Local Law #1 of 2002

A LOCAL LAW SNOWMOBILE MANAGEMENT REGULATING THE USE AND OPERATION OF SNOWMOBILES ON PUBLIC HIGHWAYS AND PUBLIC LANDS IN THE TOWN OF WATSON

Section 1 Purpose

The purpose of this local law is to protect the public health, safety, and welfare by regulating the operation of snowmobiles on public highways and on public lands, which includes designated trails open to the public in the Town of Watson, so that all snowmobiles are operated in a manner which will be compatible with the use of such highways and public lands for vehicular and pedestrian travel and other uses, and which will promote the safe and proper use of snowmobiles for recreation and commerce and minimize detrimental effects of such use on the environment.

Section 2 Definitions

As used in this Section, unless the context requires otherwise:

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

2.2 "**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 cage 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.

2.3 "**Snowmobile**" shall mean a self-propelled vehicle 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 cleats.

2.4 "**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.

2.5 **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.

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

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

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

2.9 "**Highway**" shall mean the entire width between the boundary or right-of-wav 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, including all highways designated as seasonal limited use highways and minimum maintenance roads.

2.10 "**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.

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

2.12 "**Inside Bank**" shall mean the portion of a snowbank immediately adjacent to the shoulder of the roadway.

2.13 "**Outside Bank**" shall mean the portion of a snowbank outside the crest thereof and farthest removed from the roadway.

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

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

2.16 "**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.

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

2.18 "**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 4 of Section 25.17 of the Parks, Recreation and Historic Preservation Law.

2.19 **"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.

2.20 "**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.

2.21 "**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 which snowmobile is engaged in transporting a sick or 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.

2.22 "**Snowmobile Trail"** shall mean a way designated as open to the public for snowmobiling.

2.23 "**Sidewalk**" shall be defined as a portion of a street between the curb lines, or the lateral lines of a roadway, and adjacent property lines, intended for the use of pedestrians.

Section 3 Operation of Snowmobiles Generally

A. It shall be unlawful for any person to drive or operate any snowmobile in the following unsafe or harassing ways:

3.1 Speed Restrictions:

(a) No person shall operate a snowmobile at a speed or in a fashion that is not reasonable and prudent for the conditions then and there existing:

(b) The operator of every snowmobile shall, at an appropriately reduced speed when approaching and crossing an intersection, highway, roadway, trail, mogul. or railroad crossing, or when approaching or rounding a curve, or approaching a hill crest, or when approaching any other obstacle or debris in or upon the highway, roadway, shoulder of roadway, trail public lands or water, or private lands:

(c) No person shall operate a snowmobile greater than the posted speed limit of 55 m.p.h. This shall pertain to public roadways, trails or private lands; and

(d) No person shall operate a snowmobile in excess of the posted maximum speed limits at any time, on public roadways, traits or private lands.

3.2 Reckless operation

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

3.3 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 are revolving, rotating, flashing, oscillating, or constantly moving.

3.4 Railroad tracks

On the tracks or right of way of an operating railroad or right of way.

3.5 Plantings

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

3.6 On the lands of another

On private property, except for operation as an 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 upon the request of the landowner, his 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.

3.7 Towing a sleigh, sled, or toboggan

Towing a sleigh, sled, or toboggan by a snowmobile, unless attached by a rigid support, connection or towbar.

3.8 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.

3.9 Failure and refusal to comply

In any place at any time, failing or refusing to comply with any lawful order or direction of any police officer or other person duly empowered to enforce all taws of the state relating to snowmobiles.

B. **Obedience to Vehicular Traffic Controls**

Each person operating a snowmobile on any Town/Village highway shall observe all vehicular traffic signs and signals and all other rules and regulations applicable to vehicular traffic, and shall obey the orders and directions of any state or local police or other law enforcement officer authorized to direct or regulate traffic.

C. **Helmets**

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.

D. **Single Lane**

No person shall drive or operate any snowmobile on any highway, when otherwise permitted, unless in a single file, and such persons shall not ride tandem or abreast of each other except in overtaking another snowmobile, and such persons shall travel on the right side of the road in the same direction as the flow of vehicular traffic.

