

Appendix C:

Adirondack Park Agency Act

WAVERLY VERMONTVILLE ROGER'S ROCK INDIAN LAKE  
JAY MOOSE RIVER FRIENDS LAKE THENDARA  
TAHAWUS GRAY CARRY FALLS RESERVOIR OXBOW  
LAKE CLEMONS WHALLONSBURG RAINBOW LAKE  
PORT KENT WILMINGTON HIGGINS BAY LOWS LAKE  
SAINT REGIS FALLS CAROGA LAKE OSWEGATCHIE  
PERU **ADIRONDACK** BRANT LAKE  
DANNEMORA SUGARBUSH GOODNOW FLOW MOUNTAIN  
VIEW **PARK** FENNER LAKE NICHOLVILLE  
UPPER ST. REGIS LAKE QUEENSBURRY BLOOMINGDALE  
EAGLE LAKE GREAT CANDAGA RESERVOIR RAY  
BROOK **AGENCY** PAUL SMITHS SARANAC LAKE  
AUSABLE FORKS BROADALBIN STAR LAKE  
VANDERBILT NORTHAMPTON FERRIS LAKE  
VALCOUR ISLAND WILLSBORO WATSON LAKE PLACID  
JOHNSBURG FORT ANN DEER RIVER FLOW MAYFIELD  
STRATFORD FOURTH LAKE PUTNAM GIANT MOUNTAIN  
NEWCOMB WADHAMS KEENE VALLEY MOODY PIGEON  
LAKE WOODGATE LAKE LUZERNE BLEECKER LOON  
LAKE SANTA CLARA CLIFTON HOFFMEISTER  
PEPPERBOX LONG POND RAQUETTE FALLS WAKLEY  
MOUNTAIN LITTLE TUPPER LAKE CEDAR RIVER ARIETTA  
CHESTERTOWN LINCOLN POND NORTH ELBA EAGLE  
BAY TWITCHELL LAKE OWL'S HEAD EMMONSBURG  
HEARTHSTONE POINT BAKER'S MILLS IRONVILLE LYON  
MOUNTAIN TROUT LAKE SPLIT ROCK STANDISH BLUE  
RIDGE MINERVA POTTERSVILLE THIRTEENTH LAKE  
ELIZABETHTOWN IRELAND VLY WHITEFACE MOUNTAIN  
COREYS CHILDWOLD REDFORD SILVER BAY LEWIS  
RIPARIUS **AS AMENDED THROUGH THE CLOSE OF THE 1998** FINE  
**LEGISLATIVE SESSION** BIG MOOSE  
ROCKWOOD RIVERVIEW KUNJAMUK CREEK WITHERBEE  
GREIG RUSSIA ONCHIOTA OK SLIP BROOK PARADOX  
ESSEX BUTTERMILK FALLS GRIZZLE OCEAN STARK  
NEWTON FALLS LOG CHAPEL LAKE PLEASANT SABATTIS  
SABAEI LAKE GEORGE LAKE LILA DEBAR MOUNTAIN

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This document includes amendments to the APA Act (NYS Executive Law, Article 27)  
through the close of the 1998 Legislative Session.

There have been no subsequent amendments through May 17, 1999, when this document was printed.

## § 801. Statement of legislative findings and purposes

The Adirondack park is abundant in natural resources and open space unique to New York and the eastern United States. The wild forest, water, wildlife and aesthetic resources of the park, and its open space character, provide an outdoor recreational experience of national and international significance. Growing population, advancing technology and an expanding economy are focusing ever-increasing pressures on these priceless resources.

Our forefathers saw fit nearly a century ago to provide rigid constitutional safeguards for the public lands in the Adirondack park. Today forest preserve lands constitute approximately forty percent of the six million acres of land in the park. The people of the state of New York have consistently reiterated their support for this time-honored institution.

Continuing public concern, coupled with the vast acreages of forest preserve holdings, clearly establishes a substantial state interest in the preservation and development of the park area. The state of New York has an obligation to insure that contemporary and projected future pressures on the park resources are provided for within a land use control framework which recognizes not only matters of local concern but also those of regional and state concern.

In the past the Adirondack environment has been enhanced by the intermingling of public and private land. A unique pattern of private land use has developed which has not only complemented the forest preserve holdings but also has provided an outlet for development of supporting facilities necessary to the proper use and enjoyment of the unique wild forest atmosphere of the park. This fruitful relationship is now jeopardized by the threat of unregulated development on such private lands. Local governments in the Adirondack park find it increasingly difficult to cope with the unrelenting pressures for development being brought to bear on the area, and to exercise their discretionary powers to create an effective land use and development control framework.

The basic purpose of this article is to insure optimum overall conservation, protection, preservation, development and use of the unique scenic, aesthetic, wildlife, recreational, open space, historic, ecological and natural resources of the Adirondack park.

A further purpose of this article is to focus the responsibility for developing long-range park policy in a forum reflecting statewide concern. This policy shall recognize the major state interest in the conservation, use and development of the park's resources and the preservation of its open space character, and at the same time, provide a continuing role for local government.

The Adirondack park land use and development plan set forth in this article recognizes the complementary needs of all the people of the state for the preservation of the park's resources and open space character and of the park's permanent, seasonal and transient populations for growth and service areas, employment, and a strong economic base, as well. In support of the essential interdependence of these needs, the plan represents a sensibly balanced apportionment of land to each. Adoption of the land use and development plan and authorization for its administration and enforcement will complement and assist in the administration of the Adirondack park master plan for management of state land. Together, they are essential to the achievement of the policies and purposes of this article and will benefit all of the people of the state.

Accordingly, it is the further purpose of this article to adopt and implement the land use and development plan and to provide for the plan's maintenance, administration and enforcement in a continuing planning process that recognizes matters of local concern and those of regional and state concern, provides appropriate regulatory responsibilities for the agency and the local governments of the park and seeks to achieve sound local land use planning throughout the park.

## § 802. Definitions

As used in this article, unless the context otherwise requires, the following words and terms shall have the meaning ascribed to them.

1. "Adirondack park" or "park" means land lying within the area described in subdivision one of section 9-0101 of the environmental conservation law including any future amendments thereto.

2. "Adirondack Park local government review board" or "review board" means the board established in section eight hundred three-a.

3. "Agency" means the Adirondack park agency created by section eight hundred three of this article.

4. "Accessory use" means any use of a structure, lot or portion thereof that is customarily incidental and subordinate to and does not change the character of a principal land use or development, including in the case of residential structures, professional, commercial and artisan activities carried on by the residents of such structures.

5. "Accessory structure" means any structure or a portion of a main structure customarily incidental and subordinate to a principal land use or development and that customarily accompanies or is associated with such principal land use or development, including a guest cottage not for rent or hire that is incidental and subordinate to and associated with a single family dwelling.

6. "Agricultural service use" means any milk processing plant, feed storage supply facility, farm machinery or equipment sales and service facility; storage and processing facility for fruits, vegetables and other agricultural products or similar use directly and customarily related to the supply and service of an agricultural use.

7. "Agricultural use" means any management of any land for agriculture; raising of cows, horses, pigs, poultry and other livestock; horticulture or orchards; including the sale of products grown or raised directly on such land, and including the construction, alteration or maintenance of fences, agricultural roads, agricultural drainage systems and farm ponds.

8. "Agricultural use structure" means any barn, stable, shed, silo, garage, fruit and vegetable stand or other building or structure directly and customarily associated with agriculture use.

9. "Approved local land use program" means any local land use program approved by the agency under

section eight hundred seven.

10. "Campground" means any area designed for transient occupancy by camping in tents, camp trailers, travel trailers, motor homes or similar facility designed for temporary shelter.

11. "Character description, policies, purposes and objectives of a land use area" means those land use area character descriptions, policies, purposes and objectives of the land use and development plan contained in subdivision three of section eight hundred five.

12. "Chief elected officer" means in the case of a city, the mayor thereof; in the case of a town, the supervisor thereof; and in the case of a village, the mayor thereof.

13. "Class A regional project" and "Class B regional project" means the land use and development and subdivisions of land listed and so characterized in section eight hundred ten.

14. "Classification of compatible uses lists" means the land use and development plan's lists of primary uses and secondary uses for the land use area contained in subdivision three of section eight hundred five.

15. "Clearcutting" means any cutting of all or substantially all trees over six inches in diameter at breast height over any ten-year cutting cycle.

16. "Commercial sand and gravel extraction" means any extraction from the land of more than fifty cubic yards in any two year period of sand, gravel or topsoil (1) for the purpose of sale or use by persons other than the owner of the land or (2) for the purpose of use by any municipality.

17. "Commercial use" means any use involving the sale or rental or distribution of goods, services or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee other than any such uses specifically listed on any of the classification of compatible uses lists.

18. "Development considerations" means the development considerations of the land use and development plan contained in subdivision four of section eight hundred five.

19. "Existing land use or development" or "existing use" means any land use or development in existence at any given time.

20. "**Existing subdivision of land**" or "**existing subdivision**" means any subdivision in existence at any given time.

21. "**Forestry use**" means any management, including logging, of a forest, woodland or plantation and related research and educational activities, including the construction, alteration or maintenance of wood roads, skidways, landings, fences and forest drainage systems.

22. "**Forestry use structure**" means any barn, shed, garage, research, educational or administrative building or cabin directly and customarily associated with forestry use.

23. "**Group camp**" means any land or facility for seasonal housing and recreational, educational or business related use by private groups or semi-public groups, such as a boy scout camp, fraternal lodge or university or college conference center.

24. "**Industrial use**" means any manufacturing, production or assembly of goods or materials, including any on site waste disposal area directly associated with an industrial use. This term does not include mineral extractions, private and commercial sand and gravel extractions, sawmills, chipping mills, pallet mills and similar wood using facilities.

25. "**In existence**" means (a) with respect to any land use or development, including any structure, that such use or development has been substantially commenced or completed, and (b) with respect to any subdivision or portion of a subdivision, that such subdivision or portion has been substantially commenced and that substantial expenditures have been made for structures or improvements directly related thereto.

26. "**Junkyard**" means any open lot or area for the dismantling, storage or sale, as parts, scrap or salvage, of used or wrecked motor vehicles, machinery, scrap metals, waste papers, rags, used or salvaged building materials or other discarded material.

