

CHAPTER 461A

PUBLIC LANDS AND WATERS

[P]

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461A.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. “*Commission*” means the natural resource commission.
 2. “*Department*” means the department of natural resources created under section 455A.2.
 3. “*Director*” means the director of the department.
- [C24, 27, 31, 35, 39, §1797; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.1]
 86 Acts, ch 1238, §57, 58; 86 Acts, ch 1245, §1861, 1992
 C93, §461A.1

461A.2 Duties in general.

The commission shall investigate places in Iowa rich in natural history, forest reserves, archaeological specimens, and geological deposits; and the means of promoting forestry and maintaining and preserving animal and bird life and the conservation of the natural resources of the state.

[C24, 27, 31, 35, 39, §1798; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.2]
 C93, §461A.2

461A.3 Duties as to parks.

It shall be the duty of the commission to establish, maintain, improve, and beautify public parks and preserves upon the shores of lakes, streams, or other waters, or at other places within the state which have become historical or which are of scientific interest, or which by reason of their natural scenic beauty or location are adapted therefor. The commission shall have the power to maintain, improve or beautify state-owned bodies of water, and to provide proper public access thereto. The commission shall have the power to provide and operate facilities for the proper public use of the areas above described.

The commission shall open all roads which pass through the Ledges State Park from September 15 to November 1 of each year.

[C24, 27, 31, 35, 39, §1799; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.3]
 86 Acts, ch 1245, §1877
 C93, §461A.3

461A.3A Restore the outdoors program — appropriation.

1. The department shall establish a restore the outdoors program. The purpose of the program is to provide funding for projects involving existing vertical infrastructure as defined in section 8.57, subsection 6, paragraph “c”, or the construction of new vertical infrastructure if the new construction is required due to increased demand for facilities at the park or if it is not cost-effective to repair or renovate the existing vertical infrastructure. Projects shall be limited to existing state parks and other public facilities managed by the department.

2. There is appropriated from the rebuild Iowa infrastructure fund for each fiscal year of the fiscal period beginning July 1, 1997, and ending June 30, 2001, the sum of three million dollars to the department for use in the restore the outdoors program. Notwithstanding section 8.33, unencumbered or unobligated moneys remaining at the end of a fiscal year shall not revert but shall remain available for expenditure during the following fiscal year for purposes of the restore the outdoors program.

3. The department shall provide in its annual budget documentations to the governor and general assembly a report on the use of moneys under the program since the last report and the projected use of future moneys.

97 Acts, ch 215, §37; 98 Acts, ch 1219, §19, 26; 2011 Acts, ch 25, §118
 [T] Subsection 2, unnumbered paragraph 2 numbered as subsection 3

461A.4 Construction of structures and operation of commercial concessions.

1. *a.* A person shall not construct a structure including but not limited to a pier, wharf, sluice, piling, wall, fence, obstruction, erection, or building upon or over any state-owned or state-managed land or water under the jurisdiction of the commission without first obtaining from the commission a written permit. A permit, in matters relating to or in any manner affecting flood control, shall not be issued without approval of the environmental protection commission of the department. A person shall not construct or maintain a structure beyond the line of private ownership along or upon the shores of state-owned or state-managed

waters in a manner to obstruct the passage of pedestrians along the shore between the ordinary high-water mark and the water's edge, except by permission of the commission.

b. The commission shall adopt and enforce rules governing and regulating the construction of a structure as provided in this subsection. The commission may prohibit or restrict its construction, or order the owner to remove the structure, when the commission determines that it is in the best interest of the public. The commission shall comply with the provisions of chapter 17A when issuing an order under this section.

2. A person shall not operate a commercial concession in a park, forest, fish and wildlife area, or recreation area under the jurisdiction of the department without first entering into a written contract with the department. The contract shall state the consideration and other terms under which the concession may be operated. The department may cancel or, in an emergency, suspend a concession contract for the protection of the public health, safety, morals, or welfare.

[C27, 31, 35, §1799-b2; C39, §1703.19, 1799.1; C46, 50, 54, 58, §106.19, 111.4; C62, 66, 71, 73, 75, 77, 79, 81, §111.4; 82 Acts, ch 1199, §55, 96]

86 Acts, ch 1245, §1862, 1877; 88 Acts, ch 1192, §1; 90 Acts, ch 1108, §1

C93, §461A.4

2008 Acts, ch 1161, §6

461A.5 Obstruction removed. Repealed by 2008 Acts, ch 1161, § 10.

461A.5A Injunctive relief.

If it appears to the department that a person is violating or about to violate a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4, the department may refer the matter to the attorney general, who may bring an action in the district court in any county of the state for an injunction to restrain the person from committing the violation. Upon a proper showing, the court may order a permanent or temporary injunction. The state shall not be required to post a bond.

2008 Acts, ch 1161, §7

461A.5B Penalties.

1. Except as provided in subsection 2, a person who violates a provision of section 461A.4 or of a departmental rule or refuses to comply with an order issued by the commission pursuant to section 461A.4 is guilty of a simple misdemeanor.

2. The state may proceed against a person who violates a provision of section 461A.4 or refuses to comply with an order issued by the commission pursuant to section 461A.4 by initiating an alternative civil enforcement action in lieu of a criminal prosecution. The amount of the civil penalty shall not exceed five thousand dollars. Each day of a violation shall be considered a separate offense. The alternative civil enforcement action may be brought against the person as a contested case proceeding by the department under chapter 17A if the amount of the civil penalty is not more than ten thousand dollars or as a civil judicial proceeding by the attorney general upon referral by the department. In a contested case proceeding, the department may impose, assess, and collect the civil penalty.

