person shall operate a snowmobile on the frozen surface of public waters within one hundred feet of a person, including but not limited to a skater, not in or upon a snowmobile or within one hundred feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the snowmobile or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water.

(e) No person shall operate a snowmobile within one hundred feet of a dwelling between twelve o'clock midnight and six o'clock a.m., at a speed greater than minimum required to maintain forward movement of the snowmobile.

9. Emergency vehicle. The provisions of this section shall not apply to operation as emergency vehicle.

§ 25.07 Operation on other public lands. In addition to the permissible use of highways specified in subdivision seven of section 25.05, a county, town, city or village governing body, may by ordinance or local law, adopted pursuant to the provisions of section 25.09, permit the operation of snowmobiles on lands, waters and property other than highways, or portions thereof, of or owned by such municipality.

The provisions of this section shall not apply to operation as emergency vehicle.

§ 25.09 Operation on highways and public lands; authorization by governmental agencies. 1. Highways. (a) Highways or portions thereof upon which snowmobile travel is permitted, when designated by a governmental agency as provided in section 25.05, shall be so designated, in the case of state highways by the state agency or authority having jurisdiction to regulate traffic thereon, in the case of county highways within a town outside of a city or village by the town governing body, in the case of county highways within a city or village by the city or village governing body, and in the case of city, town or village highways, by the city, town or village governing body, respectively. No county highway shall be designated without the prior written approval of the county superintendent of highways or commissioner of public works, as the case may be. Such designations shall be by regulation or order, if by a state agency or authority and by local law or ordinance, if by a governing body.

(b) Such designated highways or portions thereof shall be identified by markers in such manner as may be provided by rules and regulations of the commissioner.

(c) All signs or markers shall be in conformity with the manual of uniform traffic control devices, and shall be erected at the expense of the state or municipality, provided however, that the municipality may accept funds or contributions therefor from private persons, clubs or associations interested in the promotion of snowmobiling.

(d) Any regulation, order, local law or ordinance which designates a highway or portion thereof which may be used for snowmobile operation may include rules and impose restrictions and conditions, not inconsistent with the provisions of this article, for the regulation and safe operation of snowmobiles on the highways so designated. Such regulation or order of the commissioner of transportation or local law or ordinance of a municipality may establish the minimum age of the operator and other reasonable requirements for operation on such highways, but may not require the operator of the snowmobile to possess a motor vehicle license and may not impose a fee for the use of such

highways.

2. Property other than highways. In designating public lands, waters and properties other than highways which may be used for snowmobile operations, a governmental agency, other than a municipality, by regulation or order, and a municipality, by ordinance or local law, may impose restrictions and conditions, not inconsistent with the provisions of this article, for the regulation and safe operation of snowmobiles on such public property, such as travel on designated trails, proof of liability insurance coverage for the snowmobile, minimum age of the operator, hours of operation, and other reasonable requirements, but may not require the operator of the snowmobile to possess a motor vehicle operator's license or impose a fee for the use of such public lands or waters or access thereto, except the usual charge, if any, for the admission to such property, parking privileges or services provided.

3. Copies of all regulations, orders, local laws or ordinances adopted by such governmental agencies shall be filed with the office.

4. The provisions of this section shall not apply to operation as emergency vehicle.

§ 25.11 Special events. 1. The commissioner may authorize the holding of special events as defined in section 21.05. He shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to permit and designating the equipment and facilities necessary for safe operation of snowmobiles and for the safety of operations, participants, and observers in such special events. Whenever a special event is proposed to be held, the person in charge thereof shall, at least fifteen days prior thereto, file an application with the commissioner to hold such special event. The application shall set forth the date and location of the proposed special event and such other information as the commissioner may require, and such event shall not be conducted without written authorization from the commissioner. Copies of such regulations shall be furnished by the commissioner to any person making an application

therefor.

2. Snowmobiles operated at special events approved by the commissioner pursuant to subdivision one shall be exempt from the provisions of this article concerning mufflers and lights during the time of such operation, including all pre-race practice at the location of said meet and the provisions of article forty-seven of the vehicle and traffic law concerning registration.

§ 25.13 Liability insurance. 1. A snowmobile which shall be operated on the roadway or shoulder of a highway or on property which is owned, leased or held in easement by a person other than the owner or operator of the snowmobile, shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of financial services, issued by an insurance carrier authorized to do business in this state. Such policy shall provide coverage for any one person sustaining bodily injuries or the death of one person in any one accident in the amount of at least ten thousand dollars, and, subject to said limit of one person, in the amount of at least twenty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and in an amount of at least five thousand dollars because of injury to or destruction of property of others in any one accident, for damages arising out of negligent operation of said snowmobile. In lieu of such insurance coverage as hereinabove provided, the commissioner, in his discretion and upon application of a governmental agency having registered in its name one or more snowmobiles, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such snowmobile. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name, one or more snowmobiles, and furnishing of proof that a certificate of self-insurance has been issued and is in effect by the commissioner of

motor vehicles, pursuant to the provisions of section three hundred sixteen of the vehicle and traffic law.

2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such snowmobile upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that the snowmobile is being operated without having such insurance in force and effect.

3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such snowmobile to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such snowmobile by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage.

4. No owner of a snowmobile shall operate or permit the same to be operated upon the shoulders and roadways of highways or on property which is owned, leased or held in easement by a person other than the owner or operator of the snowmobile, without having in full force and effect the liability insurance coverage required by this section, and no person shall operate a snowmobile upon the shoulders and roadways of highways or on property which is owned, leased or held in easement by a person other than the owner or operator of the snowmobile, with knowledge that such insurance is not in full force and effect.

§ 25.17 Equipment. 1. All snowmobiles operating within the state of New York shall be equipped with:

(a) Head lights. At least one white or amber head-lamp having a minimum candlepower of sufficient intensity to reveal persons and vehicles at a distance of at least one hundred feet ahead during hours

of darkness under normal atmospheric conditions.

(b) Tail light. At least one red tail-lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of five hundred feet to the rear during hours of darkness under normal atmospheric conditions.

(c) Brakes. A brake system in good mechanical condition.

(d) Reflector material. Reflector material of a minimum area of sixteen square inches mounted on each side of the cowling. Registration numbers must be reflectorized, and such numbers or decorative material may be included in computing the required sixteen square inch area.

(e) Mufflers. An adequate muffler system in good working condition. On and after June first, nineteen seventy-two, no snowmobile manufactured after June first, nineteen seventy-two shall be sold or offered for sale unless it is equipped in such a way as to limit noise produced by the snowmobile to not more than eighty-two decibels as measured on the "A" scale at fifty feet. On and after June first, nineteen seventy-five, no such snowmobile manufactured after June first, nineteen seventy-five shall be sold or offered for sale unless it is equipped in such a way as to limit noise produced by the snowmobile to not more than seventy-eight decibels on such scale. On and after June first, nineteen eighty, no such snowmobile manufactured after June first, nineteen eighty, shall be sold or offered for sale unless it is equipped in such a way as to limit noise produced by the snowmobile to not more than seventy-three decibels on such scale. On or after November first, two thousand thirteen, a person shall not operate a snowmobile unless the snowmobile is equipped with a muffler in good working order and in constant operation from which noise emission does not exceed either seventy-eight decibels at fifty feet at full throttle, as measured using a generally accepted test for a snowmobile manufactured after July first, nineteen hundred seventy-seven and sold or offered for sale in this state, or eighty-eight decibels, as measured at four meters from an inline position from the exhaust and four thousand rpm using a generally accepted test for using a stationary snowmobile manufactured after July first, nineteen hundred eighty and sold or offered for sale in this state. Should the federal government adopt snowmobile noise level standards different from those contained in this paragraph and require that the state conform thereto, the commissioner shall be authorized to

adopt rules and regulations superseding the noise level requirements of this paragraph to achieve compliance with federal standards. No snowmobile shall be modified by any person in any manner that shall amplify or otherwise increase total noise emission to a level greater than that emitted by the snowmobile as originally constructed, regardless of date of manufacture.

2. Inspection and testing. The commissioner may adopt rules and regulations with respect to the inspection and testing of snowmobiles.

3. No person shall have for sale, sell or offer for sale in this state any snowmobile which fails to comply with the provisions of subdivision one, or which does not comply with the specifications for such equipment required by the rules and regulations of the commissioner after the effective date of such rules and regulations.

4. No person shall operate an authorized ambulance, police or civil defense snowmobile as an emergency vehicle unless it is equipped with one or more lighted, red or combination red or white lights which is revolving, rotating, flashing, oscillating or constantly moving light having a minimum candle power of sufficient intensity to be plainly visible from a distance of five hundred feet in all directions under normal atmospheric conditions.

5. No person shall operate a snowmobile or ride as a passenger on a snowmobile unless he or she is wearing a protective helmet of a type approved by the commissioner, except when operating a snowmobile or riding as a passenger on private lands owned by the operator or passenger, or to which the operator or passenger has a contractual right other than as a member of a club or association, and for which no compensation is paid to the owner with respect to such operation.

§ 25.18 Trail grooming equipment; requirements. Any combination of equipment used to maintain the snow surface of snowmobile trails shall be equipped with:

1. a head light and tail light as required of snowmobiles in this article, as well as a revolving, rotating, flashing, oscillating or constantly moving amber lamp with a minimum candlepower of sufficient intensity to be plainly visible from a distance of five hundred feet from the front and rear during hours of darkness under normal atmospheric conditions; and

2. reflector material as required for snowmobiles.

§ 25.19 Operation by youthful operators. 1. Age of operation. No person under eighteen years of age shall operate a snowmobile except as provided for in this subdivision. (a) No person under the age of fourteen years shall operate a snowmobile except upon land owned or leased by his or her parent or guardian. Leased lands as used in this section shall not include lands leased by an organization of which said operator or his or her parent or guardian is a member.

(b) A person ten years of age or older but less than fourteen years of age who holds a valid snowmobile safety certificate issued by the commissioner may operate a snowmobile on any lands upon which snowmobiling is allowed if accompanied by a person over eighteen years of age. For the purpose of this section, "accompanied" shall mean within five hundred feet of the person over eighteen years of age.

(c) A person fourteen years of age or older but less than eighteen years of age, who either holds a valid snowmobile safety certificate issued by the commissioner or is accompanied by a person over eighteen years of age, may operate a snowmobile in the same manner as a person over eighteen years of age.

2. Exhibition of certificate. The failure of a person specified in subdivision one of this section to hold a snowmobile safety certificate issued by the commissioner to exhibit such upon demand to any magistrate, peace officer, acting pursuant to his or her special duties, police officer, or other person having authority to enforce the provisions of this article, shall not be an offense, but shall be presumptive evidence that such person is not the holder of such certificate.

