

Appendix I.

6 NYCRR PART 648

Public Use of the Albany Pine Bush Preserve

Express Terms

6 New York Code of Rules and Regulations is amended by adding a new Part 648, Public Use of the Albany Pine Bush Preserve, to read as follows:

Part 648
Public Use of the Albany Pine Bush Preserve

(Statutory Authority: Environmental Conservation Law
section 46-0111(2)(c))

Section

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648.1 Applicability.

(a) The provisions of this part apply to lands managed by the Commission which are located in the County of Albany and within the City of Albany, Town of Guilderland, Town of Colonie, and the incorporated Village of Colonie and which have either been:

- (1) dedicated to the Albany Pine Bush Preserve pursuant to ECL section 46-0107(1)-(4); or
- (2) are managed by the Commission as provided in a written agreement pursuant to ECL section 46-

0107(5).

(b) Prohibitions contained in this Part do not apply to Albany Pine Bush Preserve Commission or New York State Department of Environmental Conservation employees and their designees who are engaged in administrative activities that are consistent with the goals and objectives of the Albany Pine Bush Preserve Management Plan (see Section 648.10).

(c) Nothing contained in this Part shall be construed as limiting or interfering with the ability of a public or private utility (company, service provider, service) to exercise a legal right to access or maintain a facility.

648.2 Definitions.

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

(a) Albany Pine Bush Preserve Management Plan means a management plan for the Preserve prepared by the Commission pursuant to ECL section 46-0111 (see Section 648.10).

(b) Bicycle means a vehicle with two or more wheels, a steering handle, a saddle seat or seats, and pedals by which it is propelled.

(c) Camp means sleeping overnight or use of any shelter including, but not limited to, a tent, motor home, travel trailer, mobile home, lean-to or a vehicle or vessel used as shelter for sleeping.

(d) Commission means the Albany Pine Bush Preserve Commission as established by Article 46 of the ECL.

(e) Department means the New York State Department of Environmental Conservation.

(f) ECL means the Environmental Conservation Law, chapter 43-B of the Consolidated Laws of New York

State.

(g) Firearm means any weapon from which a shot is discharged by force of an explosive, or a weapon which acts by force of gunpowder or air, and shall include any weapon capable of being loaded with powder, ball or ammunition, whether completed, assembled or from which any part or piece has been removed therefrom.

(h) Fishing means the taking, killing, netting, capturing or withdrawal of fish by any means and every attempt to take or assist another person in taking or attempting to take fish.

(i) Hike means to walk, jog or run for the purpose of recreation or exercise.

(j) Hunt means to pursue, shoot, kill or capture (other than trap) wildlife and includes all lesser acts that disturb, harry or worry wildlife whether or not they result in taking, and every attempt to take and every act of assistance to any person in taking or attempting to take wildlife.

(k) Longbow means any bow that is legal for use pursuant to the ECL.

(l) Mechanized Aid means a non-motorized or motorized wheelchair, or similar device, such as a three-wheeled

mobility device designed solely for use by a mobility impaired person for locomotion that is suitable for indoor use in a pedestrian area as well as outdoors by a person with a disability. A non-motorized or motorized wheelchair is not considered to be a motor vehicle.

(m) Motor Vehicle means a device for transporting personnel, supplies or material, that incorporates a motor or an engine of any type for propulsion (except a mechanized aid), and with wheels, tracks, skids, skis, air cushion or other contrivance for traveling on or adjacent to land, water, ice or snow.

(n) Muzzle loading firearm means a gun which is loaded through the muzzle, having rifling in the barrel, shooting a single projectile and having a minimum bore of .44 inch.

(o) No hunting zone means a specific part of the Preserve identified by public notice, posted sign or map published by the Commission where hunting is prohibited.

(p) No trapping zone means a specific part of the Preserve identified by public notice, posted sign or map published by the Commission where trapping is prohibited.

(q) Path means any unmarked way, including temporary or permanent paths and firebreaks constructed, maintained, or used by the Commission for Preserve management purposes, including fire management.

(r) Permit means written permission issued by the Commission allowing an otherwise prohibited activity or, when used for purposes of hunting or trapping only, a valid New York State hunting or trapping license.

(s) Person means any individual, public or private corporation, industry, partnership, association, firm, trust, estate, municipality or other legal entity.

(t) Pet means any domesticated animal except guide dogs, hearing assistance dogs or helper dogs.

(u) Pistol means a firearm, as defined in section 180.3 of this Title, intended to be aimed and fired with one hand, having a barrel length not exceeding 16 inches.

(v) Preserve means the Albany Pine Bush Preserve, including all lands and waters dedicated to preservation pursuant to ECL section 46-0107(1)-(4) and lands and waters subject to a written agreement pursuant to ECL section 46-0107(5).