2008 Acts, ch 1161, §8

461A.6 Costs — lien.

The cost of removing a structure as provided in section 461A.4 shall be paid by its owner, and the state shall have a lien upon the property for the cost of removal. The costs shall be payable at the time of removal and such lien may be enforced and foreclosed, as provided for the foreclosure of security interests in uniform commercial code, chapter 554, article 9, part 6.

[C31, 35, §1799-d1; C39, §1799.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.6]

C93, §461A.6

2000 Acts, ch 1149, §170, 187; 2008 Acts, ch 1161, §9

461A.7 Eminent domain.

The commission may purchase or condemn lands for public parks. No contract for the purchase of such public parks shall be made to an amount in excess of funds appropriated therefor by the general assembly.

[C24, 27, 31, 35, 39, §1800; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.7]
86 Acts, ch 1245, §1980
C93, §461A.7

461A.8 Highways.

The commission may purchase or condemn highways connecting parks with the public highways. When the highways have been purchased or condemned the same shall be public highways of this state and shall be maintained as other public highways of the county.

[C24, 27, 31, 35, 39, §1801; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.8]
86 Acts, ch 1245, §1981
C93, §461A.8

461A.9 Condemnation statutes.

All the provisions of the law relating to the condemnation of lands for public state purposes shall apply to the provisions hereof in and so far as applicable.

[C24, 27, 31, 35, 39, §1802; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.9]
C93, §461A.9
[P] Eminent domain, chapters 6A and 6B

461A.10 Title to lands.

The title to all lands purchased, condemned, or donated, hereunder, for park or highway purposes, shall be taken in the name of the state and if thereafter it shall be deemed advisable to sell any portion of the land so purchased or condemned, the proceeds of such sale shall be placed to the credit of the said public state parks fund to be used for such park purposes.

[C24, 27, 31, 35, 39, §1803; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.10]
C93, §461A.10

461A.11 Gifts — jurisdiction over dedicated lands — plan.

The commission may accept gifts of land or other property, or the use of lands or other property for a term of years, and improve and use the land as public state parks.

Any land adjacent to a meandered lake or a meandered stream which has been conveyed by gift, dedication or other means to the public, but has not been conveyed to the jurisdiction of a specific state agency or political subdivision, shall be subject to the jurisdiction of the commission and to the rules promulgated pursuant to this chapter. The commission shall prepare a plan for the appropriate public use of such land in accordance with this chapter within two years of its coming under the jurisdiction of the commission. The plan may be amended by the commission.

[C24, 27, 31, 35, 39, §1804; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.11]
86 Acts, ch 1237, §5; 86 Acts, ch 1245, §1982
C93, §461A.11

461A.12 Conditions — lands.

The conditions attached to a gift shall be entered in writing as part of the record of the title by which the state takes the lands, and shall be inscribed upon any chart, map, or description of said park if the conditions are made by the grantor in lieu of money as a consideration paid by the state.

[C24, 27, 31, 35, 39, §1805; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.12]
C93, §461A.12

461A.13 Conditions — personalty.

If the donation be other than real estate and a particular specification for its use be made by the donor, no part of such donation shall be used or expended for any other purpose.

[C24, 27, 31, 35, 39, §1806; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.13]
C93, §461A.13

461A.14 Reversion of gift.

If the lands transferred to the state as a gift, or if lands purchased in whole or in part by the state from moneys given for that purpose, shall be abandoned or sold and not used for state park purposes, the donor shall reclaim the land or funds donated by filing the donor's request in writing with the executive council within six months of the time of the abandonment or sale by the state of such lands, but no interest or other charge shall be demanded of or paid by the state. Any unclaimed funds shall be used for park purposes.

[C24, 27, 31, 35, 39, §1807; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.14]
C93, §461A.14

461A.15 Use of private funds.

The commission may permit the improvement of parks, when established, or the improvement of bodies of water, upon the border of which such parks may be established, by the expenditure of private funds, such improvement to be done, however, under the direction of the commission, by and with the consent of the executive council.

[C24, 27, 31, 35, 39, §1808; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.15]
C93, §461A.15

461A.16 Landscape architect.

The commission may call upon the Iowa state university of science and technology for the services of at least one competent landscape architect, engineer, or gardener, who shall, under the direction of the commission, proceed to work with it in the improvement of the state property under the control of said commission. The president of said university shall, when called upon, designate the landscape architect, engineer, or gardener, as the case may be, who shall work with said commission.

[C24, 27, 31, 35, 39, §1809; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.16]
C93, §461A.16

461A.17 Expense and compensation.

All necessary expenses incurred by such landscape architect, engineer, or gardener, under the provisions of section 461A.16, shall be paid in the same manner as are other expenditures by the commission, but no compensation shall be paid for such services.

[C24, 27, 31, 35, 39, §1811; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.17]
C93, §461A.17

461A.18 Jurisdiction.

Jurisdiction over all meandered streams and lakes of this state and of state lands bordering thereon, not now used by some other state body for state purposes, is conferred upon the commission. The exercise of this jurisdiction is subject to the approval of the department in matters relating to or in any manner affecting flood control. The commission, with the approval of the executive council, may establish parts of the property into state parks, and when so established all of the provisions of this chapter relative to public parks apply to the property.

[C24, 27, 31, 35, 39, §1812; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.18; 82 Acts, ch 1199, §56, 96]
C93, §461A.18

461A.19 Boundaries.