3. Authorization. No owner of a snowmobile shall authorize or permit the operation of his or her snowmobile within the state by any person in violation of the provisions of this section.

§ 25.21 Responsibility for operation by minors. 1. No owner or other person in possession of any snowmobile shall authorize or knowingly permit any person under eighteen years of age to operate such a snowmobile in violation of any provision of this article, the rules and regulations of the commissioner, or the provisions of any local law or ordinance.

2. No parent or guardian shall authorize or knowingly permit his or her child or ward, if under eighteen years of age, to operate a snowmobile in violation of any provision of this article, the rules or regulations of the office, or the provisions of any local law or ordinance.

§ 25.23 Duties and liability for negligence. 1. Negligence in the use or operation of a snowmobile shall be attributable to the owner. Every owner of a snowmobile used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such snowmobile by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

2. Duties of snowmobile owners and operators. It is recognized that snowmobiling is a voluntary activity that may be hazardous. It shall be the duty of snowmobile owners and operators:

(a) To keep their snowmobiles in proper working order.

(b) To follow any and all other rules of conduct as are prescribed pursuant to section 25.03 of this article.

(c) Not to operate a snowmobile in any area not designated for snowmobiling.

(d) Not to operate a snowmobile in a manner beyond their limits or ability and speed to overcome variations in trail conditions and configuration and surface or subsurface conditions which may be caused or altered by weather, slope or trail maintenance work or snowmobile use.

(e) To familiarize themselves with signage and trail markers before operating.

(f) Not to snowmobile on a trail or portion thereof that has been designated as "closed".

(g) Not leave the scene of any accident resulting in personal injury to another party until such time as assistance arrives, except for the purpose of summoning aid.

(h) Not to willfully stop on any trail where such stopping is likely to impede the use of that trail by others.

(i) Not to willfully remove, deface, alter or otherwise damage signage, warning devices or implements, or other safety devices.

§ 25.24 Operating a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while under the influence of alcohol or drugs. 1. Offenses; criminal penalties. (a) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while his or her ability to operate such snowmobile is impaired by the consumption of alcohol. A violation of this subdivision shall be an offense and shall be punishable by a fine of not less than two hundred fifty dollars nor more than three hundred fifty dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. A person who operates a snowmobile in violation of this subdivision after being convicted of a violation of any subdivision of this section within the preceding five years shall be punished by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment.

(b) No such person shall operate a snowmobile upon a street, highway,

public trails, lands, bodies of water, or private property of another while he or she has .08 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as determined by the chemical test made pursuant to the provisions of subdivision six of this section.

(c) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while he or she is in an intoxicated condition.

(d) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while his or her ability to operate such snowmobile is impaired by the use of a drug as defined by section one hundred fourteen-a of the vehicle and traffic law.

(e) A violation of paragraph (b), (c), or (d) of this subdivision shall be a misdemeanor and shall be punishable by imprisonment in a penitentiary or county jail for not more than ninety days, or by a fine of not less than three hundred fifty dollars nor more than five hundred dollars, or by both such fine and imprisonment. A person who operates a snowmobile in violation of paragraph (b), (c), or (d) of this subdivision after having been convicted of a violation of paragraph (b), (c), or (d) of this subdivision, or of operating a snowmobile while intoxicated or while under the influence of drugs, within the preceding ten years, shall be guilty of a misdemeanor and shall be punished by imprisonment for not more than one year, or by a fine of not less than five hundred dollars nor more than fifteen hundred dollars, or by both such fine and imprisonment. A person who operates a snowmobile in violation of paragraph (b), (c), or (d) of this subdivision after having been twice convicted of a violation of paragraph (b), (c), or (d) of this subdivision, or of operating a snowmobile while intoxicated or under the influence of drugs, within the preceding ten years, shall be guilty of a class E felony and shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

2. Privilege to operate a snowmobile; suspensions. (a) The court shall suspend a person's privilege to operate a snowmobile and may suspend a

snowmobile registration for:

(1) a period of six months where an operator is convicted of a violation of paragraph (a) of subdivision one of this section;

(2) a period of twelve months where an operator is convicted of a violation of paragraph (b), (c), or (d) of subdivision one of this section;

(3) a period of twenty-four months where a person is convicted of a violation of paragraph (b), (c), or (d) of subdivision one of this section after having been convicted of a violation of paragraph (b), (c), or (d) of subdivision one of this section or of operating a snowmobile while intoxicated or under the influence of drugs within the preceding ten years.

(b) The court shall report each conviction recorded pursuant to this section to the commissioner of motor vehicles and the commissioner on forms provided by the department of motor vehicles. Such reports shall include the length of any suspension imposed on the privilege to operate a snowmobile and any suspension imposed against a snowmobile registration. The department of motor vehicles shall maintain a record of all convictions and suspensions in order to effectuate the provisions of this section.

3. Operation of snowmobile while operating privileges have been suspended. (a) No person shall operate a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another while operating privileges have been suspended pursuant to this section. A violation of the provisions of this paragraph shall be a violation and shall be punishable by a fine of not less than three hundred fifty dollars nor more than seven hundred fifty dollars or by imprisonment for a period of not more than ninety days, or by both such fine and imprisonment.

(b) A person who is in violation of the provisions of paragraph (a) of this subdivision, and in addition is in violation of the provisions of any paragraph of subdivision one of this section arising out of the same incident, shall be guilty of a misdemeanor punishable by a fine of not less than five hundred dollars nor more than five thousand dollars or by a period of imprisonment for a period of not more than one year or by both such fine and imprisonment.

4. Sentencing limitations. Notwithstanding any provision of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), or (d) of subdivision one of this section nor shall he or she impose a sentence of conditional discharge unless such conditional discharge is accompanied by a sentence of a fine as provided in this section.

5. Arrest and testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when he or she has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision police officer shall also include a peace officer authorized to enforce the provisions of this chapter when the alleged violation constitutes a crime.

(b) Breath test for operators of a snowmobile. Every person operating a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another which has been involved in an accident or which is operated in violation of any of the provisions of this chapter which regulate the manner in which a snowmobile is to be properly operated shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision six of this section.

6. Chemical tests. (a) Any person who operates a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another shall be requested to consent to a chemical test of one or more of the following: breath, blood, urine or saliva for the purpose of determining the alcoholic or drug content of his or her blood, provided that such test is administered at the direction of a police officer: (1) having reasonable cause to believe such person to

have been operating in violation of this subdivision or paragraph (a), (b), (c), or (d) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation or (2) within two hours after a breath test as provided in paragraph (b) of subdivision five of this section indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member.

(b) If such person having been placed under arrest or after a breath test indicates the presence of alcohol in the person's system and having thereafter been requested to submit to such chemical test and having been informed that the person's privilege to operate a snowmobile shall be immediately suspended for refusal to submit to such chemical test or any portion thereof, whether or not the person is found guilty of the charge for which such person is arrested, refuses to submit to such chemical test or any portion thereof, unless a court order has been granted pursuant to subdivision seven of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report. The report of the police officer shall set forth reasonable grounds to believe such arrested person to have been operating a snowmobile in violation of any paragraph of subdivision one of this section, that such person had refused to submit to such chemical test, and that no chemical test was administered pursuant to the requirements of subdivision seven of this section. The report shall be presented to the court upon the arraignment of the arrested person. The privilege to operate a snowmobile shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided herein. Copies of such report must be transmitted by the court to the commissioner and the commissioner of motor vehicles and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner and the commissioner of motor vehicles within forty-eight hours of such arraignment. The court shall

provide such person with a hearing date schedule, a waiver form, and such other information as may be required by the commissioner of motor vehicles. If a hearing, as provided for in paragraph (c) of this subdivision, is waived by such person, the commissioner of motor vehicles shall immediately suspend the privilege to operate a snowmobile, as of the date of receipt of such waiver in accordance with the provisions of paragraph (d) of this subdivision.

(c) Any person whose privilege to operate a snowmobile has been suspended pursuant to paragraph (b) of this subdivision is entitled to a hearing in accordance with a hearing schedule to be promulgated by the commissioner of motor vehicles. If the department of motor vehicles fails to provide for such hearing fifteen days after the date of the arraignment of the arrested person, the privilege to operate a snowmobile of such person shall be reinstated pending a hearing pursuant to this section. The hearing shall be limited to the following issues: (1) did the police officer have reasonable cause to believe that such person had been operating a snowmobile in violation of any paragraph of subdivision one of this section; (2) did the police officer make a lawful arrest of such person; (3) was such person given sufficient warning, in clear and unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the immediate suspension of such person's privilege to operate a snowmobile whether or not such person is found guilty of the charge for which the arrest was made; and (4) did such person refuse to submit to such chemical test or any portion thereof. If, after such hearing, the hearing officer, acting on behalf of the commissioner of motor vehicles, finds on any one of said issues in the negative, the hearing officer shall immediately terminate any suspension arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner of motor vehicles finds all of the issues in the affirmative, such officer shall immediately suspend the privilege to operate a snowmobile in accordance with the provisions of paragraph (d) of this subdivision. A person who has had the privilege to operate a snowmobile suspended pursuant to this subdivision may appeal the findings of the hearing officer in accordance with the provisions of article three-A of the vehicle and traffic law. Any person may waive the right to a hearing under this section. Failure by such person to appear

for the scheduled hearing shall constitute a waiver of such hearing, provided, however, that such person may petition the commissioner of motor vehicles for a new hearing which shall be held as soon as practicable.

(d) (1) Any privilege to operate a snowmobile which has been suspended pursuant to paragraph (c) of this subdivision shall not be restored for six months after such suspension. However, no such privilege shall be restored for at least one year after such suspension in any case where the person has had a prior suspension resulting from refusal to submit to a chemical test pursuant to this subdivision, or has been convicted of a violation of any paragraph of subdivision one of this section not arising out of the same incident, within the five years immediately preceding the date of such suspension.

(2) Any person whose privilege to operate a snowmobile is suspended pursuant to the provisions of this subdivision shall also be liable for a civil penalty in the amount of two hundred dollars except that if such suspension is a second or subsequent suspension pursuant to this subdivision issued within a five year period, or such person has been convicted of a violation of any paragraph of subdivision one of this section within the past five years not arising out of the same incident, the civil penalty shall be in the amount of five hundred dollars. The privilege to operate a snowmobile shall not be restored to such person unless such penalty has been paid. The first one hundred dollars of each penalty collected by the department of motor vehicles pursuant to the provisions of this subdivision shall be paid to the commissioner of motor vehicles for deposit to the general fund and the remainder of all such penalties shall be paid to the commissioner for deposit in the snowmobile trail development and maintenance fund established pursuant to section ninety-two-n of the state finance law.