27. "**Land**" means the earth, on or below the surface of the ground, including water and air above, the flora and fauna.

28. "**Land use or development**" or "**use**" means any construction or other activity which materially changes the use or appearance of land or a structure or the intensity of the use of land or a structure. Land use and development shall not include any landscaping or grading which is not intended to be used in connection with another land use, or ordinary repairs or maintenance or interior alterations to existing structure or uses.

29. "**Land use and development plan**" or "**plan**" means the Adirondack park land use and development plan prepared by the Adirondack park agency as directed by law, approved by the agency on March three, nineteen hundred seventy-three, adopted in subdivision one of section eight hundred five, including the plan map, and any amendments thereto, the provisions of the plan as contained in subdivisions three and four of section eight hundred five and sometimes referred to as the "provisions of the plan", and any amendments thereto, and the shoreline restrictions contained in section eight hundred six, and any amendments thereto.

30. "**Land use areas**" means the six types of land use areas of the land use and development plan delineated on the plan map and provided for in subdivision three of section eight hundred five.

31. "**Local government**" means any city, town or village whose boundaries lie wholly or partly within the Adirondack park, except that such term shall not include in the case of a town that portion thereof within any incorporated village.

32. "**Local land use program**" means any comprehensive land use and development planning and control program undertaken by a local government that includes local land use controls, such as zoning and subdivision regulations and a sanitary code, and governs land use and development and subdivision of land within the entire jurisdiction of the local government.

33. "**Major public utility use**" means any electric power transmission or distribution line and associated equipment of a rating of more than fifteen kilovolts which is one mile or more in length; any telephone inter-exchange or trunk cable or feeder cable which is one mile or more in length; any telephone distribution facility containing twenty-five or more pairs of wire and designed to provide initial telephone service for new structures; any television, cable television, radio, telephone or other communication transmission tower; any pipe or conduit or other appurtenance used for the transmission of gas, oil or other fuel which is one mile or more in length; any electric substation, generating facility or maintenance building and any water or sewage pipes or conduits, including any water storage tanks, designed to service fifty or more principal buildings. Any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law or other prior approval by the public service commission under the provisions of the public service law is not a major public utility use or a use for the purposes of this article except for the shoreline restrictions in which case the bodies having jurisdiction over such uses under such article or other provisions shall have the

authority of the agency or a local government under this article.

34. "**Master plan for management of state lands**" means the master plan for management of state lands referred to in section eight hundred sixteen.

35. "**Mineral extraction**" means any extraction, other than specimens or samples, from the land of stone, coal, salt, ore, talc, granite, petroleum products or other materials, except for commercial sand, gravel or topsoil extraction; including the construction, alteration or maintenance of mine roads, mine tailing piles or dumps and mine drainage.

36. "**Mineral extraction structure**" means any mine hoist; ore reduction, concentrating, sintering or similar facilities and equipment; administrative buildings; garages or other main buildings or structures.

37. "**Mobile home**" means any self-contained dwelling unit that is designed to be transported on its own wheels or those of another vehicle, may contain the same water supply, sewage disposal and electric system as immobile housing and is used for either permanent or seasonal occupancy. A dwelling unit that is constructed in sections and transported to and assembled on the site is not considered a mobile home.

37-a. "**Mean high water mark**" means the average annual high water level.

38. "**Mobile home court**" means a parcel of land under single ownership which is designed and improved for the placement of two or more mobile homes upon units thereof.

39. "**Multiple family dwelling**" means any apartment, town house, condominium or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate dwelling units therein by more than one family.

40. "**Municipality**" means any municipal corporation, district corporation or public benefit corporation as such terms are defined in section three of the general corporation law, and any agency or instrumentality of the foregoing, except that the term public benefit corporation shall not include any such corporation any member of which is appointed by the governor.

41. "**New land use or development**" or "**new land use**" means any land use or development that is not a preexisting use.

42. "**New subdivision of land**" or "**new subdivision**"

means any subdivision of land that is not a preexisting subdivision.

43. "**Official Adirondack park land use and development plan map**" or "**plan map**" means the map portion of the land use and development plan on file at the headquarters of the Adirondack park agency as required in subdivision one of section eight hundred five.

44. "**Open space recreation use**" means any recreation use particularly oriented to and utilizing the outdoor character of an area; including a snowmobile, trail bike, jeep or all-terrain vehicle trail; cross-country ski trail; hiking and backpacking trail; bicycle trail; horse trail; playground, picnic area, public park, public beach or similar use.

45. "**Optional shoreline clustering provisions**" means those provisions set forth as an alternative to the shoreline restrictions in section eight hundred six.

46. "**Overall intensity guidelines**" means the overall intensity guidelines for development for the various land use areas of the land use and development plan as contained in subdivision three of section eight hundred five.

47. "**Person**" means any individual, corporation, partnership, association, trustee, municipality or other legal entity, but shall not include the state or any state agency.

48. "**Preexisting land use or development**" or "**preexisting use**" means any land use or development, including any structure, lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any land use or development exempt from the agency's interim project review powers under subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

49. "**Preexisting subdivision of land**" or "**preexisting subdivision**" means any subdivision or portion of a subdivision lawfully in existence prior to August one, nineteen hundred seventy-three, provided, however, that with respect to any subdivision or portion of a subdivision exempt from the agency's interim project review powers under subdivision thirteen of section eight hundred fifteen until June one, nineteen hundred seventy-three, such date shall be substituted herein for August one, nineteen hundred

seventy-three. For the purposes hereof, "lawfully" means in full compliance with all applicable laws, rules and regulations, including, without limitation, possession of and compliance with any permit or other approval required under the public health law, the environmental conservation law, any local or other governmental regulation.

50. "**Principal building**" means any one of the following:

- a. a single family dwelling constitutes one principal building;
- b. a mobile home constitutes one principal building;
- c. a tourist cabin or similar structure for rent or hire involving three hundred square feet or more of floor space constitutes one principal building;
- d. each dwelling unit of a multiple family dwelling constitutes one principal building;
- e. each motel unit, hotel unit or similar tourist accommodation unit which is attached to a similar unit by a party wall, each accommodation unit of a tourist home or similar structure, and each tourist cabin or similar structure for rent or hire involving less than three hundred feet of floor space, constitutes one-tenth of a principal building.
- f. each commercial use structure and each industrial use structure in excess of three hundred square feet constitutes one principal building, except that for a commercial use structure which involves the retail sale or rental or distribution of goods, services or commodities, each eleven thousand square feet of floor space, or portion thereof, of such commercial use structures constitutes one principal building.
- g. all agricultural use structures and single family dwellings or mobile homes occupied by a farmer of land in agricultural use, his employees engaged in such use and members of their respective immediate families, will together constitute and count as a single principal building;
- h. any other structure which exceeds twelve hundred fifty feet of floor space constitutes one principal building;
- i. a structure containing a commercial use which is also used as a single family dwelling constitutes one principal building.

An accessory structure does not constitute a principal building.

51. "**Private sand, gravel or topsoil extraction**" means

any extraction from the land of sand, gravel or topsoil for the purpose of use, but not sale, by the owner of the land or any extraction for the purpose of sale of less than fifty cubic yards in any two year period.

52. "**Project**" means any new land use and development or subdivision of land that is subject to the review jurisdiction of either the agency or local government under this article.

53. "**Project sponsor**" means any person making application to the agency, or a local government for the review of a project.

54. "**Public or semi-public building**" means any component building of a college, school, hospital, animal hospital, library, place of worship, museum, research center, rehabilitation center or similar facility, or a municipal building.

55. "**Public utility use**" means any public utility use, equipment or structure which is not a "major public utility use." A public utility use does not include any use which is subject to the jurisdiction of the public service commission pursuant to article seven or article eight of the public service law.

56. "**Shoreline**" means that line at which land adjoins the waters of lakes, ponds, rivers and streams within the Adirondack park at mean high water.

57. "**Shoreline restrictions**" means those restrictions upon land use and development or subdivisions of land as contained in section eight hundred six.

58. "**Single family dwelling**" means any detached building containing one dwelling unit, not including a mobile home.

59. "**Ski center**" means any trail or slope for alpine skiing; including lifts, terminals, base lodges, warming huts, sheds, garages and maintenance facilities, parking lots and other buildings and structures directly and customarily related thereto.

60. "**State**" means the state of New York.

61. "**State agency**" means any department, bureau, commission, board or other agency of the state, including any public benefit corporation any member of which is appointed by the governor.

62. "**Structure**" means any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, single family



dwellings, mobile homes, signs, tanks, fences and poles, and any fixtures, additions and alterations thereto.

63. "**Subdivision of land**" or "**subdivision**" means any division of land into two or more lots, parcels or sites, whether adjoining or not, for the purpose of sale, lease, license or any form of separate ownership or occupancy (including any grading, road construction, installation of utilities or other improvements or any other land use and development preparatory or incidental to any such division) by any person or by any other person controlled by, under common control with or controlling such person or by any group of persons acting in concert as part of a common scheme or plan. Subdivision of land shall include any map, plat or other plan of the division of land, whether or not previously filed. Subdivision of land shall not include the lease of land for hunting and fishing and other open space recreation uses.

64. "**Tourist accommodation**" means any hotel, motel, resort, tourist cabin or similar facility designed to house the general public.

65. "**Tourist attraction**" means any man-made or natural place of interest open to the general public and for which an admittance fee is usually charged, including but not limited to animal farms, amusement parks, replicas of

real or fictional places, things or people and natural geological formations.

66. "**Waste disposal area**" means any area for the disposal of garbage, refuse and other wastes, including sanitary landfills and dumps, other than an on-site disposal area directly associated with an industrial use.

67. "**Watershed management or flood control project**" means any dam, impoundment, dike, rip rap or other structure or channelization or dredging activity designed to alter or regulate the natural flow or condition of rivers or streams or the natural level or condition of lakes or ponds. Any such project for which a permit or approval is required prior to commencement from the department of environmental conservation is not a watershed management or flood control project or a use for the purposes of this article.

68. "**Wetlands**" means any land which is annually subject to periodic or continual inundation by water and commonly referred to as a bog, swamp or marsh which are either (a) one acre or more in size or (b) located adjacent to a body of water, including a permanent stream, with which there is free interchange of water at the surface, in which case there is no size limitation.