The commission shall at once proceed to establish the boundary lines between the state-owned property under its jurisdiction and privately owned property when said

commission deems it feasible and necessary, and shall where deemed advisable mark the same so that the boundaries of such state-owned property may be easily ascertainable to the public.

[C24, 27, 31, 35, 39, §1813; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.19]

C93, §461A.19

461A.20 State department of transportation — duties.

The commission may call upon the state department of transportation for the services of at least one competent engineer, who shall, under the direction of the commission, proceed to work in conjunction with it in carrying out the true spirit and purpose of this chapter.

[C24, 27, 31, 35, 39, §1814; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.20]

86 Acts, ch 1245, §1877

C93, §461A.20

461A.21 County engineer — duties.

The commission may call upon the county engineer of any county to advise relative to the true boundary between the state-owned property and private property in the county, and to furnish plats and surveys showing such true boundary lines, and when directed by the commission, shall mark such boundary lines as herein provided.

[C24, 27, 31, 35, 39, §1815; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.21]

C93, §461A.21

461A.22 Surveys and plats.

All surveys and plats shall be filed with the secretary of the executive council, and shall become public records of this state.

[C24, 27, 31, 35, 39, §1816; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.22]

86 Acts, ch 1245, §1863

C93, §461A.22

461A.23 Compensation.

The compensation and expenses of the highway engineer shall be paid as a part of the maintenance of the state department of transportation, and of the county engineer by the county, as the case may be.

[C24, 27, 31, 35, 39, §1817; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.23]

C93, §461A.23

461A.24 Boundaries — adjustment.

Whenever a controversy shall arise as to the true boundary line between state-owned property and private property, the commission may adjust the boundary line or take such other action in the premises as in its judgment may seem right. When the disputed boundary line is fixed it shall be surveyed and marked.

[C24, 27, 31, 35, 39, §1818; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.24]

86 Acts, ch 1245, §1983

C93, §461A.24

461A.25 Leases and easements.

The commission may recommend that the executive council lease property under the commission's jurisdiction. All leases shall reserve to the public of the state the right to enter upon the property leased for any lawful purpose. The council may, if it approves the recommendation and the lease to be entered into is for five years or less, execute the lease in behalf of the state and commission. If the recommendation is for a lease in excess of five years, with the exception of agricultural lands specifically dealt with in Article I, section 24 of the Constitution of the State of Iowa, the council shall advertise for bids. If a bid is accepted, the lease shall be let or executed by the council in accordance with the most desirable bid. The lease shall not be executed for a term longer than fifty years. Any such leasehold interest, including any improvements placed on it, shall be listed on the tax rolls

as provided in chapters 428 and 443; assessed and valued as provided in chapter 441; taxes shall be levied on it as provided in chapter 444 and collected as provided in chapter 445; and the leasehold interest is subject to tax sale, redemption, and apportionment of taxes as provided in chapters 446, 447 and 448. The lessee shall discharge and pay all taxes.

The commission shall adopt rules providing for granting easements to political subdivisions and utility companies on state land under the jurisdiction of the department. An applicant for an easement shall provide the director with information setting forth the need for the easement, availability of alternatives, and measures proposed to prevent or minimize adverse impacts on the affected property. An easement shall be executed by the director, approved as to form by the attorney general, and if granted for a term longer than five years, approved by the commission.

For the purposes of this section, property under the commission's jurisdiction does not include an area of the bed of a lake or river occupied by a dock or other appurtenance or means of access to a dock, including but not limited to boat hoists and boat slips, or occupied by a boat ramp, constructed or installed and maintained under littoral or riparian rights.

[C24, 27, 31, 35, 39, §1819; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.25]

83 Acts, ch 101, §12

C93, §461A.25

97 Acts, ch 10, §1; 2006 Acts, ch 1102, §1

461A.26 Special police.

The commission in carrying out its duties may appoint the director and such other supervisory personnel of the department as necessary to act as special police to carry out the law enforcement program of the department. The officers are vested with the powers and charged with the duties of peace officers while in the performance of their official duties.

[C35, §1821-e1; C39, §1821.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.26]

86 Acts, ch 1245, §1864

C93, §461A.26

461A.27 Management by municipalities.

The commission may enter into an agreement or arrangement with the board of supervisors of a county or the council of a city whereby the county or city shall undertake the care and maintenance of any lands under the jurisdiction of the commission. Counties and cities may maintain the lands and pay the expense of maintenance. A city may pay the expense from the general fund.

[C24, 27, 31, 35, 39, §1822; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.27]

83 Acts, ch 123, §57, 209

C93, §461A.27

461A.28 Expenditure by cities.

Any one or more cities may through action of its city council expend money to aid in the purchase of land within the county for state parks which, when purchased, shall be the property of the state of Iowa, to be cared for as state parks.

[C27, 31, 35, §1822-a1; C39, §1822.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.28]

C93, §461A.28

461A.29 Limitation on expenditures.

The amount to be paid by such city or cities shall in no event exceed one-half of the total purchase price of the land involved in any single purchase, and in no event shall the total amount paid by such city or cities in any single purchase exceed the sum of fifty thousand dollars.

[C27, 31, 35, §1822-a2; C39, §1822.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.29]

C93, §461A.29

461A.30 City funds available.

Any such city or cities aiding in the purchase of land for state parks, as provided for in sections 461A.28 and 461A.29 may pay for the same out of the general fund, or may issue bonds for the payment of the same and levy a tax for the payment of such bonds and the interest thereon, in accordance with the provisions of law relating to general corporate purpose bonds of a city.

[C27, 31, 35, §1822-a3; C39, §1822.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.30]
C93, §461A.30

461A.31 Sale of islands.