(e) The commissioner of motor vehicles in consultation with the commissioner shall promulgate such rules and regulations as may be necessary to effectuate the provisions of this subdivision.

(f) Evidence of a refusal to submit to such chemical test shall be admissible in any trial, proceeding or hearing based upon a violation of the provisions of this section, but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and that the person persisted in his or her

refusal.

(g) Upon the request of the person tested, the results of such test shall be made available to him or her.

7. Compulsory chemical tests. (a) Notwithstanding the provisions of subdivision six of this section, no person who operates a snowmobile upon a street, highway, public trails, lands, bodies of water, or private property of another may refuse to submit to a chemical test of one or more of the following: breath, blood, urine or saliva, for the purpose of determining the alcoholic and/or drug content of the blood when a court order for such chemical test has been issued in accordance with the provisions of this subdivision.

(b) Upon refusal by any person to submit to a chemical test or any portion thereof as described in paragraph (a) of this subdivision, the test shall not be given unless a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, requests and obtains a court order to compel a person to submit to a chemical test to determine the alcoholic or drug content of the person's blood upon a finding of reasonable cause to believe that:

(1) such person was the operator of a snowmobile and in the course of such operation a person other than the operator was killed or suffered serious physical injury as defined in section 10.00 of the penal law; and

(2) (i) either such person operated the snowmobile in violation of any paragraph of subdivision one of this section, or

(ii) a breath test administered by a police officer in accordance with subdivision five of this section indicates that alcohol has been consumed by such person; and

(3) such person has been placed under lawful arrest; and

(4) such person has refused to submit to a chemical test or any portion thereof, requested in accordance with the provisions of subdivision six of this section or is unable to give consent to such a test.

(c) For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was operating a snowmobile in violation of any paragraph of subdivision one

of this section. Such circumstances may include, but are not limited to: evidence that the operator was operating a snowmobile in violation of any provision of this chapter which regulates the manner in which a snowmobile is to be properly operated at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a snowmobile while impaired by the consumption of alcohol or drugs or was intoxicated at the time of the incident.

(d) (1) An application for a court order to compel submission to a chemical test or any portion thereof, may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. Such application may be communicated by telephone, radio or other means of electronic communication, or in person.

(2) The applicant must provide identification by name and title and must state the purpose of the communication. Upon being advised that an application for a court order to compel submission to a chemical test is being made, the court shall place under oath the applicant and any other person providing information in support of the application as provided in subparagraph three of this paragraph. After being sworn the applicant must state that the person from whom the chemical test was requested was the operator of a snowmobile and in the course of such operation a person, other than the operator, has been killed or seriously injured and, based upon the totality of circumstances, there is reasonable cause to believe that such person was operating a snowmobile in violation of any paragraph of subdivision one of this section and, after being placed under lawful arrest such person refused to submit to a chemical test or any portion thereof, in accordance with the provisions of this section or is unable to give consent to such a test or any portion thereof. The applicant must make specific allegations of fact to support such statement. Any other person properly identified may present sworn allegations of fact in support of the applicant's statement.

(3) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or

justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order.

(4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his or her blood and ordering the withdrawal of a blood sample in accordance with the provisions of subdivision eight of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally.

(5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law.

(e) An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision eight of this section shall be applicable to any chemical test administered pursuant to this section.

(f) A defendant who has been compelled to submit to a chemical test pursuant to the provisions of this subdivision may move for the

suppression of such evidence in accordance with article seven hundred ten of the criminal procedure law on the grounds that the order was obtained and the test administered in violation of the provisions of this subdivision or any other applicable law.

8. Testing procedures. (a) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcohol or drug content therein: (1) a physician, a registered professional nurse or a registered physician's assistant; or (2) under the supervision and at the direction of a physician: a medical laboratory technician or medical technologist as classified by civil service; a phlebotomist; an advanced emergency medical technician as certified by the department of health, or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

(b) No person entitled to withdraw blood pursuant to paragraph (a) of this subdivision or hospital employing such person and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer or peace officer acting pursuant to his or her special duties pursuant to this subdivision.

(c) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under paragraph (b) of this subdivision, may maintain such action against the state if the person entitled to withdraw blood pursuant to paragraph (a) of this subdivision acted at the request of a police officer or peace officer acting pursuant to his or her special duties, employed by the state, or against the appropriate political subdivision of the state if the person acted at the request of a police officer or peace officer acting pursuant to his or her special duties, employed by a political subdivision of the state. No action shall be maintained pursuant to this paragraph unless notice of claim is duly filed or served in compliance with law.

(d) Notwithstanding the foregoing provisions of this subdivision, an action may be maintained by the state or a political subdivision thereof

against a person entitled to withdraw blood pursuant to paragraph (a) of this subdivision or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this subdivision to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence on the part of such person entitled to withdraw blood.

(e) The testimony of any person, other than a physician, entitled to draw blood pursuant to paragraph (a) of this subdivision in respect to any such withdrawal of blood made by him or her may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician.

(f) The provisions of paragraphs (b), (c) and (d) of this subdivision shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to a court order in accordance with this subdivision.

(g) The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer.

9. Chemical test evidence. (a) Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision six or seven of this section.

(b) The following effect shall be given to evidence of blood alcohol content, as determined by such tests, of a person arrested for a violation of any paragraph of subdivision one of this section and who was operating a snowmobile:

(1) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a snowmobile was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition.

(2) evidence that there was more than .05 of one per centum but less

than .07 of one per centum of weight in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence but not be given prima facie effect, in determining whether the ability of such person to operate a snowmobile was impaired by the consumption of alcohol.

(3) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a snowmobile was impaired by the consumption of alcohol.

(c) Evidence of a refusal to submit to a chemical test or any portion thereof shall be admissible in any trial or hearing provided the request to submit to such a test was made in accordance with the provisions of subdivision six of this section.

10. Limitations. (a) A snowmobile operator may be convicted of a violation of paragraph (a), (b), (c), or (d) of subdivision one of this section, notwithstanding that the charge laid before the court alleged a violation of paragraph (b), (c), or (d) of subdivision one of this section, and regardless of whether or not such conviction is based on a plea of guilty.

(b) In any case wherein the charge laid before the court alleges a violation of paragraph (b), (c), or (d) of subdivision one of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the paragraphs of such subdivision one and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of subdivision one of this section is not warranted, he or she may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge.

11. Suspension pending prosecution. (a) Without notice, pending any prosecution, the court may suspend the right to operate a snowmobile where the snowmobile operator has been charged with vehicular assault in

the second degree or vehicular manslaughter in the second degree as defined, respectively, in sections 120.03 and 125.12 of the penal law.

(b) A suspension under this subdivision shall occur no later than twenty days after the snowmobile operator's first appearance before the court on the charges or at the conclusion of all proceedings required for the arraignment, whichever comes first. In order for the court to impose such suspension it must find that the accusatory instrument conforms to the requirements of section 100.40 of the criminal procedure law and there exists reasonable cause to believe that the accused operated a snowmobile in violation of section 120.03 or 125.12 of the penal law. At such time the operator shall be entitled to an opportunity to make a statement regarding the enumerated issues and to present evidence tending to rebut the court's findings. Where such suspension is imposed upon such pending charge and the operator has requested a hearing pursuant to article one hundred eighty of the criminal procedure law, the court shall conduct such hearing. If upon completion of the hearing, the court fails to find that there is reasonable cause to believe that the operator committed a felony under section 120.03 or 125.12 of the penal law the court shall promptly direct restoration of such operating privileges to the operator unless such operating privileges are suspended or revoked pursuant to any other provision of this chapter.

12. Snowmobile safety course. Upon the conviction of any subdivision of this section, the court shall, in addition to any other penalties invoked under this section, require the convicted person, as a condition of the sentence, to complete a snowmobile safety course approved by the commissioner and show proof of successful completion of such course to the court or its designee.

§ 25.25 Accidents; reports. 1. The operator of any snowmobile involved in any accident resulting in injuries to or death of any person or in which property damage in the estimated amount of one thousand dollars or more is sustained, shall within seven days after such accident report the matter in writing to the office, with a copy thereof to the sheriff of the county in which said accident occurred. If such operator is

physically incapable of making such report and there is another participant in the accident not so incapacitated, such participant shall make the report within the allotted time after such accident. In the event that there is no other participant and the operator is other than the owner, then the owner shall within the prescribed period of time, after learning of the facts of such accident, report the matter to the office, together with such information as may have come to his knowledge relating to such accident. Every such operator of a snowmobile, or participant of any such accident, or the owner of the snowmobile involved in any such accident, shall make such other and additional reports as the commissioner shall require.

2. Whenever any snowmobile meets with an accident involving a loss of life, personal injury or damage to property and the operator thereof has knowledge of such accident, he shall stop and give his name and address, the name and address of the owner thereof and the registration number assigned to said snowmobile to the injured person or the person sustaining the damage, or to a peace or police officer. In the event the person sustaining the damage is not present at the place where the damage occurred, the operator shall, as soon as physically able, report the same to the nearest law enforcement agency.

3. A peace, police, or judicial officer who investigates or receives information of an accident involving a snowmobile shall make a written report of the investigation or information received, and such additional facts relating to the accident as may come to his knowledge and mail the same within forty-eight hours to the office and keep a record thereof in his office.

4. Failure of such persons to give notice of any accident requiring notice shall be prima facie evidence that such accident was not reported.

§ 25.27 Service on nonresidents and certain residents, administrators or executors. 1. The use or operation by a nonresident of a snowmobile in this state, or the use or operation in this state of a

snowmobile in the business of a nonresident or the use or operation in this state of a snowmobile owned by a nonresident if so used or operated with his permission, express or implied, shall be deemed equivalent to an appointment by such nonresident of the secretary of state to be his true and lawful attorney upon whom may be served the summons in any action against him, growing out of any accident or collision in which such nonresident may be involved while using or operating such snowmobile in this state or in which such snowmobile may be involved while being used or operated in this state in the business of such nonresident or with the permission, express or implied, of such nonresident or with the permission, express or implied, of such nonresident owner. Such use or operation shall be deemed a signification of his agreement that any such summons against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the summons issues, and that such appointment of the secretary of state shall be irrevocable and binding upon his executor or administrator. Where such nonresident has died prior to the commencement of an action brought pursuant to this section, service of process shall be made on the executor or administrator of such nonresident in the same manner and on the same notice as is provided in the case of the nonresident himself. Where an action has been duly commenced under the provisions of this section against a nonresident who dies thereafter, the court shall allow the action to be continued against his executor or administrator upon motion with such notice as the court deems proper.

