

Chapter 249 - DEPARTMENT OF PARKS, RECREATION AND CONSERVATION

Sec. 249.01. - Supplemental definitions.

Wherever used in this chapter, unless the context or subject matter otherwise requires:

1. The term "park" or "parks" means and includes all public parks, parkways, boulevards, beaches, water rights, playgrounds, athletic fields, recreation centers, open spaces and areas publicly owned and acquired for the conservation of natural resources, including all buildings, structures, equipment and appurtenances, also entrances and approaches thereto and streets, roads, docks and bridges between, to, in, through or connecting such park or parks and parts thereof and such other rights and appurtenances as the department shall utilize for its purposes, whether the same be now or hereafter owned or acquired in fee or otherwise by the county, or under the care and control of the county by lease or otherwise for park purposes, with the exception of Playland Park.
2. The term "commissioner" means the Commissioner of Parks, Recreation and Conservation.
3. The term "board" means the Parks, Recreation and Conservation Board.
4. The term "Board of Acquisition and Contract" means the Board of Acquisition and Contract of the county as defined by the County Charter.
5. The term "department" shall mean the Department of Parks, Recreation and Conservation.

(Added as § 211 by the Laws of 1961, Ch. 679)

Sec. 249.11. - Authority of Commissioner of Parks, Recreation and Conservation; declaration of public and county purpose.

1. The commissioner shall have the power from moneys appropriated and property designated for that purpose by the County Board, to make available for use as a public park or parks, as defined in this chapter, all such real estate, easements, and rights which are or may come under his jurisdiction, and to develop, improve and embellish such park or parks and erect, construct or build thereon necessary structures and other improvements and appurtenances, notwithstanding any general, special or local law to the contrary which provides for or requires control thereof.
2. The commissioner shall have the power to promote, demonstrate and organize constructive recreational activities cooperating with and supplementing the recreational services of the towns, villages and cities throughout the county; to provide recreational leadership training; and to establish recreation facilities and programs.
3. The commissioner is hereby authorized to control and manage, maintain and operate any and all such parks and recreational activities. All such parks shall be held and maintained with all the rights, privileges and immunities provided in this chapter.
4. The acquisition, improvement and embellishment of county parks, together with the maintenance thereof and all incidental proceedings for any one or more of the following purposes, namely: public health, public welfare, conservation of natural resources, education, instruction, interest, pleasure, recreation, athletics or amusement, are hereby declared to be for a public and county purpose.

Added as § 212 by the Laws of 1961, Ch. 679)

Cross reference— Department of Parks, Recreation and Conservation, Ch. 134; Board of Acquisition and Contract, Ch. 233; use of county-owned property, Ch. 712; use of parks, parkways and residential facilities, Ch. 765; Playland Commission Act, Ch. 895; rules and regulations of Playland Commission, Ch. 897.

Sec. 249.21. - Exemption from taxes and assessments; notice of exemption not required.

All real estate and interests therein vested in the county or required for the purposes of this chapter shall be exempt from all taxes and assessments. The department or the county, notwithstanding the provisions of any general, special or local law specifically or otherwise to the contrary, shall not be required to serve or file any objections or give or serve any notice or claim of exemption from any tax or assessment.

(Added as § 213 by the Laws of 1961, Ch. 679)

Sec. 249.31. - Recommendation and acquisition of additional parks.