No islands in any of the meandered streams and lakes of this state or in any of the waters bordering upon this state shall hereafter be sold, except with the majority vote of the executive council upon the majority recommendation of the commission, and in the event any of such islands are sold as herein provided the proceeds thereof shall become a part of the funds to be expended under the terms and provisions of this chapter.

[C24, 27, 31, 35, 39, §1823; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.31]
C93, §461A.31

461A.31A Sale of timber.

If the estimated quantity of timber grown in a state park or a preserve to be sold by the department in a sixty-day period is ten thousand board feet or more or if the estimated value of the timber grown in a state park or a preserve to be sold by the department during the same period of time is five thousand dollars or more, the department shall conduct a public hearing on the proposed sale. Notice of the hearing shall be published as provided in section 331.305. After the public hearing, the department may proceed with the sale of the timber.

99 Acts, ch 206, §27

461A.32 Sale of park lands — conveyances to cities or counties.

The commission may sell or exchange such parts of public lands under the jurisdiction of the commission as in its judgment may be undesirable for conservation purposes, excepting state-owned meandered lands already surveyed and platted at state expense as a conservation plan and project tentatively adopted and now in the process of rehabilitation and development authorized by a special legislative Act. The sale or exchange shall be made upon the terms, conditions or considerations as the commission may approve, whereupon the secretary of state shall issue a patent therefor in the manner provided by law in other cases. The proceeds of any such sale or exchange shall become a part of the funds to be expended under the provisions of this chapter.

Upon request by resolution of any city or county or any legal agency thereof, the executive council may, upon majority recommendation of the commission, convey without consideration to such city or county or legal agency thereof, such public lands under the jurisdiction of the commission as in its judgment may be desirable for city or county parks. Conveyance shall be in the name of the state, with the great seal of the state attached and shall contain a provision that when such lands cease to be used as public park by said city or county such lands revert to the state, and such park shall, within one year after such land has reverted to the state, be restored, as nearly as possible, to the condition it was in when acquired by such city, county or legal agency thereof at the expense of such city, county or legal agency.

The state may require that the city, county or legal agency thereof file a notice of intention every three years.

[C24, 27, 31, 35, 39, §1824; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.32]
86 Acts, ch 1244, §25; 86 Acts, ch 1245, §1877
C93, §461A.32

461A.33 Form of conveyance.

Conveyances shall be in the name of the state, signed by the governor and secretary of state, with the great seal of the state attached.

[C24, 27, 31, 35, 39, §1825; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.33]
C93, §461A.33

461A.34 Powers in municipalities.

Municipalities, or individuals, or corporations organized for that purpose only, acting separately or in conjunction with each other, may establish like parks outside the limits of cities, and when established without the support of the public state parks fund, the municipalities, corporations, or persons establishing the same, as the case may be, shall have control thereof independently of the executive council; but none of the said municipalities, individuals, or corporations, acting under the provisions of this section shall establish, maintain or operate any such park as herein contemplated for pecuniary profit.

[C24, 27, 31, 35, 39, §1827; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.34]
C93, §461A.34

461A.35 Prohibited destructive acts.

It shall be unlawful for any person to use, enjoy the privileges of, destroy, injure or deface plant life, trees, buildings, or other natural or material property, or to construct or operate for private or commercial purposes any structure, or to remove any plant life, trees, buildings, sand, gravel, ice, earth, stone, wood or other natural material, or to operate vehicles, within the boundaries of any state park, preserve, or stream or any other lands or waters under the jurisdiction of the commission for any purpose whatsoever, except upon the terms, conditions, limitations and restrictions as set forth by the commission.

[C39, §1828.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.35]
86 Acts, ch 1245, §1877
C93, §461A.35

461A.35A Entrance fee.

The department shall not impose a fee upon a person for entering into a state park or preserve.

99 Acts, ch 206, §28, 29

461A.36 Speed limit.

The maximum speed limit of all vehicles on state park and preserve drives, roads and highways shall be thirty-five miles per hour. All driving shall be confined to designated roadways. Whenever the commission shall determine that the speed limit hereinbefore set forth is greater than is reasonable or safe under the conditions found to exist at any place of congestion or upon any part of the park roads, drives or highways, said commission shall determine and declare a reasonable and safe speed limit thereat which shall be effective when appropriate signs giving notice thereof are erected at such places of congestion or other parts of the park roads, drives or highways.

[C39, §1828.02; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.36]
86 Acts, ch 1245, §1877
C93, §461A.36

[P] For applicable scheduled fines, see §805.8A, subsections 5 and 14

461A.37 Excessive loads.

Excessively loaded vehicles shall not operate over state park or preserve drives, roads or highways. The determination as to whether the load is excessive will be made by the director or the director's representative and will depend upon the load and the road conditions.

[C39, §1828.03; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.37]
86 Acts, ch 1245, §1878
C93, §461A.37

461A.38 Parking.

All vehicles shall be parked in designated parking areas, and no vehicle shall be left unattended on any state park or preserve drive, road or highway, except in the case of an emergency.

[C39, §1828.04; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.38]

C93, §461A.38

[P] For applicable scheduled fine, see §805.8A, subsection 1, paragraph a

461A.39 Hitching to trees.

No horse or other animal shall be hitched or tied to any tree or shrub, or in such a manner as to result in injury to state property.

[C39, §1828.05; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.39]

C93, §461A.39

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph a

461A.40 Fires.

No fires shall be built, except in a place provided therefor, and such fire shall be extinguished when site is vacated unless it is immediately used by some other party.