(w) Restricted hunting zone means a specific part of the Preserve identified by public notice, posted sign or map published by the Commission where hunting is subject to special restrictions.

(x) Restricted trapping zone means a specific part of the Preserve identified by public notice, posted sign or map published by the Commission where trapping is subject to special restrictions.

(y) Rifle means a firearm using metallic cartridges and a barrel length of at least 16 inches with rifling in the barrel.

(z) Rubbish means any discharged garbage, sewage, metal, plastic or glass, yard waste, construction and demolition materials, sand or soil, abandoned property, motor vehicles, organic or inorganic waste, paper, litter or other nauseous, offensive or noxious material.

(aa) Shotgun means a firearm with a barrel length of at least 18 inches that uses shells that are nonmetallic except for the base.

(bb) Structure means any object constructed, installed, placed or parked on land to facilitate land use, development or subdivision, such as buildings, mobile homes, sheds, signs, tanks, outdoor lighting, swimming pools, tanks, fences, poles and dog houses, and any fixtures, additions and alterations thereto and trailers, travel trailers, campers, or tents constructed, installed, or parked on lands of the Preserve.

(cc) Toboggan means a non-motorized, flat bottomed or runnered sled, snow tube or similar device designed for sliding on snow or ice covered surfaces.

(dd) Trail means an established path or way less than 15 feet wide, officially marked for public use by the Commission, and designed primarily for passage by people on foot, horseback or bicycle.

(ee) Trap means to take, kill, capture wildlife with traps, dead falls, and other devices commonly used to take wildlife, and the shooting or killing of wildlife lawfully trapped, and includes all lesser acts such as to place, set or stake such traps, dead falls and other devices whether they result in taking or not, and every attempt to take and every act of assistance to any other person in taking or attempting to take wildlife with traps, dead falls or other devices.

648.3 Permits.

(a) Permits to allow otherwise prohibited activities may be issued to any person by the Commission. Activities for which a permit is sought must be consistent with the goals and objectives of the Albany Pine Bush Preserve Management Plan (see Section 648.10).

(b) Any person seeking a permit to allow an otherwise prohibited activity must apply in writing to the Commission. A written permit may or may not be issued by the Commission. If a permit is issued, the permittee must comply with all terms and conditions of the permit. Any falsification of the information submitted on the application or any violation of the terms and conditions, rules, or regulations of this part constitutes grounds for permit revocation by the Commission or its authorized representative.

(c) Permits for scientific collection may be issued by the Commission and Department and, when required, the Department and the Assistant Commissioner for State Museum and Science Services, pursuant to Section 233 of the

Education Law as amended by Chapter 121 of the laws of 1958. Plant, fish and surface water resources of the Preserve are protected pursuant to Articles 8, 9, 11, 15 and 24 of the ECL.

- (d) Permit applications and information must be obtained from the Commission office.
- (e) A permit is non-transferable.
- (f) Permittees must have current permits in their immediate possession when engaging in an activity for which a permit is required.
- (g) Permittees are responsible for securing any other licenses or permits as required by state or local law.

648.4 Natural Resource Management.

- (a) It is unlawful for any person to:
 - (1) knowingly introduce, collect, deface, remove, destroy or otherwise injure in any manner whatsoever any plant, animal or other living or non-living feature except as otherwise herein authorized by the Commission or Department;
 - (2) feed wildlife;
 - (3) kindle, build, maintain or use a fire;
 - (4) excavate or remove sand or other soils; or
 - (5) apply any pesticide or herbicide to any plant, animal, or other living or non-living feature.
- (b) Proposals for research projects by a person or group must be submitted in writing and be approved by the Commission in writing before the project may be undertaken.

648.5 Recreation and Trails.

- It is unlawful for any person to:
- (a) engage in an activity on a trail closed to that activity;
 - (b) ride or walk a bicycle or horse except on officially established and officially marked trails;
 - (c) walk on or otherwise use an unmarked path, including firebreaks, for any purpose without a valid permit;
 - (d) walk on or otherwise use a trail that has been officially closed by the Commission;
 - (e) use or possess a motor vehicle, such as an all terrain vehicle, snowmobile or motorcycle on Preserve lands or waters except for administrative use, vehicles used by those with mobility impairments as allowed by permit, and on Preserve lands designated as parking areas;
 - (f) use a private non-motorized boat on Rensselaer Lake unless it is less than 25 feet in length and has been launched from a designated launch site;
 - (g) camp anywhere in the Preserve;
 - (h) use a toboggan of any kind except on established and marked trails;
 - (i) possess a horse on the Preserve without having in their immediate possession an up-to-date negative-coggins certificate for each such horse. Any horse owner found by a Commission employee or appropriate law enforcement official to be not in possession of the required negative-coggins certificate must immediately remove the uncertified horse from the Preserve.