E. Overtaking Vehicles or Snowmobiles on the Left:

The following rules shall govern the overtaking and passing of vehicles and/or snowmobiles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated.

(1) The driver of a snowmobile overtaking another snowmobile and/or motor vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

(2) The driver of an overtaken snowmobile shall give way to the right in favor of the overtaking snowmobile and shall not increase the speed of his snowmobile until completely passed by the overtaking snowmobile.

(3) No snowmobile shall be driven to the left side of the center of the roadway or trail in overtaking and passing another snowmobile or other vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle or snowmobile approaching from the opposite direction or any vehicle overtaken. In every event, the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for snowmobiles or other vehicles approaching from the opposite direction. before coming within 200 feet of any approaching snowmobile or vehicle.

Section 4 Conditions of Operation

A snowmobile may be operated on the public highways and public lands in the Town of Watson only under the following conditions:

4.1 **Snowmobile Traits**

Snowmobiles may be operated on all snowmobile trails open to the public as so designated under the Parks and Recreation Law of the State of New York, or as designated by the Town/Village board from time to time in a manner consistent with provisions of this taw and all other county or state laws relating to the operation of snowmobiles.

4.2 **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 state highways is prohibited. Except in a snow emergency as so declared under the provisions of 4.3 of this Section.

4.3 **Emergencies**

(a) Snowmobiles may be operated for the purpose of emergency travel only on all highways in the Town of Watson, 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 by the chief executive officer of the Town of Watson.

(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 other duly recognized emergency personnel.

4.4 **Highway Crossings**

Snowmobiles may be operated so as to take a direct crossing of a highway at any time of the day, provided that the crossing is made at an angle approximately 90 degrees to the direction of the highway, at a place where no obstruction prevents a quick and safe crossing, the snowmobile is brought to a complete stop before crossing the main traveled way of the highway, and the driver yields the right-of-way to all oncoming traffic.

4.5 **Sidewalk Crossings**

No operator of a snowmobile shall operate on a sidewalk as defined as above, except to gain access to a public highway, private way, or lands or buildings adjacent to highways. All crossings shall be made at a ninety (90) degree angle, and shall not interfere with the safety and passage of pedestrians thereon, who shall have the right of way.

4.6 **Culverts and Bridges**
Snowmobiles may be operated on highways when necessary to cross a bridge or a culvert.

4.7 **Unplowed Highways**
Snowmobiles may be operated on County, Town, City or Village highways, or portions thereof, during the periods when and at the locations where the highway is customarily unplowed and unused during the winter months for vehicle travel. The governing body of the County, Town, City or Village shall designate those highways or portions thereof which are so customarily unplowed.

4.8 **Outside Banks**
On highways snowmobiles may be operated on the outside banks.

4.9 **Designated Town/Village Highways**
The following highways are set forth as "highways designated by governmental agencies" upon which snowmobiles may be operated as permitted by Parks, Recreation and Historic Preservation Law Section 25.09:

See Exhibit "A"

4.10 **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 trailed by a snowmobile on a highway.

(d) No person shall operate a snowmobile on the frozen of public waters within one hundred feet of a person, including but not limited to a skater, no 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) 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.

4.1 1 **Emergency Vehicle**

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

4.12 **Special Events**

Snowmobiles may be operated at special events in a manner consistent with this local law, or in a manner as defined in Parks, Recreation, and Historic Preservation Law and upon authorization by the New York State Commissioner of Parks, Recreation, and Historic Preservation.

Section 5 Financial Responsibility/Liability Insurance

(a) All snowmobiles operated on public lands, roadways, waters or private lands not owned and/or leased by the owner or operator of the snowmobile shall be covered by liability insurance as per Section 25.13 of the New York State Snowmobile Law.

(b) No owner of a snowmobile shall operate or permit the same to be operated upon the roadways, shoulders of roadways, public lands, waters or private lands not owned and/or leased by the owner or operator of the snowmobile without having in full force and effect, the liability insurance coverage required by Section 25.13 of the New York State Snowmobile Law, and no person shall operate a snowmobile upon the highways. roadways, shoulders of roadways, public waters or lands or private lands not owned and/or leased by the owner of said snowmobile with the knowledge that such insurance is not in full force and effect.

(c) 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 Local Law. 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.