## § 803. Adirondack Park Agency

There is hereby created in the executive department, the Adirondack park agency, which shall consist of the following members: the commissioner of environmental conservation, the secretary of state, the commissioner of commerce and eight members to be appointed by the governor by and with the advice and consent of the senate. The governor shall designate a chairman from among the members appointed to the agency, who shall serve at the governor's pleasure. None of the members appointed by the governor shall be officers or employees of any state department or agency.

Five members appointed by the governor shall be full-time residents within the Adirondack park provided, however, that no two such members shall be residents of the same county except for such members initially appointed before January first, nineteen hundred seventy-three, who may be reappointed for additional successive terms. Three members appointed by the governor shall be residents of the state outside the Adirondack park. Not more than five appointed members shall be of the same political party.

All appointments shall be made for terms of four years; provided that the first member appointed by the governor pursuant to the increase of members from seven to eight shall be appointed for a term expiring on the thirtieth day of June, nineteen hundred seventy-six. Each of such appointed members of the agency shall hold office for the term for which he was appointed and until his successor shall have been appointed and qualified or until he shall resign or be removed in the manner provided by law. In the case of any

vacancy other than one arising by expiration of term, an appointment to fill the vacancy shall be made for the remainder of the unexpired term.

The designated chairman shall receive an annual salary of thirty thousand dollars. The other members of the agency, except those who serve ex officio, shall receive one hundred dollars per diem, not to exceed five thousand dollars per annum compensation for their services as members of the agency. All members, except those who serve ex officio, shall be allowed the necessary and actual expenses incurred in the performance of duties under this article.

A majority of the members of the agency shall constitute a quorum for the transaction of any business or the exercise of any power or function of the agency and affirmative vote by a majority of the members of the agency, except as is otherwise specifically provided in this article, shall be required to exercise any power or function of the agency. Votes of any member shall be cast in person and not by proxy. The agency may delegate to one or more of its members, officers, agents and employees, such powers and duties as it deems proper.

The commissioner of environmental conservation, and the commissioner of commerce and the secretary of state may, by official authority filed in their respective agencies, and with the Adirondack park agency, designate a deputy or other officer to exercise his powers and perform his duties, including the right to vote, on the agency.

## § 803-a Adirondack Park Local Government Review Board

1. For the purpose of advising and assisting the Adirondack park agency in carrying out its functions, powers and duties, there is hereby established the Adirondack park local government review board. Such board shall consist of twelve members, each of whom shall be a resident of a county wholly or partly within the park. No more than one member shall be a resident of any single county. Each member shall be appointed by or in the manner determined by the legislative body of each such county.

2. The members of the review board shall serve for such terms as shall be determined by their respective appointing authorities. Any member of the board may, if authorized by his appointing authority, designate an alternate to serve in his absence.

3. The review board shall elect, for such term as it may determine, a chairman from among its membership and such other officers as it deems necessary.

4. The review board shall meet regularly at least four times each year. Special meetings may be called by the

chairman and shall be called by him at the request of a majority of the review board.

5. No member of the review board shall be disqualified from holding any other office or employment by reason of his appointment hereunder, notwithstanding the provisions of any general, special or local law.

6. The members of the review board shall receive no compensation for their services but their respective appointing authorities may provide for payment of their actual and necessary expenses incurred in the performance of their duties hereunder.

7. In addition to any other functions or duties specifically required or authorized in this article, the review board shall monitor the administration and enforcement of the Adirondack park land use and development plan and periodically report thereon, and make recommendations in regard thereto, to the governor and the legislature, and to the county legislative body of each of the counties wholly or partly within the park.

## § 804. General powers and duties of the agency

### The agency shall have the power:

1. To sue and be sued;
2. To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this article;
3. To establish and maintain such facilities as may be necessary for the transacting of its business;
4. To appoint an executive officer, officers, agents, 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 agencies, pursuant to an allocation to be made by the director of the budget;
6. To hold hearings and subpoena witnesses in the exercise of its powers, functions and duties provided for by this article;
7. To contract for professional and technical assistance and advice;
8. To contract for and to accept any assistance, including but not limited to gifts, grants or loans of funds or of 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 and to comply, subject to the provisions of this article, with the terms and conditions thereof, subject to the approval of the director of the budget;
9. To adopt, amend and repeal, after public hearing (except in the case of rules and regulations that relate to the organization or internal management of the agency), such rules and regulations, consistent with this article, as it deems necessary to administer this article, and to do any and all things necessary or convenient to carry out the purposes and policies of this article and exercise powers granted by law; and
10. To report periodically to the governor and the legislature on the conduct of its activities but not less than once a year, furnishing a copy of each such report to the clerk of the county legislative body of each county wholly or partly within the park and to the review board.

## § 805. Adirondack Park Land Use and Development Plan

### 1. Adoption; status report.

a. The Adirondack park land use and development plan is hereby adopted and shall hereafter serve to guide land use planning and development throughout the entire area of the Adirondack park, except for those lands owned by the state.

b. The agency shall, in consultation with the Adirondack park local government review board, continually review and evaluate the land use and development plan as an ongoing planning process in the light of changing needs and conditions. The agency shall consult and work closely with local governments and local, county and regional planning agencies in this ongoing planning process, particularly as it pertains to their respective territorial areas and jurisdictions. In February, nineteen hundred seventy-six, the agency shall submit a comprehensive report to the governor and the legislature, furnishing a copy thereof to the clerk of the county legislative body of each county wholly or partly within the park and to the review board concerning the status of this planning process and the administration and enforcement of the land use and development plan, as provided for herein, by the agency and local governments.

### 2. Official Adirondack park land use and development plan map.

a. The official Adirondack park land use and development plan map shall have the land use planning and regulatory effect authorized under this article.

b. Within twenty days after the enactment of this section, the agency shall file the official Adirondack park land use and development plan map, as approved by the agency on March third, nineteen hundred seventy-three, and filed in the capitol, at its headquarters and a certified copy thereof with the secretary of state and reasonable facsimiles thereof with the review board and the clerk of each county and local government wholly or partially within the Adirondack park. Within twenty days after any amendment to the plan map, whether by law or by the agency, except an amendment granting in part a request by the legislative body of a local government pursuant to subparagraph three of paragraph c of this subdivision, the agency shall enter such amendment on the plan map filed at its headquarters and file a certified copy thereof with the review board and each of the state and local officers with whom a copy of the plan map is on file hereunder. The agency shall enter and file amendments granting in part a request by the legislative body of a local government pursuant to subparagraph three of paragraph c of this subdivision no sooner than sixty days and no later than ninety days after making such

amendments. Such state and local officers shall enter such amendment on the plan map on file with them upon receipt of such certified copy in accordance with procedures prescribed by the agency. Such amendments shall take effect upon conclusion of such twenty-day or ninety-day filing period.

c. The agency may make the following amendments to the plan map in the following manner:

(1) Any amendment to reclassify land from any land use area to any other land use area or areas, if the land involved is less than twenty-five hundred acres, after public hearing thereon and upon an affirmative vote of two-thirds of its members, at the request of any owner of record of the land involved or at the request of the legislative body of a local government.

(2) Any amendment to reclassify land from any land use area to any other land use area or areas for which a greater intensity of development is allowed under the overall intensity guidelines if the land involved is less than twenty-five hundred acres, after public hearing thereon and upon an affirmative vote of two-thirds of its members, on its own initiative.

(3) Any amendment to reclassify land from any land use area to any other land use area or areas, if the reclassification effects a comprehensive review and evaluation of the plan map, at the request of the legislative body of a local government which has (a) completed and submitted to the agency a current and comprehensive inventory and analysis of the natural resource, open space, public, economic and other land use factors as may reflect the relative development amenability and limitations of the lands within its entire jurisdiction, and (b) formally adopted after public hearing a comprehensive master plan prepared pursuant to section two hundred seventy-two-a of the town law or section 7-722 of the village law, after public hearing thereon and upon an affirmative vote of a majority of its members. If the agency grants the amendment request in part, it shall not enter or file the amendment or amendments for a period of sixty days thereafter, during which time the legislative body of the local government may withdraw its request.

(4) Any amendment to clarify the boundaries of the land use areas as shown on the plan map, to correct any errors on the map or effect other technical changes on the map, upon an affirmative vote of a majority of its members and without a public hearing thereon, unless the agency determines that a public hearing is appropriate, on its own motion or at the request of the legislative body of a local

government or at the request of any owner of record of the land involved.

(5) Before making any plan map amendment, except pursuant to subparagraph four of this paragraph, the agency must find that the reclassification would accurately reflect the legislative findings and purposes of section eight hundred one of this article and would be consistent with the land use and development plan, including the character description and purposes, policies and objectives of the land use area to which reclassification is proposed, taking into account such existing natural resource, open space, public, economic and other land use factors and any comprehensive master plans adopted pursuant to the town or village law, as may reflect the relative development amenability and limitations of the land in question. The agency's determination shall be consistent with and reflect the regional nature of the land use and development plan and the regional scale and approach used in its preparation.

d. The agency may, after consultation with the Adirondack park local government review board, recommend to the governor and legislature any other amendments to the plan map after public hearing thereon and upon an affirmative vote of a majority of its members.

e. Upon receipt of a request to amend the plan map or upon determining to amend the map on its own initiative, the agency shall provide notice of receipt of the request or notice of the determination and a brief description of the amendment requested or contemplated to the Adirondack park local government review board, the chairman of the county planning agency, if any, the chairman of the appropriate regional planning board, and to the chief elected officer, clerk and planning board chairman, if any, of the local government wherein the land is located, and shall invite their comments.

f. The public hearings required or authorized in this subdivision shall be held by the agency in each local government wherein such land is located after not less than fifteen days notice thereof by publication at least once in a newspaper of general circulation in such local government or local governments, by conspicuous posting of the land involved, and by individual notice served by certified mail upon each owner of such land to the extent discernible from the latest completed tax assessment roll and by mail upon the Adirondack park local government review board, the persons named in paragraph e of this subdivision, and the clerk of any local government within five hundred feet of the land involved.

g. The agency shall act upon requests for amendments to the plan map within one hundred twenty days of receipt of a request in such form and manner as it shall prescribe;

provided, however, that in the case of requests concerning which it determines to hold a public hearing, it shall, within ninety days of receipt of the request, schedule the hearing and shall act within sixty days of the close of the hearing. In the case of a request received when snow cover or ground conditions prevent such field investigation as is necessary to act with respect to the request, or in the case of a request or series of related requests exceeding five hundred acres, the time periods herein provided shall be extended an additional ninety days or until adequate field inspection is possible, whichever is the lesser period. Any of the time periods specified in this paragraph may be waived or extended for good cause by written request of the applicant and consent of the agency or by written request of the agency and consent by the applicant.