2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and such service shall be sufficient service upon such nonresident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by registered mail, return receipt requested. The plaintiff shall file with

the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his registered mail in accordance with the rules and customs of the post office or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the postal authorities is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his registered mail and a notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of five dollars, and by delivering a duplicate copy thereof, with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or county where such service is made, or by a United States marshal or deputy United States marshal. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The

court in which the action is pending may order such extension as may be necessary to afford the defendant reasonable opportunity to defend the action.

3. The provisions of this section shall also apply

(a) to a resident who departs from the state subsequent to the accident or collision and remains absent therefrom for thirty days continuously, whether such absence is intended to be temporary or permanent, and to any executor or administrator of such resident, and

(b) to an executor or administrator of a resident if such executor or administrator is a nonresident or if, being a resident, he departs from the state and remains absent therefrom for thirty days continuously, whether such absence is intended to be temporary or permanent.

§ 25.29 Suspension and revocation of certificates and permits. The commissioner may suspend or revoke a snowmobile safety certificate, or a permit for special events, issued pursuant to the provisions of this article, upon satisfactory proof of a violation of any provision of this article or of any rule, regulation, order, local law or ordinance adopted or promulgated pursuant thereto. Upon said suspension or revocation, all rights and privileges accruing to such youthful operator or permittee shall terminate.

TITLE E

ENFORCEMENT; PENALTIES; STATE AID

ARTICLE 27

ENFORCEMENT; PENALTIES; STATE AID

Section 27.01 Enforcement.

27.03 Uniform appearance ticket and simplified information.

27.05 Verification or affirmation of accusatory instruments.

27.07 Pleas by mail.

27.09 Convictions; bail forfeitures; failure to appear.

27.11 Offenses; penalties.

- 27.12 Mandatory surcharge required in certain cases.
- 27.13 Disposition of fees and penalties.
- 27.15 State aid; snowmobile enforcement.
- 27.17 State aid; snowmobile trail development and maintenance.

§ 27.01 Enforcement. Every peace officer, who is acting pursuant to his special duties, police officer, conservation officer in the department of environmental conservation, and such employees of the office as may be designated by the commissioner, shall enforce the provisions of this chapter, articles forty-seven and forty-eight of the vehicle and traffic law, and the laws, ordinances, rules, regulations and orders enacted or promulgated thereunder. Such enforcement officers shall be authorized to issue an appearance ticket or, in lieu thereof, a uniform appearance ticket and simplified information as provided in section 27.03, for any violation of this chapter, articles forty-seven and forty-eight of the vehicle and traffic law, or rule, regulation, local law or ordinance adopted thereunder.

§ 27.03 Uniform appearance ticket and simplified information. 1. The commissioner shall prescribe the form of an appearance ticket and simplified information for all cases involving a violation of any provision of this chapter, articles forty-seven and forty-eight of the vehicle and traffic law, or of any local law, ordinance, rule, regulation or order adopted or promulgated thereunder, or of any class or category of such cases, and to establish procedures for proper administrative controls over the disposition thereof. The commissioner may, in his discretion, combine the form of the uniform appearance ticket and simplified information authorized by this section with the appearance ticket and information authorized under the navigation law.

2. The chief executive officer of each local police force including county, town, city and village police departments, sheriffs, and the superintendent of state police shall prepare or cause to be prepared such records and reports as may be prescribed hereunder.

3. The commissioner shall have the power to adopt such rules and regulations as may be deemed necessary to accomplish the purposes and enforce the provisions of this section including requirements for reporting by trial courts having jurisdiction over such offenses.

4. Any person who disposes of any uniform appearance ticket and simplified information in any other manner than that prescribed by law, rule or regulation shall be guilty of a class B misdemeanor.

5. The provisions of this section shall not apply to any offense for which a uniform summons and complaint is prescribed by the commissioner of motor vehicles pursuant to section two hundred seven of the vehicle and traffic law.

§ 27.05 Verification or affirmation of accusatory instruments. 1. When an appearance ticket as authorized under section 27.03 has been served by an enforcement officer specified in section 27.01, any chief, deputy-chief, captain, lieutenant or acting lieutenant, sergeant, or acting sergeant of a police department or of the division of state police, or any sheriff, undersheriff, chief deputy, or deputy sergeant in any county to whom the service of the appearance ticket is reported is hereby authorized to administer to such enforcement officer all necessary oaths in connection with the execution of the accusatory instrument to be presented in court by such enforcement officer in the prosecution of the offense involved.

2. A simplified information need not be verified if it is affirmed by the issuing officer, under penalty of perjury.

§ 27.07 Pleas by mail. A defendant charged with a violation of any provision of this chapter or rule, regulation, local law or ordinance promulgated or adopted thereunder may himself plead guilty to the charge in open court. He may also submit to the magistrate having jurisdiction, in person, by duly authorized agent, or by registered mail, a statement (a) that he waives arraignment in open court and the aid of counsel, (b)

that he pleads guilty to the offense as charged, (c) that he elects and requests that the charge be disposed of and the fine or penalty fixed by the court, (d) of any explanation that he desires to make concerning the offense charged, and (e) that he makes all statements under penalty of perjury. Thereupon the magistrate may proceed as though the defendant has been convicted upon a plea of guilty in open court, provided however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full. If upon receipt of the aforesaid statement the magistrate shall deny the same, he shall thereupon notify the defendant of this fact, and that he is required to appear before the said magistrate at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

§ 27. 09 Convictions; bail forfeitures; failure to appear. 1. The trial court or clerk thereof shall certify to the commissioner the facts of any case involving a violation of any provision of this chapter, or of any rule, regulation, local law or ordinance adopted pursuant thereto,

- (a) within five days of the date of conviction of such violation;
- (b) within five days of a forfeiture of bail in such case; or
- (c) within ninety days of a failure of the defendant to appear on the initial date of appearance, or any adjourned date for appearance or trial.

2. The commissioner may, by regulation, provide for the form and content of such certification and limit the violations for which certifications shall be required. Such certifications shall be presumptive evidence of the facts therein contained and may, in the discretion of the commissioner, be recorded in the records of the office. In the event a conviction which has been so recorded is subsequently reversed, the commissioner, upon receiving due notice thereof, shall record such fact in such records.

3. Upon the conviction of any person of a violation for which a certification must be made to the commissioner, pursuant to this

section, the court or clerk shall also enter such conviction on any license or certificate issued by the office if such entry is required by the regulations of the commissioner.

§ 27.11 Offenses; penalties. 1. Unless otherwise specifically provided, any person who violates any provision of this chapter, or of any law, ordinance, rule, regulation or order adopted pursuant thereto, shall be guilty of a

(a) traffic infraction, if such provision, law, ordinance, rule, regulation or order is one which regulates traffic as specified in section one hundred fifty-five of the vehicle and traffic law, but does not relate to snowmobiles.

(b) violation, for any other offense.

2. A traffic infraction shall be punishable as provided in subdivision (b) of section one thousand eight hundred of the vehicle and traffic law in the same manner as if the offense were a violation of the vehicle and traffic law. A violation shall be punishable as provided in the penal law. Upon conviction of a violation of any provision of article twenty-five of this chapter a court may also require the convicted person, as a condition of the sentence in addition to any other penalty, to successfully complete a snowmobile safety course approved by the commissioner.

§ 27.12 Mandatory surcharge required in certain cases. 1. Whenever an administrative tribunal, empowered to do so, or a criminal court of this state imposes a fine or a penalty assessment or orders a bail forfeiture as a penalty for violating a provision of this chapter or for violating a rule or regulation adopted pursuant to this chapter, there shall be levied, in addition to any fine or penalty authorized by subdivision two of section 27.11 of this article, except for traffic infractions relating to motor vehicles unlawfully parked or standing, a mandatory surcharge in the amount of fifteen dollars.

2. Where a person is convicted of two or more crimes or violations

committed through a single act or omission, or through an act or omission which itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose only one mandatory surcharge pursuant to subdivision one of this section.

3. Any person who has paid a mandatory surcharge pursuant to the provisions of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge upon application to the state comptroller, who shall require such proof as is necessary in order to determine whether a refund is required by law.

4. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of the penal law, such person shall not be required to pay a mandatory surcharge.

5. Notwithstanding any other provision of this section, where a mandatory surcharge is imposed pursuant to the provisions of section 60.35 of the penal law or section one thousand eight hundred nine of the vehicle and traffic law, no mandatory surcharge shall be imposed pursuant to the provisions of this section.

6. Notwithstanding any other provision of law to the contrary the mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, the collecting authority shall determine the amount of mandatory surcharge collected and pay such amount to the state comptroller who shall deposit such money in the miscellaneous special revenue fund to be credited to the agency's patron services account.

§ 27.13 Disposition of fees and penalties. 1. Not later than the tenth day of each month, all fines and penalties collected for violations of this chapter or rules, regulations, local laws or

ordinances adopted thereunder under judgment of any town or village court, shall be paid over by such court to the comptroller of the state, with a statement accompanying the same, setting forth the action or proceeding in which such moneys were collected, the name and residence of the defendant, the nature of the offense, and the fines and penalty imposed.

All fines and penalties collected for violations of this chapter by courts operating pursuant to section thirty-nine of the judiciary law shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month.

2. The commissioner shall deposit all moneys received by him from the sale of snowmobile publications and other services provided by the office and all fees otherwise collected by him under this chapter to the credit of the general fund.

§ 27.15 State aid; snowmobile enforcement. 1. Every county, city, town or village enforcing the provisions of this chapter relating to snowmobiles shall be entitled to receive state aid as hereinafter provided. A county, city, town or village seeking reimbursement for expenditures incurred in enforcement of this article, including expenditures incurred for signs and markers therefor, shall submit to the commissioner by January first of each year an estimate of such expenditures for the current fiscal year, in such form and containing such information as the commissioner may require. Within one month after the close of the fiscal year, each such county, city, town or village shall submit to the commissioner a statement of authorized expenditures actually incurred, in such form and containing such information as he may require. For the purpose of this section, "fiscal year" shall mean the period from April first through March thirty-first.

2. The amount of state aid to be allocated to counties, cities, towns or villages shall be determined by the commissioner as hereinafter provided. The commissioner shall determine the percentage proportion which the authorized expenditures of each individual county, city, town

or village, but not exceeding fifty thousand dollars for each county including the municipalities therein, shall bear to the total authorized expenditures of all the counties, cities, towns or villages for enforcement of such provisions during the fiscal year. Such percentage proportion shall then be applied against an amount equal to twenty-five percent of the amount received by the state in fees received for registration of snowmobiles during such fiscal year, to the extent only and not exceeding the sum of two hundred thousand dollars. The amount thus determined shall constitute the maximum amount of state aid to which each county, city, town or village shall be entitled. Provided, however, that no county, city, town or village shall receive state aid in an amount in excess of three-quarters of its authorized expenditures as approved by the commissioner for such fiscal year. The commissioner shall certify to the comptroller the amount thus determined for each county, city, town or village as the amount of state aid to be apportioned to such county, city, town or village.