(d) 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 24 hours of receiving notice of such injury or damage, or the claim of such injury or damage.

(e) No owner of a snowmobile shall operate or permit the same to be operated upon the shoulders or roadways of highways 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 or roadways of highways with knowledge that such insurance is not in full force and effect.

Section 6 Equipment

No person shall drive or operate a snowmobile on a highway within the Town or Village unless it is with the required headlight, taillight, brakes, reflector material, and muffler as defined by and in accordance with the minimum standards of Section 25.17 of Parks, Recreation and Historic Preservation Law of the State of New York.

Section 7 Trail Grooming Equipment

7.1 Any combination of equipment used to maintain the snow surface of snowmobile trails shall be equipped with:

a. 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 500 feet from the front and rear during hours of darkness under normal atmospheric conditions.

b Reflector material as required for snowmobiles.

7.2 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, weather such snowmobile operator is approaching or overtaking, shall be considered unlawful.

Section 8 Operation by youthful operators

8.1 **Age of Operator**

a. No person under the age of ten years shall operate a snowmobile except upon lands 0AM1cd or leased by his/her parent or guardian, unless (s)he is accompanied by a person over eighteen years of age or a person over fourteen years of age who holds a snowmobile safety certificate as issued by the Commissioner of the New York State Office Of Parks. Recreation, and Historic Preservation. "Leased lands" as herein used shall not include lands leased by an organization of which said operator or his/her parent or guardian is a member,

b. A person under ten years of age may operate a snowmobile when accompanied by a person specified in paragraph a. above on trails or highways designated for snowmobile use by the Town of Watson. A person under ten years of age shall not operate a snowmobile elsewhere on or across a highway at any time-

c. A person who is at least ten years of age but who has not attained his/her eighteenth birthday shall have the same right of operation as a person under ten years of age, except as provided in subdivision 8.2.

8.2 **Snowmobile Safety Certificate**

A person ten years of age but less than eighteen years of age who has received safety training as prescribed by the Commissioner of the New York State Office of Parks, Recreation, and Historic Preservation and has received the appropriate snowmobile safety certificate issued by said Commissioner may operate a snowmobile in the same manner as a person who is eighteen years of age or older.

8.3 Exhibition of Certificate

The failure of such a youthful operator to exhibit a snowmobile safety certificate upon demand to any magistrate or any other officer 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.

8.4 Snowmobile Owner Responsibility

No owner of a snowmobile shall authorize or permit the operation thereof within the state by any person in violation of the provisions of this section.

8.5 Owner or Possessor Responsibility

No owner or other person in possession of any snowmobile shall authorize or knowingly permit any person under eighteen (18) years of age to operate such a snowmobile in violation of Article 25 of the New York State Parks, Recreation and Historic Preservation Law, the Rules or Regulations of the Commissioner, or the provisions of this Local Law.

8.6 Parent or Guardian Responsibility

No parent or guardian shall authorize or knowingly permit his or her child or ward, if under eighteen (18) years of age, to operate a snowmobile in violation of any provision of Article 25 of the New York State Parks, Recreation and Historic Preservation Law, the Rules or Regulations of the Commissioner, or the provisions of this Local Law.

Section 9 Accidents; Reports

9.1 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 $100.00 or more is sustained, shall within seven (7) days after such accident, report the matter in writing to the office, with a copy thereof to the law enforcement agency who investigated accident. 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.

9.2 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.

9.3 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 48 hours to the office and keep a record thereof in his office.

9.4 Failure of such persons to give notice of any accident requiring notice shall be prima facie evidence that such accident was not reported.

Section 10 Operating a Snowmobile on a street or Highway or Upon Public Trails or Lands While Under the Influence of Alcohol or drugs

10.1 Offenses; Criminal Penalties:

(a) No person shall operate a snowmobile on a street or highway or upon public trails or lands, white 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 ($250.00), nor more than three hundred fifty dollars ($350.00)or by imprisonment in a penitentiary or county jail for not more than fifteen (15) 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 (5) years shall be punished by a fine of not less than five hundred dollars ($500.00), nor more than fifteen hundred dollars ($ I ,500.00), or by imprisonment of not more than thirty (30) days in a penitentiary or county jail or by both such fine and imprisonment.