**3. Land use areas: character descriptions, and purposes, policies and objectives; overall intensity guidelines; classification of compatible uses lists.**

a. The primary uses on the classification of compatible uses list for each land use area except hamlet areas, as set forth in this subdivision, are those uses generally considered compatible with the character, purposes, policies and objectives of such land use area, so long as they are in keeping with the overall intensity guidelines for such area. The secondary uses on such list are those which are generally compatible with such area depending upon their particular location and impact upon nearby uses and conformity with the overall intensity guidelines for such area.

b. The classification of compatible uses lists shall also include any additions thereto by agency amendment pursuant to this section, and the agency may, after consultation with the Adirondack park local government review board, recommend subtractions thereto to the governor and legislature upon an affirmative vote of a majority of its members and after public hearing thereon. The agency may amend the classification of compatible uses lists to make additions thereto after public hearing thereon and upon an affirmative vote of two-thirds of its members. A certified copy of the agency's resolution adopting such amendment shall, within twenty days after adoption thereof, be filed by the agency with the Adirondack park local government review board and the same state and local officers with whom the plan map is required to be filed under paragraph b of subdivision two and with the legislature. Such amendments shall take effect upon conclusion of such twenty-day filing period. The public hearings authorized or required in this paragraph shall be held in any county wholly or partially within the Adirondack park after not less than fifteen days notice thereof by publication at least once in a newspaper of general circulation in each county wholly or partially within

the park and in at least three metropolitan areas of the state, and individual notice served by mail upon:

(1) the chairman of the planning board, if any, and the clerk of each local government, and the chairman of the county planning agency, if any, and the clerk of each county, wholly or partially within the park;

(2) the chairman of each regional planning agency whose jurisdiction is wholly or partially within the park; and

(3) the Adirondack park local government review board.

**c. Hamlet areas.**

(1) Character description. Hamlet areas, delineated in brown on the plan map, range from large, varied communities that contain a sizeable permanent, seasonal and transient populations with a great diversity of residential, commercial, tourist and industrial development and a high level of public services and facilities, to smaller, less varied communities with a lesser degree and diversity of development and a generally lower level of public services and facilities.

(2) Purposes, policies and objectives. Hamlet areas will serve as the service and growth centers in the park. They are intended to accommodate a large portion of the necessary and natural expansion of the park's housing, commercial and industrial activities. In these areas, a wide variety of housing, commercial, recreational, social and professional needs of the park's permanent, seasonal and transient populations will be met. The building intensities that may occur in such areas will allow a high and desirable level of public and institutional services to be economically feasible. Because a hamlet is concentrated in character and located in areas where existing development patterns indicate the demand for and viability of service and growth centers, these areas will discourage the haphazard location and dispersion of intense building development in the park's open space areas. These areas will continue to provide services to park residents and visitors and, in conjunction with other land use areas and activities on both private and public land, will provide a diversity of land uses that will satisfy the needs of a wide variety of people.

The delineation of hamlet areas on the plan map is designed to provide reasonable expansion areas for the existing hamlets, where the surrounding resources permit such expansion. Local government should take the initiative in suggesting appropriate expansions of the presently delineated hamlet boundaries, both prior to and at the time of enactment of local land use programs.

(3) All land uses and development are considered compatible with the character, purposes and objectives of hamlet areas.

(4) No overall intensity guideline is applicable to hamlet areas.

**d. Moderate intensity use areas.**

(1) Character description. Moderate intensity use areas, delineated in red on the plan map, are those areas where the capability of the natural resources and the anticipated need for future development indicate that relatively intense development, primarily residential in character, is possible, desirable and suitable.

These areas are primarily located near or adjacent to hamlets to provide for residential expansion. They are also located along highways or accessible shorelines where existing development has established the character of the area.

Those areas identified as moderate intensity use where relatively intense development does not already exist are generally characterized by deep soils on moderate slopes and are readily accessible to existing hamlets.

(2) Purposes, policies and objectives. Moderate intensity use areas will provide for development opportunities in areas where development will not significantly harm the relatively tolerant physical and biological resources. These areas are designed to provide for residential expansion and growth and to accommodate uses related to residential uses in the vicinity of hamlets where community services can most readily and economically be provided. Such growth and the services related to it will generally be at less intense levels than in hamlet areas.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any moderate intensity use area should not exceed approximately five hundred principal buildings per square mile.

(4) Classification of compatible uses:

Primary uses in moderate intensity use areas:

1. Single family dwellings.
2. Individual mobile homes.
3. Open space recreation uses.
4. Agricultural uses.
5. Agricultural use structures.
6. Forestry uses
7. Forestry use structures.

8. Hunting and fishing cabins and hunting and fishing and other private club structures.
9. Game preserves and private parks.
10. Cemeteries.
11. Private roads.
12. Private sand and gravel extractions.
13. Public utility uses.
14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in moderate intensity use areas:

1. Multiple family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Agricultural service uses.
6. Commercial uses.
7. Tourist accommodations.
8. Tourist attractions.
9. Marinas, boat yards and boat launching sites.
10. Campgrounds.
11. Group camps.
12. Golf courses.
13. Ski centers.
14. Commercial seaplane bases.
15. Commercial or private airports.
16. Sawmills, chipping mills, pallet mills and similar wood using facilities.
17. Commercial sand and gravel extractions.
18. Mineral extractions.
19. Mineral extraction structures.
20. Watershed management and flood control projects.
21. Sewage treatment plants.
22. Major public utility uses.
23. Industrial uses.

e. **Low intensity use areas.**

(1) Character description. Low intensity use areas, delineated in orange on the plan map, are those readily accessible areas, normally within reasonable proximity to a hamlet, where the physical and biological resources are fairly tolerant and can withstand development at an intensity somewhat lower than found in hamlets and moderate intensity use areas. While these areas often exhibit wide variability in the land's capability to support development, they are generally areas with fairly deep soils, moderate slopes and no large acreages of critical biological importance. Where these areas are adjacent to or near hamlets, clustering homes on the most developable portions of these areas makes possible a relatively high level of residential units and local services.

(2) Purposes, policies and objectives. The purpose of

low intensity use areas is to provide for development opportunities at levels that will protect the physical and biological resources, while still providing for orderly growth and development of the park. It is anticipated that these areas will primarily be used to provide housing development opportunities not only for park residents but also for the growing seasonal home market. In addition, services and uses related to residential uses may be located at a lower intensity than in hamlets or moderate intensity use areas.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any low intensity use area should not exceed approximately two hundred principal buildings per square mile.

(4) Classification of compatible uses:

Primary uses in low intensity use areas:

1. Single family dwellings.
2. Individual mobile homes.
3. Open space recreation uses.
4. Agricultural uses.
5. Agricultural use structures.
6. Forestry uses.
7. Forestry use structures.
8. Hunting and fishing cabins and hunting and fishing and other private club structures.
9. Game preserves and private parks.
10. Private roads.
11. Cemeteries.
12. Private sand and gravel extractions.
13. Public utility uses.
14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in low intensity use areas:

1. Multiple family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Agricultural service uses.
6. Commercial uses.
7. Tourist accommodations.
8. Tourist attractions.
9. Marinas, boat yards and boat launching sites.
10. Golf courses.
11. Campgrounds.
12. Group camps.
13. Ski centers.
14. Commercial seaplane bases.
15. Commercial or private airports.
16. Sawmills, chipping mills, pallet mills and similar wood using facilities.



17. Commercial sand and gravel extractions.
18. Mineral extractions.
19. Mineral extraction structures.
20. Watershed management and flood control projects.
21. Sewage treatment plants.
22. Waste disposal areas.
23. Junkyards.
24. Major public utility uses.
25. Industrial uses.

**f. Rural use areas.**

(1) Character description. Rural use areas, delineated in yellow on the plan map, are those areas where natural resource limitations and public considerations necessitate fairly stringent development constraints. These areas are characterized by substantial acreages of one or more of the following: fairly shallow soils, relatively severe slopes, significant ecotones, critical wildlife habitats, proximity to scenic vistas or key public lands. In addition, these areas are frequently remote from existing hamlet areas or are not readily accessible.

Consequently, these areas are characterized by a low level of development and variety of rural uses that are generally compatible with the protection of the relatively intolerant natural resources and the preservation of open space. These areas and the resource management areas provide the essential open space atmosphere that characterizes the park.

(2) Purposes, policies and objectives. The basic purpose and objective of rural use areas is to provide for and encourage those rural land uses that are consistent and compatible with the relatively low tolerance of the areas' natural resources and the preservation of the open spaces that are essential and basic to the unique character of the park. Another objective of rural use areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and economic benefit derived from a park atmosphere along these corridors.

Residential development and related development and uses should occur on large lots or in relatively small clusters on carefully selected and well designed sites. This will provide for further diversity in residential and related development opportunities in the park.

(3) Guideline for overall intensity of development. The overall intensity of development for land located in any rural use area should not exceed approximately seventy-five principal buildings per square mile.

(4) Classification of compatible uses.

Primary uses in rural use areas:

1. Single family dwellings.
2. Individual mobile homes.
3. Open space recreation uses.
4. Agricultural uses.
5. Agricultural use structures.
6. Forestry uses.
7. Forestry use structures.
8. Hunting and fishing cabins and hunting and fishing and other private club structures.
9. Game preserves and private parks.
10. Cemeteries.
11. Private roads.
12. Private sand and gravel extractions.
13. Public utility uses.
14. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in rural use areas:

1. Multiple family dwellings.
2. Mobile home courts.
3. Public and semi-public buildings.
4. Municipal roads.
5. Agricultural service uses.
6. Commercial uses.
7. Tourist accommodations.
8. Marinas, boat yards and boat launching sites.
9. Golf courses.
10. Campgrounds.
11. Group camps.
12. Ski centers.
13. Commercial seaplane bases.
14. Commercial or private airports.
15. Sawmills, chipping mills, pallet mills and similar wood using facilities.
16. Commercial sand and gravel extractions.
17. Mineral extractions.
18. Mineral extraction structures.
19. Watershed management and flood control projects.
20. Sewage treatment plants.
21. Waste disposal areas.
22. Junkyards.
23. Major public utility uses.
24. Industrial uses.