1. The commissioner, and also the board, may consider, investigate and recommend to the County Executive and the County Board for selection and location such additional real estate in the county as may in his or their opinion be proper and desirable to be reserved, set apart or acquired for one or more parks. For the purposes of this chapter, the commissioner and the officers and employees of the department when authorized by him may enter upon any real estate or interest therein for the purpose of making such surveys, examinations and investigations as he may deem necessary in the performance of their duties.
2. Such commissioner may, if possible, make option agreements at a reasonable consideration for the acquiring by purchase of the real estate recommended or to be recommended for park purposes. Such option agreements shall be transmitted to the Board of Acquisition and Contract for its action, and shall not be exercised unless or until the County Board has approved the taking of such real estate and made an appropriation therefor. The board shall from time to time report the estimated cost of such proposed parks to the County Board, together with any preliminary map or description showing the real estate to be selected and located for park purposes, together with any other data relating thereto.
3. Thereafter, the County Board, at any regular, special or monthly meeting, may by resolution authorize the acquiring of any part or all of such property for the purposes of this chapter. The County Board shall thereupon estimate the cost of the same and make immediately available the necessary appropriation therefor. In case it is found that the actual cost will exceed such estimated cost, the County Board may make such additional estimates of cost as it deems necessary and proper and shall appropriate and make immediately available any such additional estimates of cost in the same manner as the original estimate of cost.
4. All such property shall be acquired as provided in Chapter 233, Article II, of this act.

(Added as § 214 by the Laws of 1961, Ch. 679)

Sec. 249.41. - Maps for land acquisition; approval of maps; amendments and contents.

After the approval by the County Board and before the acquisition of any real estate for the purposes of this chapter, a map or maps of such lands to be so acquired or taken as approved by the County Board shall be prepared, approved by the commissioner with an endorsement thereon showing such approval, and filed in the office of the County Clerk. Any such map or maps may be amended by a subsequent map or maps approved and filed as was the original and thereafter all proceedings shall be had in reference to the last amended map. Such map or maps or amended map or maps shall show the real estate to be acquired or taken and shall also distinguish between the parcel or parcels of which the fee is to be acquired, and the parcel or parcels wherein a lesser estate or an easement in perpetuity or for temporary use is to be acquired.

(Added as § 215 by the Laws of 1961, Ch. 679)

Sec. 249.51. - Acquisition of real estate by agreement.

The commissioner may negotiate with the owner or owners of or persons interested in any real estate or easement laid down or shown on said map, or maps, so approved, either for the acquiring of the fee thereof, a lesser estate or an easement therein as specified on said map or maps, as to the compensation to be paid to such owner or owners or persons interested, for the taking or using and occupying such real estate or interest therein. Any agreement of sale offered by the owner or owners, or option therefor, shall be transmitted as in section 249.31 hereof to the Board of Acquisition and Contract. The title to such lands shall be taken in the name of the county.

(Added as § 216 by the Laws of 1961, Ch. 679)

Sec. 249.61. - Payment of expenses incidental to the acquisition, development and improvement of park lands.

Where moneys are appropriated for the acquisition, development and improvement of county parks, so much thereof as may be necessary may be used for the purpose of paying salaries, making surveys, examinations of title and all other necessary expenses incidental to the acquisition or development and improvement of such lands.

(Added as § 217 by the Laws of 1961, Ch. 679)

Sec. 249.71. - Grants of lands under water.

The board, on behalf of the county, may and it hereby is authorized to apply to the proper authorities of the State of New York for a grant or grants of land under water, adjacent to any uplands owned by the county and under the direction and control of the department, and the state officials authorized to make and execute grants of land under water for and on behalf of the State of New York shall and they hereby are authorized and directed to release to the county any and all rights of the state therein, such grants to be subject to such conditions and restrictions as to them shall seem proper, but for a nominal consideration.

(Added as § 218 by the Laws of 1961, Ch. 679)

Sec. 249.81. - Dedication of highways by municipalities.

In case a public highway under the jurisdiction and control of any municipality within the county is required for an approach or means of access to lands heretofore taken or hereafter to be acquired by the county, such municipality may dedicate it to the county for park or other county purposes, and the county is authorized to accept the same upon such terms and conditions as may be agreed to by such municipality and the county acting by the Board of Acquisition and Contract upon the recommendation of the board.

(Added as § 219 by the Laws of 1961, Ch. 679)

Sec. 249.91. - Improvement of adjacent lands and streets; gifts of adjoining lands.