(b) No such person shall operate a snowmobile on a street or highway or upon public trails or lands, while he or she has .10 of one per centum or more by weight of alcohol in his or her blood, breath, urine, or saliva, as by the test made pursuant to the provisions of subdivision six of this Section.

(c) No person shall operate a snowmobile on a street or highway or upon public trails or lands, while he or she is in an intoxicated condition.

(d) No person shall operate a snowmobile on a street or highway or upon public trails or lands, while his or her ability to operate such snowmobile is impaired by the use of a drug as defined by Section 114-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 (90) days, or by a fine of not less than

$350.00 nor more than $500.00, or by both such fine and imprisonment. A person who operates a snowmobile in violation of paragraph (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 (10) 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 $500.00 nor more than $1,500.00, 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 (1 0) years, shall be guilty of a Class E Felony and shall be punished by a fine of not less than $500.00 nor more than $5,000.00, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

10.2 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 (6) months where an operator is convicted of a violation of paragraph (a) of subdivision 10. of this Section;

(2) A period of twelve (12) months where an operator is convicted of a violation of paragraph (b), (c), or (d) of subdivision 10.1 of this Section;

(3) A period of 24 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 10.1 of this Section or of operating a snowmobile while intoxicated or under the influence of drugs within the preceding ten (10) 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.

10.3 Operation of n Snowmobile While Operating Privileges Have Been Suspended.

(a) No person shall operate a snowmobile on a street or highway or upon public trails or lands, white 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 $350.00, nor more than $750.00, or by imprisonment for a period of not more than ninety (90) days, or by both such fine and imprisonment.

(b) A 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 incidents shall be guilty of a misdemeanor punishable by a fine of not less than $500.00, nor more than $5,000.00 or by a period of imprisonment for a period of not more than one year or by both such fine and imprisonment.

10.4 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 10. I of this section nor shah 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.

10.5 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 10. I of this Section, 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 case 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 Section when the alleged violation constitutes a crime.

(b) Breath Test for Operations of a Snowmobile. Every person operating a snowmobile on a street or highway or upon public trails or lands, which has been involved in an accident or which is operated in violation of any of the provisions of this Section, 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 10.6 of this Section.

10.6 Chemical Tests.

(a) Any person who operates a snowmobile on a street or highway or upon public trails or lands, 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 a test is administered at the direction of a police officer: ( ) having reasonable cause to believe that such person to have been operating in violation of this subdivision or paragraph (a), (b), (c) or (d) of Subdivision 10. I 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 10.5 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 10.7 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 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 10 of this that such person had refused to submit to such chemical test, and that no chemical test was administered pursuant to the requirements Of Subdivision 10.7 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 (48) 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 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 (15) 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: (l) 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 3-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) (l) Any privilege to operate a snowmobile which has been suspended pursuant to paragraph (c) of this subdivision shall not be restored for six (6) 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 10.1 of this Section not arising out of the same incident, within the five (5) 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 $200.00 except that if such suspension is a second or subsequent suspension pursuant to this subdivision issued within a five (5) year period, or such person has been convicted of a violation of any paragraph of subdivision 10 of this section within the past five (5) years not arising out of the same incident, the civil penalty shall be in the amount of $500 00. The privilege to operate a snowmobile shall not be restored to such person unless such penalty has been paid. The first $100.00 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 92-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 hat 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

10.7 Compulsory Chemical Tests.

(a) Notwithstanding the provisions of subdivision 10.6 of this section, no person who operates a snowmobile on a street or highway or upon public trails or lands, 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 32 of Section I .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:

(l) 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) Either such person operated the snowmobile in violation of any paragraph of subdivision 10 of this Section; or

(ii) A breath test administered by a police officer in accordance with Subdivision 10.5 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 to submit to a chemical test or any portion thereof, requested in accordance with the provisions of Subdivision 10.6 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 to 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 10 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 accident.

(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. 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 72 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 24 hours of the issuance of the Order.

(4) If the Court is satisfied that the requirements for the issuance of a court Older 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 10.8 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 210 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 10.8 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 710 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.

10.8 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: (l) 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 technician as certified by the Department of Health, or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under Title 5 of Article 5 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 be 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) 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.