[C39, §1828.06; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.40]

C93, §461A.40

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph b

461A.41 Removing plants, flowers or fruit.

No person shall, in any manner, remove, destroy, injure or deface any tree, shrub, plant, or flower, or the fruit thereof, or disturb or injure any structure or natural attraction, except that upon written permission of the commission certain specimens may be removed for scientific purposes.

This section shall not apply to activities of the commission or its officers, or employees when caring for and managing state-owned land and waters under the jurisdiction of the commission. This section shall not apply to the gathering or removal of any tree, shrub, plant, flower, fruits, structures or natural attractions under terms, conditions, limitations and restrictions adopted by the commission as rules under chapter 17A.

[C39, §1828.07; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.41]

86 Acts, ch 1245, §1877

C93, §461A.41

461A.42 Use of firearms, explosives, weapons, and fireworks prohibited — exceptions.

1. The use of firearms, explosives, and weapons of all kinds by a person is prohibited in all state parks and preserves except under the following conditions:

a. A firearm or other weapon authorized for hunting may be used in preserves or parts of preserves designated by the state advisory board on preserves at the request of the commission.

b. A person may use a bow and arrow with an attached bow fishing reel and ninety-pound minimum line attached to the arrow to take rough fish as provided by rule of the commission.

c. The commission may establish, by rule, the state parks or parts of state parks where firearms may be discharged during special events, festivals and education programs, or a special hunt to control animal populations. The rules governing special hunts to control animal populations shall be applied separately to each designated state park.

2. The use of fireworks, as defined in section 727.2, in state parks and preserves is prohibited except as authorized by a permit issued by the department. The commission shall establish, by rule adopted pursuant to chapter 17A, a fireworks permit system which authorizes the issuance of a limited number of permits to qualified persons to use or display fireworks in selected state parks and preserves. A person violating this subsection is guilty of a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred

fifty dollars. The court shall order restitution if any damages were caused by the violation which may include, but is not limited to, community service.

[C39, §1828.08; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.42]

86 Acts, ch 1245, §1877; 91 Acts, ch 101, §1

C93, §461A.42

97 Acts, ch 180, §1; 99 Acts, ch 153, §10

461A.43 Littering grounds.

No person shall place any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.

[C39, §1828.09; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.43]

C93, §461A.43

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph e

461A.44 Prohibited areas.

No person shall enter upon portions of any state park or preserve in disregard of official signs forbidding same, except by permission of the director or the director's representative.

[C39, §1828.10; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.44]

86 Acts, ch 1245, §1878

C93, §461A.44

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph c

461A.45 Animals on leash.

No privately owned animal shall be allowed to run at large in any state park or preserve or upon lands or in waters owned by or under the jurisdiction of the commission except by permission of the commission. Every such animal shall be deemed as running at large unless the owner carries such animal or leads it by a leash or chain not exceeding six feet in length, or keeps it confined in or attached to a vehicle.

[C39, §1828.11; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.45]

C93, §461A.45

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph a

461A.46 Closing time.

Except by arrangement or permission granted by the director or the director's authorized representative, all persons shall vacate state parks and preserves before 10:30 p.m. Areas may be closed at an earlier or later hour, of which notice shall be given by proper signs or instructions. The provisions of this section shall not apply to authorized camping in areas provided for that purpose.

[C39, §1828.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.46]

C93, §461A.46

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph b

461A.47 Camping.

The commission is hereby authorized to fix fees for camping and other special privileges which shall be in such amounts as may be determined by the commission upon a basis of the cost of providing and reasonable value of such privileges.

[C39, §1828.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.47]

C93, §461A.47

461A.48 Camping areas.

No person shall camp in any portion of a state park or preserve except in portions prescribed or designated by the commission.

[C39, §1828.14; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.48]

C93, §461A.48

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph d

461A.49 Time limit.

No camping unit shall be permitted to camp for a period longer than that designated by the commission for the specific state park or preserve, and in no event longer than for a period of two weeks.

[C39, §1828.15; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.49]

C93, §461A.49

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph b

461A.50 Registering — vacating.

Any person who camps in any state park or preserve shall register the person's name and address with the park custodian and advise the custodian when the camp is vacated.

[C39, §1828.16; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.50]

C93, §461A.50

[P] For applicable scheduled fine, see §805.8B, subsection 6, paragraph a

461A.51 Camping refused.

Custodians are given authority to refuse camping privileges and to rescind any and all camping permits for cause.

[C39, §1828.17; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.51]

C93, §461A.51

ICE, SAND, AND GRAVEL REMOVAL

461A.52 Agreement with commission.

No person shall remove any ice, sand, gravel, stone, wood, or other natural material from any lands or waters under the jurisdiction of the commission without first entering into an agreement with the commission.

[C39, §1828.18; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.52]

C93, §461A.52

461A.53 Permits.

1. The commission may enter into agreements for the removal of ice, sand, gravel, stone, wood, or other natural material from lands or waters under the jurisdiction of the commission if, after investigation, it is determined that such removal will not be detrimental to the state's interest.

2. The commission may specify the terms and consideration under which such removal is permitted and issue written permits for such removal.

3. Notwithstanding subsection 2, the commission shall issue written permits with a royalty fee of ten cents per ton for the removal of sand and gravel for the purposes of flood control from state-owned lands and waters under the jurisdiction of the commission located on the Cedar river in a county with a population of more than one hundred twenty-seven thousand. This subsection is repealed on June 30, 2015.

[C39, §1828.19; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.53]

C93, §461A.53

2010 Acts, ch 1160, §1, 2

461A.54 Barriers on ice field.