§ 27.17 State aid; snowmobile trail development and maintenance. 1. Every county engaging and assisting in the development and maintenance of a system of snowmobile trails and a program with relation thereto within its boundaries in order to encourage safety, tourism and utilization and, in the event a county does not undertake such a program, or system of trails, any city, town or village within such county which undertakes the same, shall be entitled to receive, in accordance with rules and regulations to be promulgated by the commissioner, state aid as hereinafter provided.

2. Notwithstanding any other provision of law to the contrary, the commissioner shall establish a plan for the development and maintenance of snowmobile trails and facilities in the various counties or where applicable, cities, towns or villages of the state as may be appropriate and shall take whatever action he or she deems necessary to foster and promote the safe utilization of such trails and facilities; for these purposes, he or she may draw upon the moneys deposited in the snowmobile trail development and maintenance fund for expenses, including personal services, as approved by the comptroller and is hereby authorized to

assign three employees of his or her office to carry out such responsibilities and to pay their salaries, benefits and expenses out of such fund.

3. Every county or, where applicable, any city, town or village within such county, shall be eligible for a grant for the development and maintenance of a system of snowmobile trails and a program with relation thereto within its boundaries. Such grants shall be made by the commissioner and may constitute up to one hundred percent of the cost of such program including expenditures incurred for signs and markers of snowmobile trails. Any county or, where applicable, any city, town or village within such county, applying for such grant shall submit to the commissioner by September first of each year an estimate of such expenditures for the current fiscal year, in such form and containing such information as the commissioner may require. No city, town or village may apply for such grant where the county within which it is contained has submitted an application for the same fiscal year. For the purpose of this section, "fiscal year" shall mean the period from April first through March thirty-first. The commissioner shall review all such applications and shall determine the amount of state aid to be allocated to each county or, where applicable, any city, town or village within such county in accordance with the provisions of subdivision five of this section. Of the amount the commissioner determines each county or, where applicable, any city, town or village within such county is eligible to receive, seventy percent shall be made available for distribution by November first and thirty percent for distribution upon demonstration of completion, submitted by June first, of the program.

4. Not more than thirty percent of the snowmobile trail development and maintenance fund, as determined by the commissioner, shall be made available to the commissioner and the commissioner of environmental conservation for snowmobile trail development and maintenance on state owned lands; provided, however, that any such maintenance and development on forest preserve lands shall be undertaken in accordance with the master plan for the management of state lands pursuant to section eight hundred sixteen of the executive law.

5. The amount of state aid to be allocated to each county or, where applicable, any city, town or village within such county, shall be drawn upon the monies remaining in the snowmobile trail development and maintenance fund after withdrawal pursuant to subdivisions two and four of this section and shall be determined by the commissioner as hereinafter provided. The commissioner shall determine the percentage proportion which the authorized expenditures of each individual county or, where applicable, any city, town or village within such county shall bear to the total authorized expenditures of all the counties, cities, towns or villages for snowmobile trail development and maintenance pursuant to this section during the fiscal year. Such percentage proportion shall then be applied against the amount received in additional fees imposed by section 21.07 of this chapter for registration of snowmobiles during such fiscal year, to the extent only and not exceeding the balance of such fund remaining after the payment of expenses as set forth in this section. The amount thus determined shall constitute the maximum amount of state aid to which each county or, where applicable, any city, town or village within such county, shall be entitled. The commissioner shall certify to the comptroller the amount thus determined for each county or, where applicable, any city, town or village within such county, as the amount of state aid to be apportioned to such county or, where applicable, any city, town or village within such county.

TITLE F

MISCELLANEOUS

ARTICLE 29

MISCELLANEOUS

Section 29.01 Transfer of powers, functions, duties, employees and property.

29.03 Continuity of authority.

29.05 Completion of unfinished business.

29.07 Continuance of rules and regulations.

29.09 Terms occurring in laws, contracts and other documents.

- 29.11 Existing rights and remedies preserved.
- 29.13 Pending actions and proceedings.
- 29.15 Savings clause.

§ 29.01 Transfer of powers, functions, duties, employees and property.

The powers, functions, duties, employees and property of any trust or commission abolished by this act, of any council or commission continued by this act, unless otherwise provided, or of the office of parks and recreation, are hereby continued in or transferred to the office, as continued by this act.

§ 29.03 Continuity of authority. For the purpose of succession to all functions, powers and duties transferred to the office by the provisions of this act, the office shall be deemed and held to constitute the continuation of the board, trust, council or commission from which such functions, powers and duties were so transferred.

§ 29.05 Completion of unfinished business. Any business or other matter undertaken or commenced by any board, trust, council or commission pertaining to or connected with the functions, powers and duties transferred to the office by the provisions of this act, and pending on the effective date of this act, may be conducted and completed by the office in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by such board, trust, council or commission.

§ 29.07 Continuance of rules and regulations. All rules, regulations, acts, ordinances, determinations and decisions of any board, trust, council or commission pertaining to the functions, powers and duties transferred to the office, in effect at the time of such transfer, shall continue in force and effect as rules, regulations, acts, determinations and decisions of the office until duly modified or abrogated by the commissioner.

§ 29.09 Terms occurring in laws, contracts and other documents. 1.

Whenever the conservation commissioner or the conservation department is referred to or designated in any law, contract or document pertaining to the functions, powers, obligations and duties previously transferred and assigned to the office of parks and recreation, and whenever the commissioner of parks and recreation or the office of parks and recreation is referred to or designated in any law, contract or document heretofore or hereafter executed, enacted or adopted, such reference or designation shall be deemed to refer to the commissioner of parks, recreation and historic preservation or the office of parks, recreation and historic preservation, respectively.

2. Whenever any board, trust, council or commission is referred to or designated in any law, contract or document pertaining to the functions, powers and duties transferred to the office by this act, such reference or designation shall be deemed to refer to the commissioner.

§ 29.11 Existing rights and remedies preserved. No existing right or remedy of any character shall be lost, impaired or affected by reason of this act.

§ 29.13 Pending actions and proceedings. No action or proceeding pending at the time when this act shall take effect, brought by or against any board, trust, council or commission and pertaining to any function, power or duty transferred to the office by this act, shall be affected by any other provision of this act, but the same may be prosecuted or defended in the name of the commissioner or the office, and upon application to the court, the commissioner or office shall be substituted as a party.

§ 29.15 Savings clause. If any provision of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid,

such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

TITLE G HERITAGE AREAS

ARTICLE 31 GENERAL PROVISIONS

Section 31.01 Definitions.

31.03 Declaration of policy.

§ 31.01 Definitions. Whenever used in this title, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Advisory council" shall mean the state heritage areas advisory council established under article thirty-three of this title.

2. "Heritage area" shall mean a definable urban or regional area of public and private uses ranging in size from a portion of a municipality to a regional area with a special coherence, such area being distinguished by physical and cultural resources (natural and/or man made including waterways, architecture, or artifacts reflecting a period of style or cultural heritage) which play a vital role in the life of the community and/or region and contribute through interpretive, educational and recreational use to the public. A heritage area may include traditional parks (pleasure grounds set apart for recreation of the public) and historic places or property on the national or state register of historic places but the term heritage area shall not be deemed to mean a park or historic place as those terms are used in other provisions of law including those relating to alienation of park land and regulation of public or private activities. Such other provisions of

law shall continue to apply to the specific parks and historic places within a heritage area. The term heritage area shall be deemed to mean and include areas that have been previously designated as urban cultural parks and heritage corridors or other similar names applied to areas of special concern fitting the definition of heritage area in this subdivision.

3. "Management plan" or "plan" shall mean a document prepared in conformance with the provisions of section 35.05 of this title which includes, but is not limited to, a comprehensive statement in words, maps, illustrations, or other media of communication, setting forth objectives, policies, and standards to guide public and private uses for the preservation, interpretation, development, and use of cultural, historic, natural, and architectural resources of a heritage area.

4. "State designated heritage area" shall mean a heritage area designated in section 35.03 of this title for its statewide significance.

5. "State agency" shall mean any state department, agency, board or commission of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

6. "System" means the New York system of heritage areas established pursuant to section 35.01 of this title.

§ 31.03 Declaration of policy. The urban and regional areas of the state are rich in cultural and natural resources of statewide significance associated with our growth and attainments over time. These resources offer educational, inspirational and recreational benefits for present and future generations. It is hereby declared to be the policy of the state to preserve these resources through their identification, interpretation, development and use in a system made up of state designated heritage areas.

It is further the policy of the state to improve and coordinate the

plans, functions, powers and programs of the state, as they affect its urban and regional cultural and natural resources, in cooperation with the federal government, regions, local governments and other public and private organizations and concerned individuals.

ARTICLE 33

NEW YORK STATE HERITAGE AREAS ADVISORY COUNCIL

Section 33.01 New York state heritage areas advisory council.

33.03 Jurisdiction, functions, powers and duties.

§ 33.01 New York state heritage areas advisory council. There shall continue to be in the office a New York state heritage areas advisory council which shall consist of twenty-six members or their designated representatives. The commissioner shall be a member of the advisory council. In addition, the advisory council shall consist of the following twenty-five other members: the commissioner of economic development, to advise and assist regarding related tourism and economic revitalization; the commissioner of education, to advise and assist regarding the interpretive and educational aspects of the programs; the secretary of state, to advise and assist regarding matters of community development and state planning and to advise on the identification and preservation of rural resources; the commissioner of transportation, to advise and assist regarding matters of transportation to and within heritage areas; the president of the New York state urban development corporation, to advise and assist regarding matters of economic development; the commissioner of environmental conservation, to advise and assist regarding matters of conservation and use of natural resources; the chairman of the state board for historic preservation, to advise and assist in matters regarding historic preservation; the commissioner of housing and community renewal to advise and assist regarding neighborhood and community development and preservation programs; the president and chief executive officer of the power authority of the state of New York regarding the operation of the New York state canal system; the commissioner of agriculture and markets regarding agriculture in heritage areas; a representative of the State

Heritage Area Association; the director or chief executive officer of the Hudson River National Heritage Area, the Erie Canalway National Heritage Corridor, the Champlain Valley National Heritage Partnership and the Niagara Falls National Heritage Area; and ten members to be appointed by the governor, three of such members shall be municipal officers, elected officials or representatives of local government interest and seven of such members shall be, by professional training or experience or attainment, qualified to analyze or interpret matters relevant to the establishment and maintenance of state designated heritage areas including urban cultural parks and heritage corridors, one of whom shall be the director of a heritage area. Of these last seven, two are to be appointed from names recommended by the majority leader of the senate, two are to be appointed from names recommended by the speaker of the assembly, one is to be appointed from names recommended by the minority leader of the senate and one is to be appointed from names recommended by the minority leader of the assembly. The governor may designate such ex-officio members who shall be from the executive department, state agencies or public corporations as he or she deems appropriate; provided that such ex-officio members shall not vote on matters before the advisory council. For the ten members appointed by the governor, each shall hold office for a term of five years and until his or her successor shall have been appointed or until he or she shall resign. The members of the advisory council shall elect a chair from amongst its members for a term of three years. Eleven members of the advisory council shall constitute a quorum for the transaction of any business at both regular and special meetings. Any ex-officio member may delegate all his or her duties of membership, including voting rights, to an officer or employee of such member's organization. No member shall receive any compensation.