In addition to the powers hereinbefore granted to him, the commissioner shall, notwithstanding any provision of any general or special law to the contrary, have the power with the approval of the County Board and with the consent of the local authorities having jurisdiction thereof, to improve, maintain and use the lands of any municipality adjoining any park or parks acquired under any of the provisions of this act; also, with the approval of the County Board, to improve and maintain lands adjoining any park or

parks, or adjoining public lands contiguous to such park or parks, as may be accepted by gift, covenant or devise by the County Board; also, with the approval of the County Board, to improve and maintain lands in public streets adjacent to or within the general lines of any park or parks. Any piece or parcel of land and any right, interest or easement in real estate acquired pursuant to this section shall constitute a part of the park or parks under the provisions of this chapter and be subject to all the provisions of this chapter in relation to the control, maintenance and improvement of said park or parks.

(Added as § 220 by the Laws of 1961, Ch. 679)

Sec. 249.101. - Lease of real property until required for park purposes; sale of buildings and materials not so required; alteration, demolition or removal of such buildings.

1. Whenever the county shall have acquired jurisdiction or shall become vested with the title of real property for park purposes, it shall be lawful for the Board of Acquisition and Contract, upon the recommendation of the commissioner, to let for a period not exceeding five years any of such real property or portion thereof which may be within the bounds of the real estate so taken, and until the same is required for park purposes.
2. The Board of Acquisition and Contract, upon the recommendation of the board, may authorize the sale of any building, improvement and other materials within the boundary line of the lands so taken and belonging to the county, which the board shall certify is not required for the purposes of this chapter, and the proceeds of such leases and sales shall be deposited with the Commissioner of Finance to the credit of the county.
3. The commissioner shall have the right, subject to the approval of the County Board, to construct, reconstruct, complete, alter or repair any buildings or structures, or demolish or remove the same to carry out the purposes of this chapter.

(Added as § 220-a by the Laws of 1961, Ch. 679)

Sec. 249.111. - Sale of property not required for park purposes; grants of rights or interests.

1. The county, upon the recommendation of the board, is hereby authorized to sell and convey, by either public or private sale, any real estate which may have been acquired by purchase, condemnation or otherwise for park purposes, and which is determined by the County Board to be no longer required for such purposes, or to grant rights or interests in, over, under and across any real estate acquired for park purposes, such sale and conveyance or grant to be in accordance with the provisions of the County Charter and Administrative Code.
2. The county, upon the recommendation of the parks board, is hereby authorized to sell and convey, with or without consideration, any real estate which may have been acquired by purchase, condemnation or otherwise for park purposes, to any other municipality within the county, provided said conveyance restricts the use of said land by the municipality to park and recreational purposes, such sale and conveyance or grant to be in accordance with the provisions of the County Charter and Administrative Code. ¹ [§](#)
3. No public utility shall have the right to pass over, through or under any property controlled by the department except by a grant of such right as in this section provided.
4. Notwithstanding any inconsistent provision of this act or of the County Charter, the commissioner shall have the right and authority, subject to the approval of the Board of Acquisition and Contract, to grant to any municipal corporation within the county, as the term "municipal corporation" is defined in the General Municipal Law, a license or easement in, over, under or across any park or parks, for any public purpose; and may recommend to the County Board the grant of licenses or easements to individuals, copartnerships and corporations, including municipal corporations, to construct sewers, lay water and gas mains and electric conduits within and across such park or parks.

(Added as § 220-b by the Laws of 1961, Ch. 679; amended by L.L. No. 3-1962; Laws of 1979, Ch. 466)

Footnotes:

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1. Editor's Note: Ch. 466 of the Laws of 1979, which added this subsection, also redesignated former subsections 2 and 3 as 3 and 4, respectively.

Sec. 249.121. - Control of streets and highways within park limits.

