

# **ALBANY PINE BUSH PRESERVE COMMISSION**

## **BY - LAWS**

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CONTENTS

INTRODUCTION

ARTICLE I	-	ALBANY PINE BUSH PRESERVE COMMISSION
ARTICLE II	-	POWERS AND DUTIES
ARTICLE III	-	ADMINISTRATIVE OFFICE SPACE
ARTICLE IV	-	COMMISSION MEETINGS
ARTICLE V	-	OFFICERS
ARTICLE VI	-	EMPLOYEES
ARTICLE VII	-	COMMITTEES
ARTICLE VIII	-	FISCAL YEAR
ARTICLE IX	-	AMENDMENTS

## INTRODUCTION

The Laws of 1988 amended the Environmental Conservation Law (“ECL”) to establish the Albany Pine Bush Preserve Commission. ECL Article 46.

The New York State Legislature declared it to be in the public interest to protect and manage the Albany Pine Bush by establishing an Albany Pine Bush Preserve (“Preserve”) consisting of dedicated public and dedicated private land and a Commission made up of representatives of state and local government officials and private citizens to manage the Preserve for purposes of its protection and control, and appropriate recreational and educational purposes. ECL § 46-0101.

These by-laws are solely intended to govern the internal organization and management of the Albany Pine Bush Preserve Commission and the Preserve.

*The Mission of the Albany Pine Bush Preserve Commission is:*

*To protect and manage the unique and endangered natural communities and species of the Albany Pine Bush, for ecological benefits and controlled and appropriate public recreational and educational use.*

## ARTICLE I - ALBANY PINE BUSH PRESERVE COMMISSION

- A. ALBANY PINE BUSH PRESERVE or “Preserve” shall mean land in the City of Albany and Towns of Guilderland and Colonie in the County of Albany characterized by the growth of pitch pine and scrub oak, pine barrens, vernal ponds and/or the presence of sand dunes which are dedicated for protection and beneficial public use pursuant to ECL § 46-0107. Land which lacks such physical or vegetative characteristics may be dedicated pursuant to ECL § 46-0107 as a protective or buffer zone for other dedicated lands, or to otherwise support the management of the Preserve.
- B. ALBANY PINE BUSH PRESERVE COMMISSION. The Albany Pine Bush Preserve Commission is a body corporate and public (“Commission”) established in the Department of Environmental Conservation (“DEC”) consisting of eleven voting members: the Commissioner of DEC, the Commissioner of the State Office of Parks, Recreation and Historic Preservation, the Mayor of the City of Albany, the Town Supervisors of the Towns of Colonie and Guilderland, the chief executive officer of the county of Albany, the State Director of the New York field office of The Nature Conservancy and four members to be appointed by the governor with the advice and consent of the Senate. The four appointed private citizen members of the Commission shall be by training, education, experience or attainment qualified to analyze or interpret or support matters relevant to the protection, maintenance and/or management of the Albany Pine Bush. Each of the seven ex-officio members may designate a representative to attend, in his or her place, meetings of the Commission and to act in his or her behalf. The term of office of the four private citizen members shall be four years. In the event of a vacancy occurring other than by the expiration of a member’s term, such vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment. ECL § 46-0105.
- C. COMPENSATION AND INDEMNIFICATION. The members of the Commission shall receive no compensation for their services, but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties hereunder. Members of

the Commission shall be considered state employees for the purposes of Public Officers Law Sections 17 and 19. ECL § 46-0105(2)

## ARTICLE II - POWERS AND DUTIES OF THE COMMISSION

A. GENERAL POWERS. The purpose of the Commission as set forth in ECL Article 46, is to manage the Preserve for its protection and control, and appropriate recreational and educational uses, carried out in accordance with a Management Plan, approved by the Commission in accordance with ECL §46-0111, through the following powers and duties of the Commission (ECL § 46-0109):

1. To sue and be sued.
2. To make by-laws for the management and regulation of its affairs.
3. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions.
4. To appoint an executive officer, officers, agents and employees, and prescribe their duties and qualifications and fix their compensation.
5. To utilize, to the extent feasible, the staff and facilities of existing state and local agencies, pursuant to an allocation to be made by the state division of budget or the chief executive officer of the local government as applicable.
6. To contract for professional and technical assistance and advice.
7. To contract for and to accept assistance, including but not limited to gifts, grants, easements or loans of funds or real property or personal property from the federal government or any agency or instrumentality thereof, or from any agency or instrumentality of the state, or from any other public or private source, subject to the approval of the division of budget. Notwithstanding the provision of State Finance Law Section 11, the Commission may accept gifts, grants, devises and bequests, whether conditional or unconditional, with the approval of the director of the budget.
8. To conduct scientific and environmental studies.