10.9 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 10. I 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 10.6 or 10.7 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 10. I of this section and who was operating a snowmobile:

(l) 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 not more 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 more than .07 of one per centum but less than 10 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.

(b) 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 10.6 of this Section.

10.10 Limitations

(a) A snowmobile operator may be convicted of a violation of paragraph (a), (b), (c) or (d) of subdivision 10. I of this section, notwithstanding that the charge laid before the court alleged a violation of paragraph (b), (c) or (d) of Subdivision 10. I 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 10.1 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 10.1 of this section is 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.

10.11 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, respectfully, in Sections 120.03 and 125.12 of the Penal Law.

(b) A suspension under this subdivision shall occur no later than twenty (20) 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 180 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.

Section 11 Prior Notice

11.1 With respect to injuries arising from the operation of snowmobiles, no civil action shall be maintained against the Town of Watson or an officer thereof in charge of highway supervision and maintenance, for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous, or obstructed, unless prior written notice of such defective, unsafe, dangerous, or obstructed condition on such highway, bridge, or culvert was actually given to the municipal agent, officer, or employee authorized by Section 311 of the Civil Practice Law and Rules to receive service or to the chief municipal officer in charge of highway supervision and maintenance, and there was a failure or neglect within a reasonable time thereafter to repair or remove the defect, danger, or obstruction complained of. No such action shall be maintained for damages or injuries to person or property sustained solely due to conditions caused by snow and/or ice removal: or the non-removal thereof, from highways designated as open to snowmobiles in the Town of Watson.

11.2 The municipal officer in charge of highway supervision and maintenance and any other municipal agent, officer, or employee designated to receive service of process shall transmit in writing to the clerk of the municipal body involved within 24 hours or

as soon as practical after the receipt thereof, all written notices received by him pursuant to this section.

11.3 This section is included to clarify the application of section 71-b of General Municipal Law in the Town of Watson.

Section 12 Violation

In addition to any penalty contained in any other provisions of taw, any person who shall violate any provision of this local law shall be guilty of a violation and shall be punished by a fine of not more than $250 and/or 15 days in jail.

A notice of violation may be issued by any state police officer, county sheriff, town/village police officer or constable, conservation officer, parks and recreation officer, or by any other law enforcement official or other person so designated by the Town Board of Watson. Such authorized individual may initiate a violation by service of an appearance ticket.

Section 13 Fines

Any person who violates any provision of this Local Law shall be guilty of a violation. For a first conviction thereof, such person shall be punished by a fine of not more than One Hundred ($100.00) dollars. For a conviction of a second violation within a period of eighteen (18) months, such person shall be punished by a fine of not more than Two Hundred ($200.00) dollars or by imprisonment for not more than fifteen (15) days or by both such fine and imprisonment. Upon conviction of a third or subsequent violation. all of which were committed within a period of thirty-six (36) months, such person shall be punished by a fine of not more than Three Hundred ($300.00) dollars, or by imprisonment for not more than forty-five (45) days, or by both such fine and imprisonment. Notwithstanding the foregoing, however, a violation of Section 10 of this Local Law shall be subject to the penalties as set forth in Section 10 of this Local Law. Notwithstanding the foregoing penalties, the court which renders the conviction of any person for violation of this Local Law, may in its discretion, impose such penalty or penalties as it deems appropriate, which may be provided for in case of a violation of any of the provisions of the Parks, Recreation and Historic Preservation Law of the State. In the event of such other penalty, the fees and penalties imposed by such Court shall be disposed of as provided for by Section 27.13 of the Parks, Recreation and Historic Preservation Law.

Section 14 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.

Section 15 Severability

If any clause, sentence, paragraph, section, or part of this local law shall 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, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 16 Liability for Negligence

Negligence in the use or operation of a snowmobile shall be attributable to the owner. Every owner of a snowmobile used or operated in the Town of Watson or in this state shall be liable and responsible for death or injury to a 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.

Section 17 Effective Date

This local law shall take effect immediately upon its filing in accordance with the provisions of Section 27 of the Municipal Home Rule Law of the State of New York.

EXHABIT “A”

Buck Point Road
Stillwater Road
Moshier Road
Stoney Lake Road between Evies Pond Snowmobile Trail and Hinching Pond Snowmobile Trail