The county shall have the sole and exclusive control and management of all the streets and highways and bridges within the limits of any park under the jurisdiction of the department, with the right and power to alter or discontinue any or all of such streets, highways and bridges; and all streets, highways, parkways or boulevards taken over as in this chapter provided shall be repaired, reconstructed, maintained and kept in order by and under the direction of the Commissioner of Parks, Recreation and Conservation or the Commissioner of Public Works and Transportation, or otherwise, as determined by the County Board. The County Executive shall have the power to declare a snow emergency, and upon such declaration the Commissioner of Parks, Recreation and Conservation shall be empowered to require that tire chains or snow tires be used by all vehicles traversing roads under his jurisdiction during such emergency.

(Added as § 220-c by the Laws of 1961, Ch. 679; amended by L.L. No. 9-1971; L.L. No. 19-2010 ² [H](#))

Footnotes:

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2. Editor's Note: This local law provided that it take effect 1-1-2011.

Sec. 249.131. - Leases and concessions; security for concessions; disposition of income therefrom; summary proceedings.

1. To carry out the public purposes as in this chapter provided, the commissioner shall have the right and authority, subject to the approval of the Board of Acquisition and Contract, to let, license or grant to any person or party for terms not exceeding five years with the privilege of one renewal, such building or buildings, structure or structures, land, rights, privileges or concessions in, to and upon any park or parks under his jurisdiction and under such rules, regulations and restrictions as to him shall seem just and proper.
2. Unless the sum to be paid for such right, privilege or concession is paid in cash, the same shall not be granted except and until such person or party shall give security in such amount as shall to the commissioner seem proper and reasonable.
3. All income from licenses or leases received shall be deposited with the County Commissioner of Finance, to the credit of the county.
4. The county and/or the commissioner, in addition to any and all of the methods now provided by law, where the grantee, licensee or concessionaire continues in possession or enjoyment of any grant, license or concession after the expiration, cancellation or other termination thereof; or holds over or continues in possession or enjoyment after default in the payment of any fee, compensation, charge or emolument payable pursuant to the terms of the grant, license or concession; or where the premises or any part thereof is used or occupied for any illegal, immoral or bawdy purpose; or where

there has been a violation or default on the part of the grantee, licensee or concessionaire of any federal, state or municipal law, ordinance, rule, order or regulation; or of any ordinance, rule or regulation of the County Board or the department, or of any of the terms, covenants or conditions of the grant, license or concession; may cause to be summarily removed any such grantee, licensee or concessionaire, by summary proceedings under the provisions of law for the recovery of real property, and such provisions shall in all respects apply to the removal of such grantee, licensee or concessionaire.

(Added as § 220-d by the Laws of 1961, Ch. 679; amended by L.L. No. 6-1969)

Sec. 249.141. - Contracts for public utility services.

Subject to the provisions of the County Charter, the county, acting through the Board of Acquisition and Contract, may enter into contracts and agreements with any commission, body or corporation, or with any municipal corporation or political subdivision or civil division of the state or county, for the furnishing of water, sewer, fire or other public utility service for the purposes of this chapter, upon the recommendation of the Commissioner.

(Added as § 220-e by the Laws of 1961, Ch. 679)

Sec. 249.151. - Right to bring actions; seizure and impounding of animals.

1. The county may bring any action or proceeding necessary to carry out the purposes of this chapter, and also any action to recover damages for the breach of any agreement growing out of the management, improvement or government of any park or parks or for injuries to any of the property appertaining thereto.
2. The commissioner, acting for and on behalf of the county, shall have the power and right to seize and impound cattle and other animals roaming in, on or through such park or parks, and such animals shall be disposed of as provided by the Justice Court Act.

(Added as § 220-f by the Laws of 1961, Ch. 679)

Sec. 249.161. - Claims for damages.