**g. Resource management areas.**

(1) Character description. Resource management areas, delineated in green on the plan map, are those lands where the need to protect, manage and enhance forest, agricultural, recreational and open space resources is of paramount importance because of overriding natural resource and public considerations. Open space uses, including forest

management, agriculture and recreational activities, are found throughout these areas.

Many resource management areas are characterized by substantial acreages of one or more of the following: shallow soils, severe slopes, elevations of over twentyfive hundred feet, flood plains, proximity to designated or proposed wild or scenic rivers, wetlands, critical wildlife habitats or habitats of rare and endangered plant and animal species.

Other resource management areas include extensive tracts under active forest management that are vital to the wood using industry and necessary to insure its raw material needs.

Important and viable agricultural areas are included in resource management areas, with many farms exhibiting a high level of capital investment for agricultural buildings and equipment. These agricultural areas are of considerable economic importance to segments of the park and provide for a type of open space which is compatible with the park's character.

(2) Purposes, policies and objectives. The basic purposes and objectives of resource management areas are to protect the delicate physical and biological resources, encourage proper and economic management of forest, agricultural and recreational resources and preserve the open spaces that are essential and basic to the unique character of the park. Another objective of these areas is to prevent strip development along major travel corridors in order to enhance the aesthetic and economic benefits derived from a park atmosphere along these corridors.

Finally, resource management areas will allow for residential development on substantial acreages or in small clusters on carefully selected and well designed sites.

(3) Guidelines for overall intensity of development. The overall intensity of development for land located in any resource management area should not exceed approximately fifteen principal buildings per square mile.

(4) Classification of compatible uses.

Primary uses in resource management areas:

1. Agricultural uses.
2. Agricultural use structures.
3. Open space recreation uses.
4. Forestry uses.
5. Forestry use structures.
6. Game preserves and private parks.
7. Private roads.

8. Private sand and gravel extractions.
9. Public utility uses.
10. Hunting and fishing cabins and hunting and fishing and other private club structures involving less than five hundred square feet of floor space.
11. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in resource management areas:

1. Single family dwellings.
2. Individual mobile homes.
3. Hunting and fishing cabins and hunting and fishing and other private club structures involving five hundred square feet or more of floor space.
4. Campgrounds.
5. Group camps.
6. Ski centers and related tourist accommodations.
7. Agricultural service uses.
8. Sawmills, chipping mills, pallet mills and similar wood using facilities.
9. Commercial sand and gravel extractions.
10. Mineral extractions.
11. Mineral extraction structures.
12. Watershed management and flood control projects.
13. Sewage treatment plants.
14. Major public utility uses.
15. Municipal roads.
16. Golf courses.

#### h. **Industrial use areas.**

(1) Character description. Industrial use areas, delineated in purple on the plan map, include those areas that are substantial in size and located outside of hamlet areas and are areas (1) where existing land uses are predominantly of an industrial or mineral extraction nature or (2) identified by local and state officials as having potential for new industrial development.

(2) Purposes, policies and objectives. Industrial use areas will encourage the continued operation of major existing industrial and mineral extraction uses important to the economy of the Adirondack region and will provide suitable locations for new industrial and mineral extraction activities that may contribute to the economic growth of the park without detracting from its character. Land uses that might conflict with existing or potential industrial or mineral extraction uses are discouraged in industrial use areas.

(3) Classification of compatible uses.

Primary uses in industrial use areas:

1. Industrial uses.
2. Mineral extractions.
3. Mineral extraction structures.
4. Private sand and gravel extractions.
5. Commercial sand and gravel extractions.
6. Sawmills, chipping mills, pallet mills and similar wood using facilities.
7. Forestry uses.
8. Forestry use structures.
9. Agricultural uses.
10. Agricultural use structures.
11. Private roads.
12. Open space recreation uses.
13. Hunting and fishing cabins and hunting and fishing and other private club structures.
14. Public utility uses.
15. Major public utility uses.
16. Accessory uses and structures to any use classified as a compatible use.

Secondary uses in industrial use areas:

1. Commercial uses.
2. Agricultural service uses.
3. Public and semi-public buildings.
4. Municipal roads.
5. Sewage treatment plants.
6. Waste disposal areas.
7. Junkyards.

(4) No overall intensity guideline is applicable to industrial use areas.

#### 4. **Development Considerations.**

The following are those factors which relate to potential for adverse impact upon the park's natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources and which shall be considered, as provided in this article, before any significant new land use or development or subdivision of land is undertaken in the park. Any burden on the public in providing facilities and services made necessary by such land use and development or subdivision of land shall also be taken into account, as well as any commercial, industrial, residential, recreational or other benefits which might be derived therefrom:

##### a. **Natural resource considerations.**

###### (1) **Water**

- (a) Existing water quality.
- (b) Natural sedimentation or siltation.
- (c) Eutrophication.
- (c) Existing drainage and runoff patterns.

- (e) Existing flow characteristics.
- (f) Existing water table and rates of recharge.

###### (2) **Land**

- (a) Existing topography.
- (b) Erosion and slippage.
- (c) Floodplain and flood hazard.
- (d) Mineral resources
- (e) Viable agricultural soils.
- (f) Forest resources.
- (g) Open space resources.
- (h) Vegetative cover.
- (i) The quality and availability of lands for outdoor recreational purposes.

###### (3) **Air**

- (a) Air quality.

###### (4) **Noise**

- (a) Noise levels.

###### (5) **Critical resource areas**

- (a) Rivers and corridors of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law.
- (b) Rare plant communities.
- (c) Habitats of rare and endangered species and key wildlife habitats.
- (d) Alpine and sub-alpine life zones.
- (e) Wetlands.
- (f) Elevations of twenty-five hundred feet or more.
- (g) Unique features, including gorges, waterfalls, and geologic formations.

###### (6) **Wildlife**

- (a) Fish and wildlife.

###### (7) **Aesthetics**

- (a) Scenic vistas.
- (a) Natural and man-made travel corridors.

##### b. **Historic site considerations.**

###### (1) **Historic factors**

- (a) Historic sites or structures.

##### c. **Site development considerations.**

###### (1) **Natural site factors**

- (a) Geology.
- (b) Slopes.
- (c) Soil characteristics.
- (c) Depth to ground water and other hydrological factors.

**(2) Other site factors**

- (a) Adjoining and nearby land uses.
- (d) Adequacy of site facilities.

**d. Governmental considerations.**

**(1) Governmental service and finance factors**

- (a) Ability of government to provide facilities and

services.

- (e) Municipal, school or special district taxes or special district user charges.

**e. Governmental review considerations**

**(1) Governmental control factors**

- (a) Conformance with other governmental controls.

## § 806. Shoreline restrictions

1. In order to provide adequate protection of the quality of the lake, ponds, rivers and streams of the park and the qualities of their shorelines, no person shall undertake any new land use or development or subdivision of land that involves any shoreline within the park, except in compliance, at a minimum, with the following restrictions. In addition, compliance with these restrictions shall be required by the agency in its review of any project under section eight hundred nine and, at a minimum, by any local government in the adoption and enforcement of a local land use program. All distances contained in these restrictions shall be measured horizontally. For the purpose of this section, any lot, parcel or site that adjoins a shoreline, includes a shoreline or, in whole or in part, is located at or within the minimum set back requirement as provided in subparagraph two of paragraph a of this subdivision, and any land use or development on such a lot, parcel or site, shall be deemed to involve that shoreline.

a. In the case of the shorelines of all lakes and ponds and the shorelines of any river designated to be studied as a wild, scenic or recreational river in accordance with the environmental conservation law or any river or stream navigable by boat, including canoe, the following restrictions shall apply:

(1) The minimum lot width measured along the shoreline for each one family residential structure shall be fifty feet in hamlet areas, one hundred feet in moderate intensity use areas, one hundred twenty-five feet in low intensity use areas, one hundred fifty feet in rural use areas, and two hundred feet in resource management areas; provided that the minimum lot width for a lot not adjoining or including shoreline which is deemed to involve shoreline for the purposes of this section may be measured lateral to the shoreline at any point on the lot. Nothing herein shall be deemed to preclude the application of appropriate shoreline restrictions to new uses other than one family residential structures subject to project review by the

agency or to an approved local land use program.

(2) The minimum setback of all principal buildings and accessory structures in excess of one hundred square feet, other than docks or boathouses, from the mean high-water mark shall be fifty feet in hamlet areas and moderate intensity use areas, seventy-five feet in low intensity and rural use areas, and one hundred feet in resource management areas.

(3) The removal of vegetation, including trees, shall be permitted on shorefront lots provided the following standards are met:

(a) Within thirty-five feet of the mean high-water mark not more than thirty percent of the trees in excess of six inches diameter at breast height existing at any time may be cut over any ten-year period.

(b) Within six feet of the mean high-water mark no vegetation may be removed, except that up to a maximum of thirty percent of the shorefront may be cleared of vegetation on any individual lot. This provision shall be adhered to in addition to (a) above.

(c) The above cutting standards shall not be deemed to prevent the removal of diseased vegetation or of rotten or damaged trees or of other vegetation that present safety or health hazards.

(4) The following minimum shoreline frontages shall be required in all land use areas for deeded or contractual access to all such lakes, ponds, rivers or streams for five or more lots, parcels or sites or multiple family dwelling units not having separate and distinct ownership of shore frontage:

(a) Where five to twenty lots or multiple family dwelling units are involved, a total of not less than one

hundred feet.

(b) Where more than twenty and not more than one hundred lots or multiple dwelling units are involved, a minimum of three feet for each additional lot or multiple dwelling unit in excess of twenty.

(c) Where more than one hundred and not more than one hundred fifty lots or multiple dwelling units are involved, a minimum of two feet for each additional lot or multiple dwelling unit in excess of one hundred.