Any person removing ice under a permit shall erect barriers on any part of an ice field where ice is cut, where said field crosses or traverses any part of a stream or lake that is used as a way of passage.

[C39, §1828.20; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.54]

C93, §461A.54

461A.55 Dredging.

In removing sand, gravel, or other material from state-owned waters by dredging, the operator shall so arrange the operator's equipment that other users of the lake or stream shall not be endangered by cables, anchors, or any concealed equipment. No waste material shall be left in the water in such manner as to endanger other craft or to change the course of any stream.

[C39, §1828.21; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.55]
C93, §461A.55

461A.56 Disturbing natural bank.

Where operations are entirely on private property adjacent to a public lake or stream the natural bank between the state and privately owned areas shall not be removed except by permission of the commission.

[C39, §1828.22; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.56]
C93, §461A.56

461A.57 Penalties.

Any person violating any of the provisions of sections 461A.35 to 461A.56 is guilty of a simple misdemeanor.

[C39, §1828.23; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §111.57]
85 Acts, ch 206, §2
C93, §461A.57

MAINTENANCE EQUIPMENT

461A.58 Use by cities and state department of transportation.

The city council within the limits of the municipal corporation and the state department of transportation may permit use of maintenance equipment under their control in state parks and other lands of the commission.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §111.58; 81 Acts, ch 117, §1011]
86 Acts, ch 1245, §1877
C93, §461A.58

WATER RECREATIONAL AREAS

461A.59 Powers in municipalities.

Municipalities or corporations organized for that purpose only, acting separately or in conjunction with each other in counties not having a county conservation board, may establish water recreational areas and when established without the support of public funds of the state of Iowa, the municipalities or corporations establishing the same, as the case may be, shall have control thereof independently of the executive council.

[C66, 71, 73, 75, 77, 79, 81, §111.59]
C93, §461A.59

461A.60 Application for permit.

Any municipality or corporation seeking to establish a water recreational area without public funds of the state of Iowa shall file with the commission a verified petition asking for a permit to establish a water recreational area.

[C66, 71, 73, 75, 77, 79, 81, §111.60]
86 Acts, ch 1245, §1877
C93, §461A.60

461A.61 Petition.

Said petition shall state:

1. The name of the municipality or corporation.
2. The applicant's principal office and place of business.
3. A legal description of the lands to be included within said water recreational area, a showing that seventy-five percent of the area is either owned or under option for purchase by the applicant, together with a map thereof.
4. A general description of the public and private highways, grounds and real estate, streams and private lands of any kind within said area.
5. The tentative locations, types of dams to be constructed for any artificial lakes to be established, the proposed area to be inundated by the waters to be impounded by said dams, and a map showing the location of said dams and areas to be inundated.
6. A map showing the location of proposed roads, fixtures, utilities and other facilities necessary in the operation of said water recreational area.
7. The proposed plan of operation and regulations for the use of said facilities by the public.

[C66, 71, 73, 75, 77, 79, 81, §111.61]

C93, §461A.61

461A.62 Copy to environmental protection commission.

A copy of the petition and the applications, plans, and specifications required under chapter 455B shall be filed with the environmental protection commission and any approval or permit required under chapter 455B shall be obtained prior to the establishment of the water recreational area or the granting of a permit for the area by the commission.

[C66, 71, 73, 75, 77, 79, 81, §111.62; 82 Acts, ch 1199, §57, 96]

83 Acts, ch 101, §13; 86 Acts, ch 1245, §1865

C93, §461A.62

461A.63 Hearing — notice.

On the filing of said petition the commission shall fix a date for hearing thereon and shall cause notice thereof to be published in some newspaper of general circulation in each county in which said proposed water recreational area will be established, said notice to be published for two consecutive weeks.

[C66, 71, 73, 75, 77, 79, 81, §111.63]

86 Acts, ch 1245, §1877

C93, §461A.63

461A.64 Time and place.

Said hearing shall not be less than ten days nor more than thirty days from the date of the last publication and shall be held in the office of the commission or such place as the commission shall decide.

[C66, 71, 73, 75, 77, 79, 81, §111.64]

86 Acts, ch 1245, §1877

C93, §461A.64

461A.65 Objections.

Any person, corporation, company, levee or drainage district or city whose rights or interests may be affected by said proposed water recreational area may file written objections to said proposed water recreational area or to the granting of said permit.

[C66, 71, 73, 75, 77, 79, 81, §111.65]

C93, §461A.65

461A.66 Filing.

All such objections shall be on file in the office of said commission not less than five days before the date of hearing on said application but said commission may permit the filing of

said objections later than five days before said hearing in which event the applicant must be granted a reasonable time to meet said objections.

[C66, 71, 73, 75, 77, 79, 81, §111.66]

86 Acts, ch 1245, §1877

C93, §461A.66

461A.67 Examination — testimony.

The commission may examine the proposed water recreational area or may cause such examination to be made by an engineer or such other persons as it desires to be selected by it, who shall report the results of said examination to the commission. At said hearing the commission shall consider the petition and any objections filed thereto and may at its discretion hear such testimony as may aid it in determining the propriety of granting such permit.

[C66, 71, 73, 75, 77, 79, 81, §111.67]

86 Acts, ch 1245, §1877

C93, §461A.67

461A.68 Final order — condition.

It may grant such permit in whole or in part upon such terms, conditions and restrictions as may be determined by it to be just and proper and in the public interest, provided that before any permit shall be granted to any such municipality or corporation the commission shall, after public hearing as provided hereby, determine whether the water recreational area will be in the interests of the public health and welfare and an affirmative finding to such effect shall be a condition precedent to the granting of such permit.