1. No civil action shall be maintained against the department or the county for damages or injuries to the person sustained solely in consequence of the existence of snow or ice upon any walk, path, steps or other part of any park or parks, unless written notice thereof, relating to the particular place, was actually given to the commissioner and the clerk of the County Board and there was a failure or neglect to cause such snow or ice to be removed, or the place otherwise made reasonably safe within a reasonable time after the receipt of such notice.
2. No action shall be maintained against the department or the county for damages or injuries to the person or property sustained in consequence of any defective, unsafe, dangerous or obstructed condition of any park or parks, unless written notice of such condition, relating to the particular place, was actually given to the commissioner and the clerk of the County Board and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstruction complained of, or in the absence of such notice it appear that such defective, unsafe, dangerous or obstructed condition had existed for so long a period of time that the same should have been discovered and removed in the exercise of reasonable care and diligence.
3. Neither the department nor the county shall be liable in any civil action for damages or injuries to person or property, or any invasion of person or property rights, of any name or nature whatsoever, whether casual or continuing, arising at law or equity, or by the creation or maintenance of any nuisance, alleged to have been caused or sustained, in whole or in part, by or because of any

negligence on the part of the county, or any board, department, officer, agent, servant or employee thereof, unless a claim is made and served in compliance with section 50-e of the General Municipal Law.

(Added as § 220-g by the Laws of 1961, Ch. 679)

Sec. 249.171. - Rules, regulations and ordinances: adoption, publication and proof thereof.

1. The commissioner shall have the power to adopt rules, regulations and ordinances governing the use of the county parks as defined herein, and to provide penalties for the violation thereof.
2. A violation of any such rule, regulation or ordinance is hereby declared to be an offense against such rule, regulation or ordinance, and the said rule, regulation or ordinance may provide for the punishment thereof for each violation by a fine of not exceeding \$250.00 or by imprisonment not exceeding 30 days, or by both such fine and imprisonment. The commissioner is also empowered, as an alternative or in addition to such fine or imprisonment, to provide civil penalties for any such violation in an amount not to exceed \$250.00 for each violation, which shall be recovered in an action or proceeding brought by the County Attorney in the name of the county in a court of competent jurisdiction. Such rules, regulations and ordinances may provide that in the event of a violation of any provision of such rule, regulation or ordinance each day of a continuing violation shall be subject to a separate fine, imprisonment or civil penalty.
3. An action or proceeding may be maintained by the County Attorney in the name of the county in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any such rule, regulation or ordinance, notwithstanding that the rule, regulation or ordinance may provide a penalty or other punishment for such violation.
4. The commissioner shall also have the power to adopt ordinances regulating parking on and traffic in and through such county parks in accordance with the provisions of the Vehicle and Traffic Law.
5. Such rules, regulations and ordinances or any amendment or addition thereto shall not be effective unless approved by the board and until at least 20 days after the publication of the notice of the enactment thereof as herein provided.
6. Whenever any such rules, regulations and ordinances or amendments thereto shall have been adopted, the commissioner shall cause a notice to that effect to be published once simultaneously in three newspapers published daily in the county, together with a general statement of their nature and contents, the date when the same were adopted and the effective date thereof, and a statement to the effect that a copy of such rules, regulations and ordinances may be obtained from the department at its office upon application in person or by mail.
7. Whenever any amendment of such rules, regulations and ordinances shall have been adopted, the rule, regulation or ordinance amended shall remain in full force and effect until the amendment thereto becomes effective as herein provided.
8. In any action or proceeding, such rules, regulations and ordinances, or any amendment or addition thereto, shall be deemed sufficiently proved by presenting a copy thereof duly certified by the commissioner to the effect that the same is a true copy as then in force by reason of being duly adopted, and that there is on file in the office of such commissioner due proof of the publication of the notice as in this section provided.
9. A certified copy of all such rules, regulations and ordinances and amendments thereto shall, prior to the effective date thereof, be filed with the County Clerk.

(Added as § 220-h by the Laws of 1961, Ch. 679; amended by L.L. No. 6-1967)