(d) Where more than one hundred fifty lots or multiple dwelling units are involved, a minimum of one foot for each additional lot or multiple dwelling unit in excess of one hundred fifty.

b. In the case of all lakes, ponds, rivers and streams, the minimum setback of any on-site sewage drainage field or seepage pit shall be one hundred feet from the mean high-water mark in all land use areas.

2. In all of the above restrictions, the term "mean high-water mark" shall mean the spillway elevation contour, which is at seven hundred seventy-one feet elevation above mean sea level, whenever the Great Sacandaga Lake is involved.

3. a. Any person seeking a variance from the strict letter of the shoreline restrictions in connection with any new land use or development or subdivision of land proposed to be located in a land use area governed by an approved local land use program shall make application therefor to the local government as provided in such approved local land use program. If a person is seeking such a variance in a land use area not governed by an approved local land use program, he shall make application therefor to the agency whether or not the agency has project review jurisdiction over the new land use or development or subdivision of land involved. Upon such application, and after public hearing thereon, the local government or the agency shall, where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the restrictions, have authority to vary or modify the application of such restrictions relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of such restrictions shall be observed, public safety and welfare secured and substantial justice done.

b. The local government shall act upon any application to it within the time provided for in its local land use program. The agency shall act upon any application to it which is associated with a project subject to its review jurisdiction within the period provided in section eight

hundred nine. In the case of any other application, the agency shall schedule a public hearing within fifteen days of receipt of an application in such form and manner as it shall prescribe. The public hearing shall be commenced within thirty days of the date it is scheduled. The agency shall act upon a variance application within forty-five days of the receipt by the agency of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

4. The shoreline restrictions shall not apply to any emergency land use or development which is immediately necessary for the protection of life or property as defined by the agency in its rules and regulations governing its procedures to review projects as authorized in section eight hundred nine.

5. In order to encourage clustering of buildings and the maintenance of undeveloped shorelines, as an alternative to minimum lot widths of the shoreline restriction, shoreline development may take place in the following land use areas upon the following approximate overall intensities of principal buildings (other than boathouses) per linear mile of shoreline or proportionate fraction thereof:

<b>Land Use Areas</b>	<b>Principal Buildings Per Linear Mile</b>
<b>Hamlet</b>	<b>106</b>
<b>Moderate Intensity</b>	<b>53</b>
<b>Low Intensity</b>	<b>42</b>
<b>Rural Use</b>	<b>36</b>
<b>Resource Management</b>	<b>26</b>

This alternative method of cluster shoreline development shall only be employed where a single ownership or a group of two or more owners acting in concert is involved. In addition, approval of this method of development must carry with it provisions, whether by deed restriction, restrictive covenant or other similar appropriate means, to insure the retention in open space of the undeveloped portions of shoreline developed on a cluster basis. The agency, within its project review jurisdiction, or a local government under an approved local land use program, may apply these optional shoreline clustering provisions. Any person proposing to undertake new land use or development or subdivision of land in a land use area not governed by an approved local land use program and that is not subject to the agency's project review jurisdiction, may apply to the agency for a permit to employ such alternative method and the agency shall have authority to grant such a permit if the above required terms and conditions are met. The agency shall act upon such application within thirty days after receipt thereof.

## § 807. Local land use programs

1. The agency is authorized to review and approve any local land use program proposed by a local government and formally submitted by the legislative body of the local government to the agency for approval. Within a period of ninety days after such submission, or such longer period as may be agreed upon in writing by the agency and the local government, the agency shall review the local land use program and approve or disapprove it, or approve it subject to conditions. The agency shall approve the local land use program if the agency determines that such program meets all of the criteria set forth in subdivision two. If the agency fails to take final action on the local land use program within such ninety-day or longer period agreed upon by the agency and local government, the local land use program shall be deemed approved by the agency and the agency shall, upon the request of the legislative body of the local government, issue a certification to such effect to such chief elected official. Amendments to an approved local land use program that do not relate or pertain to the criteria for approval of a local land use program set forth in subdivision two of section eight hundred seven shall not be subject to approval by the agency. All amendments to an approved local land use program that do relate to such criteria shall be subject to approval by the agency as set forth in subdivision two of section eight hundred seven for approval of an initial local land use program.

2. The agency shall approve a local land use program if the agency determines that such program meets all of the following criteria:

a. It is in furtherance and supportive of the land use and development plan.

b. It is compatible with the character descriptions and purposes, policies and objectives of the land use areas, and, in regard to its map, compatible with the plan map.

c. It reasonably applies the overall intensity guidelines for the land use areas in the light of the particular needs and conditions of the local government. In applying the overall intensity guideline for a given land use area, the local land use program may provide for both greater and lesser intensity of development within such area provided that the overall intensity shall not exceed such guideline. In no event, however, shall bodies of water, such as lakes or ponds, located in a land use area be taken into account in the application of the overall intensity guideline for such area. The local land use program may disregard principal buildings in existence on August one, nineteen hundred seventy-three in applying the overall intensity guidelines for a land use area. If it does so, the land directly related to

such principal buildings shall not be used in the computation of the total land area available for new principal buildings. The local land use program may be more restrictive than the overall intensity guidelines.

d. It reasonably applies the classification of compatible uses lists in the light of the needs and conditions of the local government. Accordingly, the local land use program may include uses not on these lists or exclude those that are on them, reclassify those classified on such lists as primary uses to secondary uses and those classified on such lists as secondary uses to primary uses, or prohibit any of the uses on such lists.

e. It incorporates at a minimum the shoreline restrictions as they relate to any shoreline within the local government. As an alternative to minimum lot sizes on shorelines, the optional shoreline clustering provisions contained in subdivision five of section eight hundred six may be employed in regard to all or specified portions of a shoreline in single ownerships or in situations involving a group of two or more owners acting in concert.

f. It requires review of class B regional projects and provides that any such project shall not be approved unless the local government body or officer having jurisdiction under the program determines that the undertaking or continuance of such project will not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon the resources of the park, the local government body or officer having jurisdiction shall be required under the local land use program to apply the development considerations. The local land use program may expand upon the development considerations, but shall not eliminate any of them. The local land use program shall include a provision to insure that no class B regional project shall be disapproved except after public hearing thereon.

g. It contains adequate authority and provision for its administration and enforcement, including, at the option of the legislative body of the local government, authority to regulate any pre-existing land use or development, or any prefiled subdivision plat. The source of such authority shall be the municipal home rule law or any other applicable state enabling law. Notwithstanding any general or special law to the contrary, a local government may provide in its

local land use program, if such program is approved by the agency, for planning board action without public hearings on subdivision plats of less than five lots, parcels or sites, provided that no such provision may authorize the planning board to disapprove any subdivision plat without having first conducted a public hearing, as required by law. In addition, the legislative body of a local government may include in its local land use program, if such program is approved by the agency, and to the extent permissible within the proper exercise of the police power, such procedures as may be necessary and appropriate for the review of class B regional projects as required in paragraph f of this subdivision, and, in connection with the granting of a permit for such projects:

(1) authority to require restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means, to ensure that the overall intensity guidelines as applied in the local land use program shall be respected; and

(2) authority, to the extent otherwise authorized by law, to impose reasonable requirements and conditions to insure that an approved class B regional project will be adequately supported by services and improvements made necessary by such project and to insure that such a project shall be completed in accordance with the terms and conditions of the approval.

3. The agency may separately review and approve, disapprove, or approve subject to conditions, significant components of a local land use program which relate or pertain to the entire territorial jurisdiction of a local government, if proposed by the local government and formally submitted by its legislative body. The agency shall approve such components if the agency determines that such criteria of subdivision two of this section as shall be relevant to each such component are met. Provided, however, that the separately approved components of a local land use program shall not be deemed an approved local land use program for the purposes of this section, section eight hundred eight or section eight hundred nine of this article, unless and until all of the components of the local land use program shall have been approved pursuant to the terms of this subdivision or subdivision four of this section. Each such component shall be reviewed and acted upon in accordance with the procedures and within the time periods specified in subdivision one of this section relative to review of local land use programs.

4. The agency may review and approve, disapprove, or approve subject to conditions, an industrial site plan review law or ordinance, whether or not submitted as a component of a local land use program, if proposed by a local government and formally submitted by its legislative body.

The agency shall approve such law or ordinance if the agency determines that such criteria of subdivision two of this section as shall be relevant to industrial uses and to sawmills, chipping mills, pallet mills and similar wood using facilities are met. Such law or ordinance shall provide for the review of such uses and facilities pursuant to the criteria and procedures set forth in paragraph f of subdivision two of this section. Notwithstanding any general or special law to the contrary, such law or ordinance shall relate and pertain to not more than two particular sites totalling one hundred acres or less, identified by the local government after a comprehensive study of the entire area within its jurisdiction, as appropriate for industrial uses and wood using facilities; provided, however, that no such site shall be located in a resource management area and no such site may be located in a rural use area remote from existing hamlet areas, or along major travel corridors where a park atmosphere prevails. Upon approval, or approval subject to conditions by the agency, and upon valid enactment or adoption of such law or ordinance, the authority of the agency over such uses and facilities pursuant to sections eight hundred six and eight hundred nine of this article shall be vested in the local government, whether or not such uses are class A regional projects. Such laws or ordinances shall be reviewed and acted upon in accordance with the procedures and within the time periods specified in subdivision one of this section relative to review of local land use programs. Section eight hundred eight of this article shall govern the administration and enforcement of such laws or ordinances.

5. The agency may review and approve, disapprove or approve subject to conditions, a local land use program insofar as it relates or pertains to one or more land use areas within the territorial jurisdiction of the local government which in the aggregate is a significant geographical portion of the territorial jurisdiction of the local government, if proposed by the local government and formally submitted by its legislative body. The agency shall approve such program if the agency determines that all criteria of subdivision two of this section are met with respect to such geographical portion. If approved, or approved subject to conditions by the agency, such validly enacted or adopted program, insofar as it pertains to such geographical portion, shall be deemed an approved local land use program with respect to such geographical portion in accordance with the terms and conditions of such approval, for the purposes of this section, section eight hundred eight and section eight hundred nine of this article. Provided, that nothing contained in this subdivision shall supercede or be construed in derogation of the provisions and requirements of the town law and village law otherwise applicable to the valid enactment or adoption of such program. The program, insofar as it pertains to such geographical portion, shall be reviewed and acted upon in accordance with the procedures

and within the time periods specified in subdivision one of this section relative to review of local land use programs.