[C66, 71, 73, 75, 77, 79, 81, §111.68]

C93, §461A.68

461A.69 Costs and fees.

Applicant shall pay all costs and expenses of the hearing and necessary preliminary investigation in connection therewith, including the cost of publishing notice of hearing.

[C66, 71, 73, 75, 77, 79, 81, §111.69]

C93, §461A.69

461A.70 Permit.

The commission shall cause to be prepared a uniform blank form of permit which shall provide a space for a general description of the area authorized to be included in any water recreational area to be established hereunder, the name and address of the municipality or corporation to whom said permit is granted and the terms and conditions upon which it is granted. Said permit shall be signed by the chairperson and all other members of the commission and the official seal of said commission shall be attached thereto.

[C66, 71, 73, 75, 77, 79, 81, §111.70]

86 Acts, ch 1245, §1877

C93, §461A.70

461A.71 Public access and use.

Any lake in the water recreational area, together with at least twenty-five percent of the water frontage of the water recreational area and all land which adjoins and lies within one hundred yards from any point of such twenty-five percent of the water frontage, shall be permanently subject to and available for free public access and use. The municipality or corporation shall grant to the state of Iowa a perpetual easement for such public access and use, and such easement shall not be impaired or destroyed in whole or in part by nonuse. Before a permit is granted as provided in section 461A.70, the commission and the municipality or corporation shall agree on the location and description of such water frontage and land to be permanently subject to and available for free public access and use, and such location and description shall be stated in the permit. However, in lieu of the foregoing procedure, the commission and the municipality or corporation may agree

that the commission may select such water frontage and land after the permit is granted, and the permit shall so state. At any time the commission, with the written consent of the municipality or corporation, may designate any additional land within the water recreational area to be permanently subject to and available for free public access and use; and the municipality or corporation shall grant to the state of Iowa a perpetual easement for such public access and use, which easement shall not be impaired or destroyed in whole or in part by nonuse. However, the commission may enter into agreements from time to time with one or more municipalities or corporations for the management, development, improvement, care and maintenance of such lake, water frontage and land.

[C66, 71, 73, 75, 77, 79, 81, §111.71]

86 Acts, ch 1245, §1877

C93, §461A.71

461A.72 Sale of permit.

No permit shall be sold until the sale is approved by the commission.

[C66, 71, 73, 75, 77, 79, 81, §111.72]

C93, §461A.72

461A.73 Records.

The commission shall keep a record of all permits granted and issued by it showing when and to whom issued and the location of the area of the proposed water recreational area covered thereby.

[C66, 71, 73, 75, 77, 79, 81, §111.73]

86 Acts, ch 1245, §1877

C93, §461A.73

461A.74 Extension of permit.

Any municipality or corporation owning a permit granted hereby desiring to acquire an extension of said permit may petition the commission in the same manner provided for the granting of such permit and the same proceeding shall be had as on an original application.

[C66, 71, 73, 75, 77, 79, 81, §111.74]

C93, §461A.74

461A.75 Condemnation of land.

Whenever a permit has been granted as provided in section 461A.70 and the commission finds that the municipality or corporation owning such permit cannot acquire at a reasonable cost any necessary land or interest therein, the commission, with the approval of the executive council, may condemn such land or interest therein as provided in chapter 6B. However, such condemnation shall be limited to land and interests therein which will be permanently subject to and available for free public access and use, as provided in section 461A.71, or which will be required for a dam or other facilities necessary for the water recreational area. All costs of such condemnation, including all costs occasioned by appeal as set out in section 6B.33, and including the award and compensation for such land or interest therein, shall be paid by such municipality or corporation. The commission may permit such municipality or corporation to use such land or interest therein for the purposes of this division, upon such terms, conditions and restrictions as the commission shall determine to be just and proper and for free public access and use. Title to such land or interest therein shall remain in the state of Iowa.

[C66, 71, 73, 75, 77, 79, 81, §111.75]

86 Acts, ch 1245, §1877

C93, §461A.75

461A.76 Contracts with local authorities.

1. Notwithstanding anything in chapter 468, subchapter I, parts 1 through 5, to the contrary, county boards of supervisors and trustees having control of any levee or drainage district established thereunder, including joint levee or drainage districts, may enter into contracts and agreements with municipalities or corporations authorized to establish water

recreational areas under the provisions of this division. Such contracts or agreements shall be in writing and may be made prior to or after the establishment of a water recreational area. If made prior to the establishment of a water recreational area they may be made conditional upon the final establishment of such area and if conditional upon such final establishment may be entered into prior to the hearing provided for in section 461A.63.

2. Such contracts or agreements may embrace any of the following subjects:

- a. For the impoundment of drainage waters to create artificial lakes or ponds.
- b. For compensation to drainage districts for drainage improvements destroyed or rendered useless by the establishment of water recreational areas and the structures, waters or works thereof.
- c. For the diversion of waters from established drainage ditches or tile drains to other channels.
- d. For sanitary measures and precautions.
- e. For the control of water levels in lakes, ponds or impoundments of water to avoid damage to or malfunction of drainage facilities.
- f. For the construction of additional drainage facilities promoting the interests of either or both of the contracting parties.
- g. For the granting of easements or licenses by one party to the other.
- h. For the payment of money by one contracting party to the other in consideration of acts or performance of the other party required by such contract or agreement.

3. When any expenditure of levee or drainage district funds is proposed by the authority contained in this section and where the estimated expenditure will exceed fifty percent of the original total cost of the district and subsequent improvements therein as defined by section 468.126, the same procedure respecting notice and hearing shall be followed as is provided in said section 468.126, for repair proposals where the estimated cost of the repair exceeds fifty percent of the original total cost of the district and subsequent improvements therein.