§ 33.03 Jurisdiction, functions, powers and duties. In addition to any other powers, functions and duties conferred upon it by this title, or other provisions of law, the advisory council shall:

1. Meet at least twice each year to provide information and review the activities within the state heritage areas conducted pursuant to this

title.

2. Assist as specified in this title in coordinating state actions with the objectives of the system, and to assist and make such recommendations as are necessary to carry out the purposes of this title.

3. Review complaints made by local governments or other entities established by law to administer heritage areas relating to activities undertaken by state agencies which may adversely affect heritage area resources and make recommendations with respect thereto.

4. Submit reports to the governor, not less than once a year, concerning progress toward implementing the system, including recommendations for the future.

5. Exercise and perform such other advisory functions, powers and duties related to the planning, development and management of the system as may be appropriate.

ARTICLE 35

NEW YORK STATE SYSTEM OF HERITAGE AREAS

- Section 35.01 Establishment of The New York system of heritage areas.
- 35.03 State designated heritage areas; boundaries.
- 35.05 Management plan.
- 35.07 State agencies; coordination and cooperation.
- 35.09 Acquisition of property.
- 35.11 Grants and technical assistance.
- 35.13 Local or regional heritage areas.
- 35.15 Preservation of heritage area resources.

§ 35.01 Establishment of The New York system of heritage areas. In accordance with provisions of this title there is hereby established The New York system of heritage areas to consist of state designated heritage areas including urban cultural parks and heritage corridors

that reflect the cultural themes of the state's development and will provide educational, inspirational, economic and recreational benefits for present and future generations.

§ 35.03 State designated heritage areas; boundaries. 1. The legislature hereby designates the following historic settings of the state that have been identified for their statewide significance in the plan for a statewide system of urban cultural parks prepared pursuant to chapter seven hundred twenty-seven of the laws of nineteen hundred seventy-seven or that have been subsequently identified and which, upon completion of required management plans and their approval by the commissioner, shall be state designated heritage areas:

(a) The cohesive geographical area within the city of New York, including lower Manhattan or portions thereof and appropriate coastal portions of Brooklyn and Staten Island, associated with and revealing of the development of maritime trade and immigration;

(b) The cohesive geographical area within the village of Ossining, Westchester county, associated with and revealing of the nineteenth century public health and prison reform activities;

(c) The cohesive geographical area of the city of Kingston, Ulster county, associated with and revealing of the growth and prosperity of a river port shaped by regional modes of transportation;

(d) The Hudson-Mohawk urban cultural park established by the cities of Troy, Cohoes, Watervliet, the villages of Green Island and Waterford and the towns of Waterford and Colonie and recognized by section 13.27 of this chapter;

(e) The cohesive geographical area of the city of Saratoga Springs, Saratoga county, associated with and revealing of its development as a nineteenth century health and cultural resort;

(f) The cohesive geographical area of the city of Schenectady associated with both the city's settlement in the seventeenth and eighteenth centuries and its growth as a center for electrical and broadcasting development;

(g) The cohesive geographical area of the village of Whitehall, Washington county, associated with and revealing of its crucial role during the French and Indian Wars, the American Revolution and the War

of 1812 and with the development of the American Navy;

(h) The cohesive geographical area including all or parts of the counties of Broome and Tioga associated with and revealing the natural features and historic development including the topographical and agricultural landscape, Native American settlement, the revolutionary frontier, early industries, labor practices, manufacturing and innovation, immigration and migration;

(i) The cohesive geographical area of the city of Rochester, Monroe county, including the Genesee River Gorge associated with and revealing of the periods of the cities' growth related to use of the river;

(j) The cohesive geographical area of the village of Seneca Falls, Seneca county, associated with and revealing of the community's place in the development of the women's rights movement;

(k) The cohesive geographical area of the city of Syracuse, Onondaga county, including Hanover and Clinton Squares associated with and revealing of the growth of business and finance;

(l) The cohesive geographical area of the city of Buffalo, Erie county, associated with and revealing of an historic role as a center for entertainment and culture at the frontier; and

(m) The cohesive geographical area of the village of Sackets Harbor, Jefferson county, associated with and revealing of the community's role as the headquarters for the defense of the American northern frontier.

(n) The cohesive geographical area of the city of Albany, Albany county, including the Hudson River waterfront, associated with and revealing an historic role as a geographical crossroads and capital city.

(o) The cohesive geographical area including all or parts of the counties of Oneida, Herkimer, Montgomery, Fulton, Schenectady, Schoharie, Saratoga and Albany associated with and revealing the natural features and historic development including Native American settlement, the colonial period and industrialization of the region commonly known as the Mohawk Valley region, provided that the area shall not include land within the Adirondack park as defined in section 9-0101 of the environmental conservation law.

(p) The heritage area within the counties of Nassau and Suffolk encompassed by (i) beginning at the point where state route twenty-five intersects the border between Queens and Nassau counties, then east

along said route to the intersection of route four hundred ninety-five, then east along route four hundred ninety-five until said route intersects route twenty-five, then east along route twenty-five to the western border of the town of Southhold, then south from said border to the waters of the Peconic Bay, continuing north along the shoreline to the eastern terminus of Orient Point, then north to the border of the states of New York and Connecticut, then west along said state border to the border between Nassau and Westchester counties, continuing to the southwest to the border between Queens and Nassau counties and then southeast to the point of origin; including therein natural and cultural features associated with and revealing significant early American history including the American Revolution, the development and special character of the historic maritime communities, and the historic mansions and other architecturally significant built structures that distinguish or are characteristic of the north shore of Long Island, (ii) the state route twenty-five-A corridor geographically from Great Neck to Port Jefferson associated generally with significant early American history including, but not limited to, the visit to this area by General George Washington as well as the overall scenic, aesthetic, historic, cultural and physical character of this road and the historic communities and landscapes that it connects, and (iii) such historic sites or natural features that may exist outside of the boundaries described in subparagraph (i) of this paragraph, which are appropriate for inclusion by thematic and cultural linkage which are unanimously recommended by the planning commission for such inclusion subject to final approval by the commissioner.

(q) The cohesive geographical area including all or parts of the counties of Erie, Monroe, Niagara, Orleans and Wayne associated with and revealing the natural features and historic development including Native American settlement, the longest remaining sections of the original alignment of the Erie Canal, Erie Canal lift bridges, and industrialization of the region commonly known as the Western Erie Canal region.

(r) The Heights heritage area encompassing the cohesive geographic area of West Harlem within the city of New York, including a southerly boundary of one hundred twenty-second street, a northerly boundary of two hundred eighteenth street, an easterly boundary of Highbridge Park

and tenth avenue, and a westerly boundary of the appropriate riverside portions along the Hudson River, associated and revealing the historic development of maritime history, military war history and the northern Manhattan migration.

(s) The cohesive geographical area including all or parts of the county of Chautauqua associated with and revealing grape growing, processing and the unique local grape culture, including stewardship and development of the wine and juice industries, of the region commonly known as the Lake Erie concord grape belt region.

(t) The Michigan Street African American heritage corridor encompassing the geographical corridor of the east side of downtown Buffalo, Erie county, located between Broadway, Eagle, Elm and Nash to William street, William street (east) to Pine street, and Pine street (south) to Eagle, which includes the J. Edward Nash House, the Michigan Street Baptist Church, and the Colored Musicians Club, associated with and revealing of an historic role as the center of African American history, culture, and reform activities, and such other historic sites that may exist outside the boundaries described herein which are appropriate for inclusion by thematic and cultural linkage which are recommended by the commission subject to final approval by the commissioner.

(u) The cohesive geographic area of the city of Niagara Falls, Niagara County, associated with and revealing of the community's place in the development of the underground railroad and abolitionist movements and other reform activities.

(v) The cohesive geographic area of the Peconic Bay region in the county of Suffolk, as defined in paragraph (a) of subdivision one of section sixty-four-e of the town law, associated with and revealing the region's place in colonial history; the American Revolution; African-American history and culture, including but not limited to slavery, the underground railroad, abolition, and post-World War II traditional communities; military history; Native American culture and history, including but not limited to the Shinnecock and Montaukett Indians; maritime, agricultural, commercial and industrial activities; culture and the arts; and scenic, aesthetic, natural and physical features.

(w) The Scajaquada heritage area, encompassing the cohesive geographic

area of the city of Buffalo surrounding and associated with the Scajaquada creek.

2. The boundaries for each state designated heritage area shall be the boundaries depicted on the map accompanying each such management plan upon its approval by the commissioner. The commissioner, with the approval of the local legislative body of a city, town or village where the property to be added or removed is located, may amend or revise state designated heritage area boundaries after their initial approval after publication of a revised drawing or other boundary description in the state register. Boundary maps for each state designated heritage area shall be kept on file at the office of parks, recreation and historic preservation and at the office of the county clerk where the state designated heritage area is located.

3. Any area designated to be a state designated heritage area under subdivision one of this section, that has not had a management plan approved by the commissioner within four years of designation pursuant to this section shall be considered as no longer so designated. In each case where such a four year period expires, the commissioner shall notify the governor and the legislature in writing of the reasons why a management plan was not approved.

4. The commissioner, in cooperation with the advisory council, may on an ongoing basis, evaluate areas of the state as potential heritage areas with regard to their statewide significance and the policies of this title. The commissioner may establish guidelines for evaluating eligibility including the statewide significance of the resource and the local capability to participate in a state-local partnership for management of a state designated heritage area. Recommendations of areas identified as eligible for state designation shall be submitted by the commissioner to the legislature with the commissioner's evaluation of such areas.