6. The agency shall, in its review of local land use programs, consult with appropriate public agencies, and shall provide opportunity for the Adirondack park local government review board and the appropriate county and regional planning agencies to review and comment on such programs under review.

7. The agency shall encourage and assist local governments in the preparation of local land use programs, including the provision of data, technical assistance and model provisions. Such model provisions shall be made available by the agency as soon as possible after the effective date of the adoption of the land use and development plan.



## **§ 808. Administration and enforcement of approved local land use programs**

1. Local land use programs that have been approved by the agency and validly enacted or adopted shall be administered and enforced as provided for in such approved programs.

2. Upon receipt of an application to undertake any class B regional project that is permissible under an approved local land use program, the local government body or officer having jurisdiction thereof shall give written notice thereof to the agency, together with such pertinent information as the agency may deem necessary. The agency shall have standing to participate as a party in the local review of such project, including any public hearing thereon, and to have the issuance of a permit therefor by such body or officer reviewed under article seventy-eight of the civil practice law and rules and to bring proceedings in any court of competent jurisdiction to have any undertaking pursuant to such permit restrained, enjoined, corrected or abated.

3. Upon receipt of an application for a variance from any provision of an approved local land use program involving land in any land use area other than a hamlet, including any shoreline restriction, the local government body or officer having jurisdiction thereof shall give written notice thereof to the agency together with such pertinent information as the agency may deem necessary. If such variance is granted, it shall not take effect for thirty days after the granting thereof. If, within such thirty day period, the agency determines that such variance involves the provisions of the land use and development plan as approved in the local land use program including any shoreline restriction and was not based upon the appropriate statutory basis of practical difficulties or unnecessary hardships, the agency may reverse the local determination to permit the variance. If the agency so acts, the appropriate local government officer or body, as well as any other person aggrieved by such action, shall have standing to have such action reviewed under article seventy-eight of the civil practice law and rules.

4. The agency, after consultation with the Adirondack park local government review board, shall have standing to

institute a proceeding in any court of competent jurisdiction to revoke its approval of a local land use program and reassert its review jurisdiction over class B regional projects under section eight hundred nine whenever the agency determines by a two-thirds affirmative vote of its members that the local government body or officer having jurisdiction has repeatedly or frequently failed or refused, after due notice and requests from the agency, and with such body or officer having had full opportunity to be heard on all issues involved, to administer or enforce the approved local land use program to adequately carry out the policies, purposes and objectives of the approved program or of the land use and development plan. Not earlier than one year after any such successful reassertion by the agency, or such earlier time as may be mutually agreed to, the legislative body of the local government involved may submit its local land use program, or any amended version thereof, or a newly proposed program to the agency for approval as provided for in section eight hundred seven for the initial approval of a local land use program.

5. The agency shall be a party who shall be joined, pursuant to the terms of subdivision a of section one thousand one of the civil practice law and rules, in any action initiated by or against a local government, or an instrumentality, agent or employee thereof, in which the issues to be adjudicated relate or pertain to the criteria for approval of a local land use program set forth in subdivision two of section eight hundred seven of this article. In any other action initiated by or against a local government, or an instrumentality, agent or employee thereof, joinder of the agency shall be governed by the terms of section one thousand two of the civil practice law and rules.

6. In any action where the agency is a party pursuant to the first sentence of subdivision five of this section, the attorney general shall, at the request of the local government and without cost to local government, also represent the local government as to those issues which are common to both the agency and the local government, and as to which both seek the same or substantially similar determination.

## § 809. Agency administration and enforcement of the land use and development plan

1. The agency shall have jurisdiction to review and approve all class A regional projects, including those proposed to be located in a land use area governed by an approved local land use program and all class B regional projects in any land use area not governed by an approved and validly enacted or adopted local land use program.

All projects shall be reviewed and acted upon as expeditiously as practical. In particular, to facilitate the review of minor project applications, the agency shall develop simplified application forms to deal with such projects, and will comply with the special procedures for such projects set forth in this section. For the purposes of this section, "minor project" shall mean any individual single family dwelling or mobile home or any subdivision involving two lots, parcels or sites.

2. a. Any person proposing to undertake a class A regional project in any land use area, or a class B regional project in any land use area not governed by an approved and validly enacted or adopted local land use program, shall make application to the agency for approval of such project and receive an agency permit therefore prior to undertaking the project. Such application shall be filed in such form and manner as the agency may prescribe. The agency shall, upon receipt of such application, provide notice of receipt of the application and a brief description of the project to the Adirondack park local government review board, the chairman of the county planning board, if any, of the county wherein the project is proposed to be located, to the chairman of the appropriate regional planning board, and to the chief elected officer, clerk and planning board chairman, if any, of the local government wherein such project is proposed to be located. The agency shall, upon request, furnish or make a copy of the application available to the review board or to the officials listed in this paragraph.

b. On or before fifteen calendar days after the receipt of such application the agency shall notify the project sponsor by certified mail whether or not the application is complete. For the purposes of this section, a "complete application" shall mean an application for a permit which is in an approved form and is determined by the agency to be complete for the purpose of commencing review of the application but which may need to be supplemented during the course of review as to matters contained in the application in order to enable the agency to make the findings and determinations required by this section. If the agency fails to mail such notice within such fifteen-day period, the application shall be deemed complete. If the

agency determines the application is not complete, the notice shall include a concise statement of the respects in which the application is incomplete. The submission by the project sponsor of the requested additional information shall commence a new fifteen calendar day period for agency review of the additional information for the purposes of determining completeness. If the agency determines the application is complete, the notice shall so state.

A notice of application completion shall not be required in the case of applications for minor projects which the agency determines to be complete when filed. Such applications shall be deemed complete for the purposes of this section upon the date of receipt.

c. The project sponsor shall not undertake the project for a period of ninety days, or in the case of a minor project, forty-five days, following the date of such notice of application completion, or the date the application is deemed complete pursuant to the provisions of this section, unless a permit is issued prior to the expiration of such periods.

d. Immediately upon determining that an application is complete, the agency shall, except in relation to minor projects, cause a notice of application to be published in the next available environmental notice bulletin published by the department of environmental conservation pursuant to section 3-0306 of the environmental conservation law, which publication shall be not later than ten calendar days after the date of such notice. The time period for public comment on a permit application shall be stated in the notice of application. The agency shall at the same time mail a copy of the notice of application completion to the Adirondack park local government review board and to the persons named in paragraph a of subdivision two of this section, and invite their comments.

3. a. Within the time periods specified in paragraphs b and c of this subdivision, the agency shall make a decision on a permit application by notifying the project sponsor by certified mail of its decision to approve the project, approve the project subject to conditions or disapprove the project.

b. In the case of an application for a permit for which no public hearing has been held, the agency decision shall be mailed on or before ninety calendar days or, in the case of a minor project, forty-five calendar days, after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section.

c. In the case of an application for a permit for which a public hearing has been held, the agency decision shall be mailed on or before sixty calendar days after receipt by the agency of a complete record, as that term is defined in paragraphs (a) through (e) of subdivision one of section three hundred two of the state administrative procedure act.

d. If the agency determines to hold a public hearing on an application for a permit, the agency shall notify the project sponsor of its determination by certified mail on or before sixty calendar days or, in the case of a minor project, forty-five calendar days after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section. The determination of whether or not to hold a public hearing on an application shall be based on whether the agency's evaluation or comments of the review board, local officials or the public on a project raise substantive and significant issues relating to any findings or determinations the agency is required to make pursuant to this section, including the reasonable likelihood that the project will be disapproved or can be approved only with major modifications because the project as proposed may not meet statutory or regulatory criteria or standards. The agency shall also consider the general level of public interest in a project. No project may be disapproved without a public hearing first being held thereon.

e. If the agency has notified the project sponsor of its determination to hold a public hearing, the sponsor shall not undertake the project during the time period specified in paragraph c of this subdivision. The notice of determination to hold a public hearing shall state that the project sponsor has the opportunity within fifteen days to withdraw his application or submit a new application. A public hearing shall commence on or before ninety calendar days, or in the case of a minor project, seventy-five days, after the agency notifies the project sponsor that the application is complete or after the application is deemed complete pursuant to the provisions of this section. In addition to notice of such hearing being mailed to the project sponsor, such notice shall also be given by publication at least once in the environmental notice bulletin and in a newspaper having general circulation in each local government wherein the project is proposed to be located, by conspicuous posting of the land involved, and by individual notice served by certified mail upon each owner of record of the land involved, and by mail upon: the Adirondack park local government review board, the persons named in paragraph a of subdivision two of this section, any adjoining landowner, to the extent reasonably discernible from the latest completed tax assessment roll, and the clerk of any local government within five hundred feet of the land involved. Public hearings held pursuant to this section shall be consolidated or held jointly with other

state or local agencies whenever practicable.

4. The agency shall make provision in its rules and regulations adopted pursuant to subdivision fourteen of this section for the Adirondack park local government review board and county and regional planning agencies receiving notice under subdivision two to have opportunity to review and render advisory comments on the project under review by the agency.

5. Notice of an agency decision shall be given by mail to those entitled to individual notice of application under subdivision two and notice of hearing under subdivision three, if a hearing is held. If the decision is approval, the agency shall within ten days of issuance of its notification of approval grant a permit to the project sponsor to undertake the project. If the decision is approval subject to conditions, the agency shall grant a permit only upon satisfactory fulfillment of such conditions. Approval subject to conditions shall expire six months from the date of such approval, or such longer time as is specified in the notification or approval, unless a permit has been granted. An agency permit shall serve as authorization for the project sponsor to undertake the project in accordance with the terms and conditions thereof.

6. a. If the agency fails to mail a decision on an application for a permit within the time periods specified in paragraphs b and c of subdivision three of this section, the project sponsor may cause notice of such failure to be made to the agency by means of certified mail, return receipt requested, addressed to the agency at its headquarters office. If, within five working days after the receipt of such notice the agency fails to mail a decision, the application shall be deemed approved and a permit deemed granted subject to any standard terms or conditions applicable to such a permit and the agency shall provide the project sponsor with a written certification to this effect.

b. Any time period specified in this section may be waived and extended for good cause by written request of the project sponsor and consent of the agency, or by written request of the agency and consent of the project sponsor.

c. At any time during the review of an application for a permit or a request by a permit holder for the renewal, reissuance, or modification of an existing permit pursuant to subdivision eight of this section, the agency may request additional information from the project sponsor or permit holder with regard to any matter contained in the application or request when such additional information is necessary for the agency to make any findings or determinations required by law. Such a request shall not extend any time period for agency action contained in this section. Failure by the project sponsor or permit holder to

provide such information may be grounds for denial by the agency of the application or request.