9. Notwithstanding the provisions of ECL § 9-1105 or any other provision of law, to take, or cause to be taken, necessary and appropriate fire management actions to protect the flora and fauna of the Preserve provided that:
  - a) such actions have been approved in writing by the Commissioner of DEC or his/her designee and are pursuant to a written plan for the conduct of the requested burn, which plan shall include provisions for limiting the area to be burned and restricting the burn to that area, as well as emergency suppression procedures; and
  - b) no burning shall be conducted until the chief or other official in charge of the fire department or company within whose territorial jurisdiction the proposed burn is located has been given the opportunity to review and comment on the written plan and the fire department or company dispatcher has been notified of the actual date and time and estimated duration of such action; and
  - c) no burning shall be prescribed within seventy-five feet of privately owned land within or adjacent to the Preserve which has not be dedicated to the Preserve, except upon the written approval of such adjacent landowner.
10. To construct, or cause to have constructed, necessary facilities including paths and trails, an environmental education center and related parking areas of no more than five percent of the Preserve.
11. To conduct environmental education programs.
12. To facilitate and provide passive recreational activities including hiking, nature study and photography.
13. To control access and use of the Preserve as is necessary and appropriate to maintain the ecological community of the Preserve including establishment of an admission control system by permit on either group or individual.
14. To review and approve proposed dedications to the Preserve and recommend additions to the Preserve in accordance with ECL § 46-0107.
15. To advise and assist state agencies, municipalities and private property owners whose land adjoins the Preserve on land use and management techniques that are compatible with the land management needs of the Preserve.

16. To encourage individuals, corporations, associations and public entities to protect and preserve the unique resources of the Preserve.
17. To prepare quarterly and/or an annual report on the conduct of its activities, and an annual plan which shall include a recommended budget for the following fiscal year.
18. To prepare or cause to be prepared a Management Plan which shall be reviewed at least once every five years and to propose such amendments as may be necessary and appropriate in accordance with ECL§ 46-0111.
19. To acquire real property as may be necessary for the purposes and functions of the commission. Such real property may be acquired in the name of the commission by purchase, exchange, gift, devise, bequest, or by other legal means.
20. To exercise and perform such other powers and duties as shall have been or may be from time to time conferred by law.

**B. DEDICATED LANDS.**

1. Land owned by the state may be dedicated to be part of the Preserve only by action by the Commissioner of DEC, the Commissioner of the State Office of Parks, Recreation and Historic Preservation or the Commissioner of the State Office of General Services. State land dedicated to the Preserve is also dedicated to the State Natural and Historic Preserve pursuant to ECL § 45-0117(2)(1). ECL§ 46-0107(1).
2. Land owned by a local government may be dedicated to be part of the Preserve only by action of its local legislative body. ECL § 46-0107(2).
3. Land owned by private persons or organizations may be dedicated to be part of the Preserve only through the voluntary execution of a conservation easement pursuant to ECL Article 49, and the acceptance of such instrument by the Commission; provided, however that the Commission shall not have the power or authority, without the consent of the landowner, to require as a condition or of a prerequisite for obtaining any permit, license or other authorization to conduct any activity within or adjacent to the Preserve, that any lands be dedicated to the Preserve. ECL§ 46-0107(3).
4. Every proposed dedication shall be reviewed and approved by the Commission. ECL § 46-0107(4).

5. The Commission shall provide the DEC such information as shall be necessary for DEC to maintain a record of the boundaries of the lands which have been dedicated to the Albany Pine Bush Preserve in text and depicted on a map. ECL§ 46-0107.
6. The Commission shall have no authority to control or manage any private land unless such land has been dedicated to the Preserve or the owner thereof has executed a voluntary written agreement with the Commission authorizing the specific actions which may be taken by the Commission. ECL§46-0107(5).
7. Lands that have been dedicated to be a part of the Preserve may not be undedicated except as authorized by an act of the State Legislature.

### ARTICLE III - ADMINISTRATIVE OFFICE SPACE

The administrative offices of the Commission shall be situated at the Albany Pine Bush Discovery Center at 195 New Karner Road, Albany, New York 12205.

### ARTICLE IV – COMMISSION MEETINGS

#### A. Regular Meetings

Regular meetings of the Commission shall be held no less than quarterly at such location and time as shall be determined by the Commission Chair. Reasonable notice of the time and place of regular meetings shall be given to each Commission member and, to the extent possible, an agenda of the items of business expected to be discussed, shall be supplied in advance of the meeting. Meetings of the Commission shall be open to the public and subject to the provisions of the Open Meetings Law, Public Officers Law Article 7.