§ 35.05 Management plan. 1. For each area designated in subdivision one of section 35.03 of this article the commissioner shall request

preparation by the appropriate local governmental or heritage area planning entity of a comprehensive management plan as hereinafter provided. The commissioner shall fully cooperate and be consulted in preparation of such plan and shall ensure that relevant private interests are consulted. Such plan shall be deemed to be the plan for both state and local government. Each such plan shall be completed and submitted to the commissioner for his or her approval as provided in subdivisions three and four of section 35.03 of this article.

2. The commissioner may require the chief executive officer of each local government with general jurisdiction over all or a portion of a designated area to identify a local official or local agency to be the agent for the local government in coordinating the preparation of the management plan and to appoint a local heritage area advisory committee representative of local civic, commercial, historic preservation, educational, recreational and conservation interests to advise the commissioner and local government during preparation of the management plan. At least one public hearing on a draft management plan shall be held in each designated area.

3. The local legislative body of each city, town or village within a designated area except that for the area designated pursuant to paragraphs (h), (o) and (q) of subdivision one of section 35.03 of this article the legislative body of each county included in whole or in part within the area must approve the management plan before it is submitted to the commissioner for its approval. Each such plan shall be completed and submitted to the required local legislative bodies for approval and to the commissioner within forty-five days of the local approval.

4. Management plans shall be the fundamental document defining the goals and boundaries for each state designated heritage area, and the means for the area's implementation and management. A management plan shall include, but need not be limited to:

(a) The boundaries of the heritage area set forth in text and depicted on a map. Areas or zones within the heritage area shall be identified for particular nature and intensity of use including those zones most appropriately devoted to public use and development by state or local

government and private use. Boundaries shall be located as deemed necessary or desirable for the purposes of resource protection, scenic integrity, and management and administration in furtherance of the purposes of this title and the estimated cost thereof;

(b) An inventory and designation of the natural and cultural resources within the heritage area;

(c) Statement of the goals and objectives of the heritage area;

(d) Identification of the types of uses, both public and private, to be accommodated and their linkages to the overall statewide system;

(e) Identification of properties, if any, to be acquired;

(f) Description of the interpretive and educational exhibits and programs to be undertaken;

(g) Description of the program for encouraging and accommodating visitation to the heritage area;

(h) An economic assessment of the long and short term costs and benefits related to the establishment, operation and maintenance of the heritage area, including comprehensive estimate of the costs of implementing the management plan identified by source of funding and specifically delineating expected state, local, federal and private contributions;

(i) Description of the techniques or means for the preservation and protection of the natural and cultural resources within the heritage area including the means such as appropriate local legislation for designation and protection of historic properties or natural areas to assure that future local actions will be consistent with established and agreed upon preservation standards or criteria;

(j) Description of the organizational structure to be utilized for planning, development and management of the heritage area, including the responsibilities and interrelationships of local, regional and state agencies in the management process and a program to provide maximum feasible private participation in the implementation of the management plan. Such organizational structures may include but not be limited to utilization of existing state and local agencies for administrative and finance purposes through contracts and letters of agreement between state and local agencies or, where necessary, proposed legislation for new entities to administer and finance implementation of a management plan; and

(k) A schedule for the planning, development and management of the heritage area.

5. Each management plan must demonstrate that the capability exists at the local level to implement and manage the heritage area including, but not limited to, the ability to:

(a) Accept and disburse funds;

(b) Acquire, improve, and dispose of property;

(c) Manage, operate, and maintain appropriate heritage area facilities identified as being of local responsibility without state financial assistance; and

(d) Promulgate and enforce land use and preservation criteria and standards as required to protect the resources within each heritage area.

5-a. The management plan for the heritage area established by paragraph (s) of subdivision one of section 35.03 of this article shall authorize state agencies and the county of Chautauqua to collaborate and cooperate with governmental entities in the state of Pennsylvania with regard to the stewardship and development of the grape wine and juice industries within such state and the heritage area established by such paragraph. The collaboration and cooperation authorized by this submission shall include, but not be limited to, joint project planning and grant funding.

6. Selected individual requirements or portions thereof for the management plan submissions may be waived by the commissioner provided that prior submissions to the office during a previous planning process are judged to provide sufficient data to fulfill the purpose of the management plan, except that in no case shall the requirements of paragraph (h) of subdivision four or of subdivision five of this section be waived.

7. The commissioner shall review and approve acceptable management plans for state designated heritage areas, and proposed changes or amendments to a previously approved management plan. Such approval shall be based upon the plan's consistency with the policy and goals of this

title generally and particularly to its attainment of resource protection and the provision of educational, recreational, preservation, economic and cultural benefits for the public at large. The commissioner shall tender in writing such approval or a denial of approval with written reasons therefor within ninety days after receipt of the locally approved management plan or change or amendment thereto. If there has been a denial of approval, a revised management plan, change or amendment may be submitted to the commissioner.

8. Approval of the management plan by the commissioner shall:

(a) Establish eligibility for the receipt of acquisition, development and programming assistance from the state within the defined heritage area boundaries;

(b) Establish those properties defined in the management plan as significant for consideration for eligibility for the state register of historic places; and

(c) Require, for continuance in the program, appropriate local action to protect and safeguard the defined resources in the heritage area.

9. The commissioner may, after holding a public hearing in the state designated heritage area subject to review, withdraw approval of a management plan where he or she finds that the local government with immediate general jurisdiction over all or a portion of such heritage area has taken actions which have had a significant adverse impact upon heritage area resources or has generally failed to implement its role under a management plan. When approval has been withdrawn, the heritage area shall no longer be deemed to be state designated. The commissioner shall report such withdrawal of approval to the governor and the legislature stating the reasons for such action.

§ 35.07 State agencies; coordination and cooperation. 1. The commissioner, in carrying out his functions and responsibilities under this title, shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested state agencies.

2. The following officers of state agencies with program responsibilities that affect aspects of the interpretation, preservation, development and use of heritage areas resources shall prepare a program statement which shall detail actions in the areas of planning, development, use, assistance and regulation that can support and assist the establishment and management of state heritage areas:

(a) Commissioner of parks, recreation and historic preservation regarding the state historic preservation program and for outdoor recreation;

(b) Commissioner of economic development regarding the state tourism program and economic development activities;

(c) Commissioner of environmental conservation regarding the management of natural resources within heritage areas;

(d) Commissioner of education regarding educational resources and their interpretation;

(e) Commissioner of transportation regarding access and transportation within state designated heritage areas;

(f) Secretary of state regarding neighborhood preservation programs, the coastal zone management program and other planning and community development programs administered by the department of state, and regarding its activities for identifying and preserving rural resources;

(g) Commissioner of the office of general services regarding the management and disposition of state property;

(h) Commissioner of the division of housing and community development regarding housing and neighborhood programs;

(h-1) President and chief executive officer of the power authority of the state of New York regarding operation of the New York state canal system;

(h-2) Commissioner of agriculture and markets regarding agriculture in heritage areas;

(i) Director of the office of urban revitalization regarding its activities for the revitalization of urban areas.

Such statements and revisions thereto shall be submitted to the heritage areas advisory council.

3. Where there is an approved management plan in effect, any state

agency conducting, funding or approving activities directly affecting a heritage area shall consult with, cooperate with, and coordinate its activities with the office and the appropriate local government. Any such state agency shall conduct or support such activities in a manner which is, to the maximum extent practicable, consistent with the approved management plan and reviews to determine consistency of state proposed actions with individual management plans. The heritage area program shall be incorporated as part of the reviews of actions pursuant to the state environmental quality review act as provided in article eight of the environmental conservation law and the New York state historic preservation act of 1980. The office shall review and comment in writing upon the statement and effects on a state designated heritage area or the heritage area program, made pursuant to section 8-0109 of the environmental conservation law or section 14.09 of this chapter.

§ 35.09 Acquisition of property. The acquisition of interests and rights in real property for heritage area purposes of preservation, education, recreation or economic development within any state designated heritage area shall constitute a public purpose for which public funds may be expended or advanced.

§ 35.11 Grants and technical assistance. 1. Within the amounts appropriated and available therefor, the commissioner may award a grant or grants to local governments or other appropriate entities for planning, design, acquisition, development and programming of heritage areas. The sharing limitations under this section shall not apply to any other state grant program or assistance which may be available to state designated heritage areas.

2. Planning grants may be made by the commissioner to communities identified under section 35.03 of this article. Such planning grants to municipalities will be for the purpose of assisting localities to prepare management plans and may cover up to fifty percent of the management plan cost. The state share must be matched by local funds or approved in-kind contributions.

3. Acquisition and development grants may be made by the commissioner to local governments or to other entities as authorized following approval of a management plan for the heritage area for which the grant will be used. Such grants shall be for the purpose of implementing the heritage area program in conformance with the approved management plan and may be used for project design, acquisition and development of real property and interests therein. No such acquisition or development grant shall exceed ten percent of the total project cost for which it is awarded and furthermore, local contributions must equal or exceed such grants.

3-a. Program grants may also be made by the commissioner to such local governments or authorized entities to develop and present interpretive exhibits, materials or other appropriate products in the furtherance of the educational and recreational objectives of the heritage areas program and to encourage urban revitalization of, and reinvestment in, heritage area resources. Program grants may cover up to twenty-five percent of the estimated project cost, and the state share must be matched by local funds or other non-state funds.

4. The commissioner may contract with state agencies to provide for projects, services and programs which encourage appreciation of heritage area resources or for any planning, transportation, or other services necessary to carry out the purposes of this title.

5. The commissioner shall, to the extent practicable, provide technical assistance in areas including recreation and preservation planning to management entities implementing a management plan.

§ 35.13 Local or regional heritage areas. The legislature finds and declares that the heritage area approach to the identification, preservation, development and use of the important natural and historic resources in urban or regional settings is a valuable means to increase public educational and recreational opportunities and generally enrich the quality of life within a community or region. Therefore, the

commissioner and officials of other state agencies may encourage local efforts to establish heritage areas around heritage area resources of local or regional significance. The commissioner may relate or integrate local and regional heritage areas into a statewide system of state designated heritage areas.

§ 35.15 Preservation of heritage area resources. 1. The commissioner shall establish, with the advice of the advisory council and the local officials from communities designated in section 35.03 of this article, standards and criteria for preservation of resources within heritage areas. At least one public hearing shall be held to solicit comment on the proposed standards and criteria prior to their adoption.

2. Concurrent with the approval of management plans the office shall determine that local governments in each heritage area have enacted preservation measures sufficient to insure that these standards shall be achieved.

ARTICLE 39

NIAGARA RIVER GREENWAY COMMISSION

Section 39.01 Legislative findings and intent.