[C66, 71, 73, 75, 77, 79, 81, §111.76]

C93, §461A.76

2011 Acts, ch 34, §106

[T] Section amended

461A.77 Prohibited near borders of state.

In order to reduce the possibility of affecting conservation measures to flood control projects which may be in progress in other states, water recreational areas shall not be established hereunder within seventy miles of the border of any other state.

[C66, 71, 73, 75, 77, 79, 81, §111.77]

C93, §461A.77

461A.78 Method not exclusive.

This division shall not be the exclusive method for establishing a water recreational area and shall not be construed to prohibit the establishment of public recreational areas by the Missouri river preservation and land use authority under chapter 463B.

[C66, 71, 73, 75, 77, 79, 81, §111.78]

91 Acts, ch 246, §4

C93, §461A.78

461A.79 Public outdoor recreation and resources.

1. Fifty percent of the funds appropriated for purposes of this section for public outdoor recreation and resources shall be expended on land acquisition and capital improvements in carrying out this chapter. Acquisition projects, both fee-simple and less-than-fee, from willing sellers, may be for purposes of establishment or expansion of state parks, public hunting areas, natural areas, public fishing areas, water access sites, trail corridors, and other acquisition projects that are in accord with this chapter. Notwithstanding the exemption provided by section 427.1, land acquired under this subsection is subject to the full consolidated levy of property taxes which shall be paid from revenues available to be expended under this subsection. Capital improvements may be either new developments

or rehabilitative in nature. Lake and watershed restoration projects are eligible for funding under this subsection. Not more than fifty percent of the revenues available to be expended under this subsection may be used by the commission to enter into agreements with county conservation boards and county boards of supervisors in those counties without conservation boards to carry out the purposes of this subsection. The agreement shall not provide for the payment by the commission of more than seventy-five percent of the cost of the project and the agreement shall specify that the county conservation board or county board of supervisors, whichever is applicable, shall provide funds for the remaining cost of the project covered by the agreement. Moneys available to be expended under this subsection may be used for the matching of federal funds.

2. Forty-five percent of the funds appropriated for purposes of this section for public outdoor recreation and resources shall be expended on the state recreation tourism grant program. This program shall provide matching grants to cities and unincorporated communities for purposes of developing or improving recreational projects or tourist attractions. A city or unincorporated community may submit an application to the commission for a matching grant, except that an unincorporated community shall submit the application through the county board of supervisors. Applications shall be reviewed by the advisory council for public outdoor recreation and resources. The advisory council shall submit recommendations to the commission regarding possible recipients and grant amounts. Grants made to an unincorporated community shall be paid to the county board of supervisors to be used for the project of the unincorporated community. The amount of the grant shall not exceed fifty percent of the cost of the development or improvement to be made and the application must demonstrate that the city or unincorporated community will provide the required matching funds.

3. Five percent of the funds appropriated for purposes of this section for public outdoor recreation and resources shall be expended on advertising which shall promote the use of recreational facilities and tourist attractions in the state. The commission shall enter into an agreement with the economic development authority for the expenditure of these funds for this purpose.

4. Moneys available to be expended for purposes of this section for public outdoor recreation and resources shall be credited to or deposited to the general fund of the state and appropriations made for purposes of this section shall be allocated as provided in this section. Moneys credited to or deposited to the general fund of the state pursuant to this subsection are subject to the requirements of section 8.60.

84 Acts, ch 1262, §1

C85, §111.79

86 Acts, ch 1245, §1877; 91 Acts, ch 260, §1212; 92 Acts, ch 1163, §28

C93, §461A.79

93 Acts, ch 131, §18; 94 Acts, ch 1107, §74; 2011 Acts, ch 118, §85, 89

[T] Code editor directive applied

461A.80 Public outdoor recreation and resources advisory council.

1. An advisory council for public outdoor recreation and resources appropriations made for the purposes of section 461A.79 is created. The council shall consist of a public member appointed by the governor from each congressional district, the chairperson of the commission, the director, and a designee of the economic development authority. No more than three public members shall belong to the same political party. The council shall elect a chairperson annually from among the council's members, and the director shall serve as council secretary. Persons already serving in an elected or appointed governmental capacity are not eligible to serve as council members.

2. The advisory council shall meet annually, in July, and upon the call of the chairperson of the advisory council. The advisory council shall make policy recommendations to the commission regarding the projects and programs to be funded from funds available for public outdoor recreation and resources from appropriations made for the purposes of section 461A.79.

3. Each county conservation board of those counties which are located in a congressional

district shall nominate one person from the congressional district for appointment to the advisory council. The commission shall compile a list of the nominations of the county conservation boards for each congressional district and shall provide this list to the governor. The governor shall appoint one member from each congressional district from the nominations as provided. Appointments shall be made for three-year terms beginning July 1 in the year of appointment. A person shall not serve more than two terms. A vacancy shall be filled for the unexpired term in the same manner as the original appointment was made.

The public members of the advisory council shall be reimbursed for actual and necessary expenses for each day employed in the official discharge of their duties. The expenses shall be paid from the administration fund of the commission. Each member of the council may also be eligible to receive compensation as provided in section 7E.6.

84 Acts, ch 1262, §2

C85, §111.80

86 Acts, ch 1245, §1866, 1877

C93, §461A.80

94 Acts, ch 1107, §75; 2011 Acts, ch 118, §85, 89

[T] Code editor directive applied