#### B. Special Meetings

Special meetings of the Commission may be held from time to time at the request of the Commission Chair or any three members of the Commission, at such location and time as shall be determined by the Commission Chair.

C. Agenda

The Commission Chair or Executive Director is authorized to make up the Commission agenda and to add to the agenda any item of business requested by the Commission Chair, a Commission member, or the chair of any committee unless an already lengthy agenda precludes such consideration. Each Commission meeting shall include an opportunity for public comment.

D. Presiding

At all meetings of the Commission, the Chair or his/her designee, or in the absence of the Chair or his/her designee, the Vice-chair, or his/her designee shall preside. In the event of the absence of both the Chair and Vice-chair, and their designees, the secretary or his/her designee shall preside.

E. Quorum

A quorum for the transaction of any business or the exercise of any power or function of the Commission shall consist of a majority of the whole number of Commission members as established by the Commission's enabling legislation. ECL § 46-0105(1).

F. Adjournment

Any meeting of the Commission may be adjourned from time to time by the members present, and no notice shall be required of any adjourned meeting beyond the announcement of such adjournment at the meeting. In the absence of a quorum, any meeting of the Commission may be postponed and notice of the new date shall be given in accordance with Paragraph A of this article.

G. Transaction of Business and Resolutions

Any action of the Commission shall be undertaken by resolution of its members. Resolutions may be proposed by the Chair, or any member of the Commission. Any transaction, decision or exercise of any power or function of the Commission shall require the affirmative vote of a majority of the whole number of members of the Commission, or their designee. Each Commission member shall have one vote. Voting by proxy is prohibited.

H. Conflict of Interest .

Any member of the Commission, and any designee of an ex-officio member, who has a financial or personal interest in, or conflict, or appearance of a conflict, with any matter

before the Commission, of such nature that it prevents or may prevent that member from acting on the matter in the interests of the Commission, will offer to the Commission to voluntarily excuse him/herself and will vacate his/her seat and refrain from discussion and voting on said item as a member of the Commission. The position held by each of the seven ex-officio members or their designees with their respective entities shall not be deemed a conflict of interest.

#### ARTICLE V - OFFICERS.

A. Commission officers shall be designated from among the Commission members.

B. Commission officers shall be as follows:

1. Chair: The Chair is designated by the Governor. ECL § 46-0105(1). The Chair shall have general supervisory authority over the conduct of Commission business and shall discharge or direct the discharge of the executive functions of the Commission. The Chair is specifically authorized to do the following:

- a) Take all steps necessary and proper in his/her judgment to carry out the statutory responsibilities and the decisions and policies of the Commission.
- b) Take all steps necessary and proper in his/her judgment to carry out the powers and duties delegated to him/her by the Commission.
- c) Approve the expenditures of Commission funds for any Commission purpose and to the extent authorized by the Commission. The Chair shall have the authority to approve emergency expenditures. An emergency expenditure is an expense that is directly related to an action that is immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources. A full report of any such expenses shall be given at the next Commission meeting.
- d) Sign any and all documents, releases, conveyances, contracts, agreements and communications in the name of the Commission.
- e) Sign vouchers, payrolls and requisitions for disbursement from funds of the Commission.

- f) Delegate to any officer or staff member any such duties, powers and functions as he/she may deem necessary or appropriate.
- g) With the advice and consent of the Commission members, appoint the members and/or Chairs of any committee established by these bylaws or the Commission.

2. Vice-Chair: The Vice-Chair is elected by the members of the Commission for one year renewable terms. The Vice-Chair shall be Acting Chair and shall assume and perform all powers and duties of the Chair in the absence or incapacity of the Chair and the Chair's designee, or in the event a vacancy exists in the office of Chair.

3. Secretary: The Secretary is elected by the members of the Commission for one year renewable terms. The Secretary shall be responsible for the keeping of minutes for the Commission meetings, shall certify copies of the minutes and other records and shall see that all notices of meetings required to be given to Commission members are duly given and see that all reports, statements and other documents required by law are properly kept and filed. The Secretary may delegate any one or more of his/her duties to any staff member.

4. Treasurer: The Treasurer is elected by the members of the Commission for one year renewable terms. The Treasurer shall have general custody of all funds and securities of the Commission and have general supervision of the collection and disbursement of Commission funds and shall endorse on behalf of the Commission for collection checks, notes and other obligations, and shall deposit the same to the credit of the Commission with such organizations or in such bank or banks or depositories as the Commission may designate. The Treasurer shall be responsible for keeping financial records, delivering financial reports at regular meetings of the Commission, providing for appropriate audits and shall possess such powers and shall perform such other duties as customarily pertain to this office. The Treasurer may delegate any one or more of his/her duties to any staff member.