39.03 Definitions.

39.05 Niagara river greenway commission.

39.07 Commission purpose.

39.09 Powers and duties of the commission.

39.11 Designation.

39.13 Cooperation with municipalities, state agencies and public corporations.

39.15 Appropriations by municipalities.

39.17 State purpose.

39.19 State actions.

§ 39.01 Legislative findings and intent. The Niagara River corridor is of unique ecological, cultural and economic importance to western New

York connecting Lake Erie and Lake Ontario communities and ecologies. This corridor has played an important role in the history of the Niagara Frontier and it can and should continue to define the western New York experience into the twenty-first century. Niagara Falls is a National Natural Landmark under state stewardship for more than a century that draws more than fourteen million visitors from throughout the world to the region each year. The cities of Niagara Falls and Buffalo are at the heart of the river corridor where much of their waterfront has in the past been dedicated to industrial uses. During the last few decades those uses have begun to wane and there is now an opportunity to redefine the waterfront in a way that creates a balance of economic interests with a welcoming waterfront environment. For more than a century there have been those who have expressed a vision for the Niagara river corridor of a necklace of open space and conservation areas spread along the river. With many areas no longer being used for heavy industry it is now time to complete that vision. Many areas have established parks along the corridor including eleven state parks and fourteen local parks. New York state's only National Scenic Byway, the Seaway Trail, runs through the entire corridor. It is the intent of the legislature to establish the Niagara river greenway commission as a cooperative regional organization established to work with participating state agencies, municipalities, organizations and residents in order to implement or cause to be implemented a linear system of parks and conservation areas that will, consistent with the purpose of the commission as set forth in this article, redefine the Niagara riverfront by increasing landside access to the river; creating complementary access to the greenway from the river; augmenting economic revitalization efforts, and celebrating the region's industrial heritage.

§ 39.03 Definitions. Whenever used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Niagara river greenway" or "greenway" shall mean a linear system of state and local parks and conservation areas linked by a network of

multi use trails within the greenway area established by an approved plan of the commission as provided for in this article.

2. "Niagara river greenway commission" or "commission" shall mean the Niagara river greenway commission created pursuant to this article.

3. "Municipality" means a county, city, town, village or local public benefit corporation located adjacent to the Niagara river.

4. "Chief elected official" shall mean the chief executive officer of a municipality, or if there is none, any other officer possessing similar powers and duties.

5. "Conservation area or areas" shall mean lands which are of ecological or recreational importance but shall not include state or local parks. Such lands may include but are not limited to wetlands, preserves, trails, riverfront walks and such private lands as may be dedicated by the land owner for the purposes of the greenway.

§ 39.05 Niagara river greenway commission. 1. The Niagara river greenway commission is hereby established to be a body corporate and politic constituting a public benefit corporation. The commission shall consist of up to fourteen voting members. The governor shall appoint eight voting members as follows: four voting members shall be appointed by the governor solely in his discretion; two voting members shall be appointed following the recommendation of the temporary president of the senate; and two voting members shall be appointed following the recommendation of the speaker of the assembly. One appointee recommended by the temporary president of the senate shall be a local elected official of a municipality adjacent to the Niagara river and shall serve as the chairperson of the local government advisory committee created pursuant to this article. One appointee recommended by the speaker of the assembly shall represent local interests and shall serve as the chairperson of the citizens' advisory committee created pursuant to this article. All appointments shall be residents of a municipality adjacent to the Niagara river. In addition, six voting members shall serve ex

officio: the secretary of state, the commissioners of parks, recreation and historic preservation, environmental conservation, transportation, and economic development, and the chairperson of the power authority of the state of New York, or their designees. The governor shall designate a chairperson for the commission.

2. The term of office for appointees shall be four years. Members may serve on the commission until they resign or are replaced. In the event of a vacancy occurring other than by the expiration of a member's term, such vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

3. A majority of the members of the commission shall constitute a quorum.

4. The members of the commission shall receive no compensation for their services, but shall be entitled to reimbursement for their expenses actually and necessarily incurred in the performance of their duties.

5. Notwithstanding any inconsistent provisions of law, general, special, or local, no officer or employee of the state or any civil division thereof, shall be deemed to have forfeited or shall forfeit his or her office or employment by reason of his or her acceptance of membership on the commission.

6. At the initial meeting, the commission shall elect officers, who shall serve at the pleasure of the commission.

7. The commission shall meet at least once every two months until approval of the plan by the commissioner as provided pursuant to section 39.07 of this article, and at least once every quarter thereafter.

8. Every state agency and public corporation having jurisdiction of land within municipalities adjacent to the Niagara river shall, to the fullest extent practicable, cooperate and assist the commission in carrying out the provisions of this article.

9. Every local agency with programs relating to the greenway may offer assistance to the commission in carrying out the provisions of this article.

§ 39.07 Commission purpose. The purpose of the commission is to undertake all necessary actions to facilitate the creation of a Niagara river greenway. The commission shall develop a plan and generic environmental impact statement for the creation of the greenway designed to enhance waterfront access, complement economic revitalization of the communities along the river, and ensure the long-term maintenance of the greenway. The plan shall:

1. Recommend the specific boundaries of the greenway within Erie and Niagara counties;

2. Develop a specific vision for the greenway that focuses on linking parks and conservation areas, creating a multi-use venue for the people of the region, and enhancing the tourism potential of the region;

3. Include an inventory of existing park and other lands under the jurisdiction of state agencies, public corporations and municipalities which may contribute to the purposes of a greenway;

4. Identify such other lands that through acquisition, dedication or redevelopment may contribute to the purposes of a greenway;

5. Identify existing plans and plans under development that can contribute to the purposes of the greenway;

6. Conduct economic analyses of the costs to construct, maintain and market the greenway as part of a strategy for implementation;

7. Consider how the region's industrial heritage can be celebrated and reflected along the greenway;

8. Recommend how the greenway could be linked to upland and interior communities in order to promote linkages to the river;
9. Consider how existing and proposed economic development activities in proximity to the greenway can support and complement the greenway;
10. Recommend cooperative efforts with the province of Ontario and the nation of Canada in furtherance of the objectives of this article;
11. Identify local, state, federal and private sources of funding that could support the purposes of the greenway;
12. Evaluate local, state and federal laws and regulations relating to the purposes of the greenway;
13. Identify ways for the commission to work cooperatively with municipal, state and federal agencies, public and private corporations, not-for-profit organizations, and private property owners and interests to advance and complement the purposes of the greenway;
14. Recommend how portions of the greenway would be managed including a plan for on-going operation and maintenance that would make the greenway self-supporting; and
15. Include any other information, data and recommendations which the commission determines is necessary to support the purposes of the plan.

Such draft plan shall be submitted to the commissioner of parks, recreation and historic preservation within two years of the effective date of this article. The commissioner may approve the plan, may return the plan to the commission with recommendations for approval, or may reject such plan. Prior to submission of the draft plan to the commissioner, the commission shall hold at least one public hearing on the draft plan in each county for which the plan is applicable. The local legislative body of each city, town or village within the boundaries designated by the draft plan must approve the plan following the public hearing or hearings and before it is submitted to the

commissioner. A copy of the approved plan shall be provided to the governor, the temporary president of the senate and the speaker of the assembly.

§ 39.09 Powers and duties of the commission. The commission shall have the following powers:

1. To sue and be sued;
2. To have a seal and alter the same at its pleasure;
3. To acquire, hold and dispose of personal property for its corporate purposes;
4. To make by-laws for the management and regulation of its affairs;
5. To appoint an executive officer, officers, agents and employees, to prescribe their qualifications and to fix their compensation and to pay the same out of funds of the commission;
6. To enter into contracts and leases, and to execute all instruments necessary or convenient with any person, firm, partnership or corporation, either public or private;
7. To accept gifts, grants, loans, or contributions from, and enter into contracts or other transactions with, the United States and the state or any commission of either of them, any municipality, any public or private corporation, individual or other legal entity, and to use any such gifts, grants, loans or contributions to advance any of its corporate purposes;
8. To designate the depositories of its money;
9. To establish and re-establish its fiscal year;
10. To prepare an annual report on the conduct of its activities which

shall include a financial statement for that year and a work plan for the next year which may include an estimate of the resources required to complete the commission's activities to be sent to the governor, the temporary president of the senate, the speaker of the assembly and the chief elected official of each municipality adjacent to the Niagara river;

11. To contract with the state as an independent body corporate;

12. To organize and meet with a committee of planners for municipalities adjacent to the Niagara river regarding regional projects and the provision of planning services;

13. To designate districts and routes for planning and project purposes;

14. To create advisory committees to advise on matters of interest; provided, however, there shall be created at a minimum a local government advisory committee consisting of the chief elected official of each municipality adjacent to the Niagara river, or their designee, and a citizens' advisory committee consisting of representatives of local civic, commercial, educational, recreational, and conservation organizations; and

15. To do all things necessary or convenient to carry out its purposes and exercise the powers expressly given in this article; provided, however, that no power is provided to the commission to operate any portion of the greenway, to impose operating standards upon any component of the system, or to take property by eminent domain.

§ 39.11 Designation. The Niagara river greenway is hereby designated to include those lands of state agencies, public corporations, and municipalities adjacent to the Niagara river as identified in the approved plan of the commission.

§ 39.13 Cooperation with municipalities, state agencies and public corporations. 1. The commission is a cooperative regional organization established to implement a greenway based upon the mutual assent and participation of each municipality, state agency and public corporation holding lands under its jurisdiction adjacent to the Niagara river. The activities of the commission shall be coordinated with the local planning and cultural and park activities of each municipality adjacent to the Niagara river.

2. Each municipality, state agency or public corporation may provide the commission with the services of its agents, employees and facilities without charge to the commission. Persons serving as officers or employees of the commission may be employees of a municipality and the commission, and the commission may pay the municipality an agreed portion of the compensation or costs of such officers or employees.

3. Nothing contained in this article shall be deemed to affect, impair or supersede the provisions of any city charter, local law, rule or other local requirements and procedures heretofore or hereafter adopted, including, but not limited to, any such provisions relating to the zoning and use of land.

§ 39.15 Appropriations by municipalities. To effectuate the purposes of this article, the local legislative bodies of any municipality may appropriate and transfer to the commission moneys to be expended by the commission to carry out its functions pursuant to this article.

§ 39.17 State purpose. The development of a Niagara greenway plan is considered a state purpose. Notwithstanding any law to the contrary, any state agency or public corporation within amounts appropriated or available therefore may offer assistance to the commission in support of its corporate purpose through the lending of staff or other resources to accomplish the purposes of this article.

§ 39.19 State actions. Each state agency shall review its actions within the greenway in relation to the consistency of such actions with the approved Niagara river greenway plan.