648.6 Additional Regulated Activities.

- (a) A pet must be restrained at all times by an adequate collar and leash, or harness and leash, and must be under the direct and complete control of its owner or a responsible person. It is unlawful for any person to allow a pet to menace, threaten or injure another person or another animal.
- (b) Each pet owner or person having possession, custody or control of a pet must remove from the trail any feces left by the pet on any trail in the Preserve.
- (c) Groups of 25 or more visitors must notify the Commission staff at least five days in advance of a Preserve visit.

648.7 Vandalism, Conduct and Compliance Requirement.

- It is unlawful for any person to:
- (a) deposit or cause to be deposited any rubbish on or in any Preserve lands, waters or structures;
 - (b) possess fireworks, burning materials or other incendiary devices other than materials used for smoking;
 - (c) commit an act that may create a hazardous or offensive condition in or on Preserve lands, waters or structures by damaging, defacing, removing, disturbing, destroying or befouling any part of any area or building, sign, equipment or other property;
 - (d) fail to comply with a lawful order or direction of any sign, or an officer or employee of the Commission or the Department acting in an official capacity;
 - (e) intentionally obstruct vehicular or pedestrian traffic, any officer or employee of the Commission or the Department who is performing assigned official duties, or any other person who is lawfully engaged in an authorized use of the Preserve;
 - (f) erect, occupy or store any structure, personal property or permanently affixed tree stands;

- (g) sell, rent or barter any commodities;
- (h) hold any competition or contest, parade, drill, maneuver, or ceremony;
- (i) disturb or erect any sign, marker, placard, notice, declaration or appeal of any kind or description.

648.8 Hunting, trapping and fishing

(a) Hunting, trapping and fishing are allowed during times designated as New York State's open hunting, trapping and fishing seasons, in accordance with the provisions of 6 NYCRR Parts 1-188, and notwithstanding any other provision in these regulations.

(b) Hunting and trapping are prohibited or restricted in those areas designated by the Commission as No Hunting Zones, Restricted Hunting Zones, No Trapping Zones, and Restricted Trapping Zones.

(c) Trappers must register with the Commission in person before trapping in the Preserve.

(d) Trapping is prohibited within fifty feet of the center of any official trail.

(e) A person hunting, trapping or fishing must have in their immediate possession a valid New York State hunting, trapping or fishing license and, if applicable, a scientific collectors permit.

(f) White-tailed deer may be hunted with a longbow only. (*Longbow means any bow that is legal for use pursuant to the ECL. Includes a long (stick), compound or recurve bow.*)

(g) Small game may be hunted with a shotgun, .177 caliber pellet gun or longbow only.

(h) Shotgun users are not permitted to possess a shotgun shell loaded with a single slug or ball.

(i) Possession of a rifle or muzzle loading firearm is prohibited.

(j) Legally possessed pistols, no larger than .22 caliber rimfire, may be used only to dispatch trapped wildlife.

(k) Target practice with a longbow or firearm of any kind is prohibited.

(l) Portable tree stands may be installed, but no earlier than 48 hours before the first day of deer hunting season and must be removed no later than 48 hours after the last day of deer hunting season. Use or construction of a permanent tree stand or the installation of a nail, spike, or other object into any vegetation is prohibited.

(m) Consistent with 6 NYCRR Parts 1-188, and notwithstanding any other provision in these regulations, special hunts may occur for the purposes of managing wildlife populations to protect human health, safety or property, or the ecological integrity of the Preserve. Such hunts will be carried out under the supervision of the Department and the Commission.

648.9 - Offenses; Penalties

(a) Unless otherwise specifically provided, any person who violates any provision of this Part is guilty of a violation, punishable as provided in ECL sections 71-4001 and 71-4003.

(b) Personal property, except portable tree stands as herein authorized, left on the Preserve may be removed by the Commission or Department. Costs for such removal and disposal may be charged to the owner and such property will become the property of the Commission.

648.10 Management Plan

The 1993 Albany Pine Bush Preserve Management Plan and FEIS and Protection and Project Review Implementation Guidelines and FEIS of 1996 and any updated Management Plans, supplements or amendments are available for review at the Albany Pine Bush Preserve Commission office at 195 New Karner Road, Albany, NY, 12205 at NYSDEC Region 4 offices at 1150 North Westcott Road, Schenectady, NY and at the NY State Department of State, 41 State Street, Albany, NY 12231. APBP regulations adopted in 2000.