ARTICLE VI - EMPLOYEES.

- A. APPOINTMENT. Employees of the Commission shall be appointed utilizing the management/confidential job grading system and are eligible for management/confidential benefits. Employees of the Commission will abide by the Policies and Procedures manual adopted by the Commission.
- B. INDEMNIFICATION. All employees of the Commission are state employees for the purposes of Public Officers Law Sections 17 and 19. ECL § 46-0105(2)
- C. EXECUTIVE DIRECTOR. The Executive Director shall serve at the pleasure of the Commission, or for a term of years, and shall be appointed by the members of the Commission at a job grade and salary set by the Commission. ECL § 46-0109(4). The Executive Director shall be the Chief Executive Officer of the Commission and is specifically authorized and responsible to do the following:
1. Hiring, firing and management of all employees and volunteers.
  2. General day to day management of the affairs of the Commission.
  3. Ensure all orders and resolutions of the Commission are carried into effect.
  4. Collect and spend monies and commit the Commission to the expenditure of funds as approved in the Commission's annual plan, budget and resolutions.
  5. Sign contracts implementing actions approved by the Commission.
  6. Approve emergency expenditures upon written approval of the Chair. An emergency expenditure is an expense that is directly related to an action that is immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources. A full report to the Commission on all such expenditures shall be given at the next regularly scheduled Commission meeting.
  7. Attend all meetings of the Commission.
  8. Manage Preserve staff and coordinate with Commission members and other parties to implement the Management Plan and any supplements thereto.

ARTICLE VII - COMMITTEES:

A. POWERS. Committees shall be advisory to the Commission and the Executive Director and shall have no authority to take action. Unless otherwise indicated below, committee members are recommended by the Commission Chair and approved by the Commission.

B. COMMISSION COMMITTEES.

1. Technical Committee: In addition to any members approved by the Commission, each of the seven ex-officio members of the Commission may designate a member to serve on the Technical Committee. The Committee works closely with Commission staff to evaluate technical matters and policy and/or related budgetary issues and makes recommendations. The Committee's roles include, but are not limited to, facilitating communication among Commission members, working with staff on management of the ecological resources of the Preserve and providing input for long range planning of the Preserve and Commission. The Committee reviews projects that may potentially affect the creation and management of a viable Preserve and makes recommendations to the staff and/or the Commission. The Committee is responsible for the implementation and coordination of updates to the Commission's Management Plan. The Committee may be assigned other specific tasks by the Commission.
2. Audit Committee: The Audit Committee shall be comprised of not less than three independent members of the Commission who shall constitute a majority on the Committee, and shall include the Treasurer. The Committee works closely with the Executive Director and finance staff to develop and review annual audits, fiscal procedures and the annual budget. The Committee also reviews financial reports, including income and expenses, balance sheet and investment portfolio. The Committee reviews draft annual audit reports prior to presentation to the Commission. The Committee interviews and recommends approval of the audit firm and investment manager and other financial institutions utilized by the Commission. The Audit Committee is established by the Audit Committee Charter.

3. Executive Committee: The Executive Committee shall consist of the Chair, Vice-chair, Treasurer and Secretary. The Executive Committee shall meet at the request of the Chair for legal or other special matters.
4. Governance Committee: The Governance Committee, comprised of not less than three independent members of the Commission who shall constitute a majority on the Committee, keeps the Commission informed of current best practices in corporate governance as well as reviewing corporate governance trends for their applicability to the Commission. The Governance Committee recommends updates to the Commission's corporate governance principles and governance practices as is established by the Governance Committee Charter. The Governance Committee shall consist of the Chair, Vice-chair, Treasurer and Secretary.
5. Others: The Commission Chair may establish ad-hoc committees to address a specific problem or task, or standing committees for specific purposes, as approved by the Commission.

#### ARTICLE VIII - FISCAL YEAR

The fiscal year of the Commission shall commence on the first day of April in each year and shall end on the thirty-first day of March of the following year.

#### ARTICLE IX - AMENDMENTS

The by-laws of the Commission may be altered, amended or repealed by resolution of the Commissioners, provided that a copy of the proposal to so alter, amend or repeal such by-laws shall have been provided to each member at least seven business days prior to the date of the meeting at which such proposal is to be considered. The members of the Commission may, however, by unanimous consent of those present, agree to consider and act upon any such proposal at any duly called meeting of the Commission.