7. a. A permit or certificate issued by the agency pursuant to subdivision five or six of this section shall expire within sixty days from the date thereof unless within such sixty day period such permit or certificate shall have been duly recorded in the name of the landowner in the office of the clerk of the county wherein the project is proposed to be located. Where a permit involves action in concert by two or more landowners as described by paragraph c of subdivision ten of this section, the permit shall be recorded in the name of each landowner.

b. A permit when properly recorded shall operate and be construed as actual notice of the right to undertake the project and of the terms and conditions imposed by such permit. Such right shall extend to and such terms and conditions shall be binding upon all subsequent grantees of the land area subject to the permit, except those conditions which by their nature or wording are to be performed by the original project sponsor and except as may be otherwise provided by the terms of such permit.

c. If a project for which a permit has been granted, or a certificate issued, is not in existence within two years after the recording of such permit or certificate, unless the terms of the permit provides for a longer period of time, the project may not thereafter be undertaken or continued unless an application for a new permit therefor has been applied for and granted in the same manner and subject to all conditions governing the application for and granting of a permit as provided in this section. In determining whether to provide a longer period of time by when the project must be in existence, the agency shall give due consideration to the potential of the land related to the project to remain suitable for the use allowed by the permit and to the economic considerations attending the project.

8. a. Upon the provision of notice stating the grounds for its action and giving an opportunity for hearing to the permit holder, the agency may modify, suspend or revoke a permit.

b. A permit holder may make written request to the agency for the renewal, reissuance, or modification of an existing permit. Such a request shall be accompanied by sufficient information supporting the request for the agency action sought.

(1) In the case of a request which does not involve a material change in permit conditions, the applicable law, environmental conditions or technology since the date of issuance of the existing permit, the agency shall on or before fifteen calendar days after the receipt of a request

mail a written determination to the permit holder of its decision on the request. If the decision is to deny the request, the permit holder shall be afforded an opportunity for hearing and notice of such decision shall be given by the agency in the next available issue of the environmental notice bulletin.

(2) In the case of a request which may involve a material change as described in subparagraph one of this paragraph, the agency shall on or before fifteen calendar days after the receipt of a request mail a written determination to the permit holder that the request shall be treated as an application for a new permit.

If pursuant to subparagraph one or two of this paragraph, the agency fails to mail a written determination to the permit holder within such fifteen calendar day period, the provisions of subdivision six of this section shall apply.

9. The agency shall not approve any class A regional project proposed to be located in a land use area governed by an approved local land use program, or grant a permit therefor, unless it first determines that such project meets all of the pertinent requirements and conditions of such approved local land use program and that the project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon such resources of the park, the agency shall consider those pertinent factors contained in the development considerations and provided for in such approved local land use program. The agency shall, in connection with its review of a project under this subdivision, make provision in its rules and regulations adopted under subdivision fourteen for the early involvement of the local government wherein such project is proposed to be located in the review of such project on an informal basis. Such local government shall have standing as a party in any public hearing on such project held by the agency.

10. The agency shall not approve any project proposed to be located in any land use area not governed by an approved local land use program, or grant a permit therefor, unless it first determines that such project meets the following criteria:

a. The project would be consistent with the land use and development plan.

b. The project would be compatible with the character

description and purposes, policies and objectives of the land use area wherein it is proposed to be located. If the project is on the classification of compatible uses list for the land use area involved, there shall be a presumption of compatibility with the character description, purposes, policies and objectives of such land use area. If the project is a class B regional project because, as provided in section eight hundred ten, it is not listed as either a primary use or a secondary use on the classification of compatible uses list for the land use area wherein it is proposed to be located, there shall be a presumption that such project would not be compatible with the character description, purposes, policies and objectives of such land use area and the burden shall be on the project sponsor to demonstrate such compatibility to the satisfaction of the agency.

c. The project would be consistent with the overall intensity guideline for the land use area involved. A landowner shall not be allowed to construct, either directly or as a result of a proposed subdivision, more principal buildings on the land included within the project than the overall intensity guideline for the given land use area in which the project is located. In determining the land use area upon which the intensity guideline is calculated and which is included within a project, the landowner shall only include land under his ownership and may include all adjacent land which he owns within that land use area irrespective of such dividing lines as lot lines, roads, rights of way, or streams and, in the absence of local land use programs governing the intensity of land use and development, irrespective of local government boundaries. Principal buildings in existence within the area included within a project, as such area is defined by the landowner, shall be counted in applying the intensity guidelines. As between two or more separate landowners in a given land use area the principal buildings on one landowner's property shall not be counted in applying the intensity guidelines to another landowner's project, except that two or more landowners whose lands are directly contiguous and located in the same general tax district or special levy or assessment district may, when acting in concert in submitting a project, aggregate such lands for purposes of applying the intensity guidelines to their lands thus aggregated. The area upon which the intensity guideline is calculated shall not include (a) bodies of water, such as lakes and ponds, (b) any land in the same ownership that is directly related to any principal building in existence on August first, nineteen hundred seventy-three, which land is not included in the project, and (c), in the case of any principal building constructed after August first, nineteen hundred seventy-three, any land in the same or any other ownership that was included within the area of any previous project in order to comply with the overall intensity guideline.

d. The project would comply with the shoreline

restrictions if applicable. The agency may require a greater setback of any on-site sewage drainage field or seepage pit than required under the shoreline restrictions if it determines that soils or other pertinent conditions require such greater setback to reasonably protect the water quality of the water body involved.

e. The project would not have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park or upon the ability of the public to provide supporting facilities and services made necessary by the project, taking into account the commercial, industrial, residential, recreational or other benefits that might be derived from the project. In making this determination, as to the impact of the project upon such resources of the park, the agency shall consider those factors contained in the development considerations of the plan which are pertinent to the project under review.

11. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of the plan or the shoreline restrictions, the agency shall have authority in connection with a project under its review to vary or modify, after public hearing thereon, the application of any of such provisions or restrictions relating to the use, construction or alteration of buildings or structures, or the use of land, so that the spirit of the provisions or restrictions shall be observed, public safety and welfare secured and substantial justice done.

12. The agency may conduct such investigations, examinations, tests and site evaluations as it deems necessary to verify information contained in an application for a development permit, and the project sponsor, or owner of the land upon which the project is proposed, shall grant the agency or its agents permission to enter upon his land for these purposes.

13. The agency shall have authority to impose such requirements and conditions with its granting of a permit as are allowable within the proper exercise of the police power. The agency shall have specific authority in connection with its project review jurisdiction: a. To impose reasonable conditions and requirements, including the posting of performance bonds in favor of the local government as obligee, to ensure that any project for which a permit is granted will be adequately supported by basic services and improvements made necessary by the project. The cost of any such services or improvements may be imposed by requiring that the project sponsor provide the service or improvement or reserve land, or any interest therein, or contribute money in lieu thereof to the local government wherein the project is proposed to be located if such local government consents thereto. In the exercise of

the authority contained in this provision, the agency shall consult with the affected municipalities and give due consideration to their views.

b. To impose reasonable conditions and requirements to ensure that a project for which a permit is granted by the agency, when undertaken or continued, will be completed in accordance with the terms and conditions of the permit, and that the project sponsor furnish appropriate guarantees of completion or otherwise demonstrate financial capacity to complete the project or any material part thereof and furnish appropriate guarantees or otherwise demonstrate that the project will be managed and maintained once completed in accordance with the terms of the permit.

c. To impose reasonable conditions and requirements to ensure that upon approval of a project the applicable overall intensity guideline for the land use area involved will be respected. Such requirement may include the restriction of land against further development of principal buildings, whether by deed restriction, restrictive covenant or other similar appropriate means.

d. To allow, upon request of a project sponsor, projects to be reviewed conceptually, and thereafter or simultaneously therewith to be divided into and reviewed by sections, and to grant or deny permits for such sections. Conceptual determinations may be made, and sectional permits may be granted subject to the provision of those requirements and conditions for improvements and services for, and for completion of the total project as the agency deems reasonable and necessary. Conceptual review shall focus upon the existing environmental setting and the likely impacts which would result from the project, including all proposed phases or segments thereof, but shall not result in a binding approval or disapproval. The agency shall in rules and regulations establish criteria, guidelines, and procedures for the conceptual and sectional review of proposed projects. Except to the extent, and only for such period of time as otherwise specifically stated in the agency's decision upon an application for a sectional permit, the granting of any sectional permit shall not constitute a finding, or be binding upon the agency, with respect to any portion of the total project not included in the section for which the permit is granted.

e. To issue a general permit for any class of projects concerning which the agency determines it may make the requisite statutory findings on a general basis.

14. The agency may, after public hearing, adopt, and

have authority to amend or repeal, rules and regulations, consistent with the provisions of this section, to govern its project review procedures and to provide further guidance to potential project sponsors through further definition of the development considerations as they would apply to specific classes of projects in specific physical and biological conditions. Such rules and regulations may include but not be limited to:

a. Procedures prior to formal application to the agency for a permit for the informal discussion of preliminary plans for a proposed project and for preliminary approval or recommendations in regard to the project. Such informal discussion shall be optional with the project sponsor and no such preliminary approval or recommendations shall relieve the sponsor from complying with the provisions governing submission of a project for review and obtaining a permit therefor as provided in this section.

b. Procedures for cooperation and joint action, including joint hearings, insofar as practical, with other state agencies having review or regulatory jurisdiction which relates with that of the agency's so as to avoid unnecessary costs and burdens both to the state and to project sponsors and landowners.

c. Procedures to insure communication and discussion with any federal agency, including the Army Corps of engineers and the soil conservation service, in regard to any federal development proposals in the park.

Such agency rules and regulations, and amendments thereof, shall be adopted only after consultation with the Adirondack park local government review board and at least one public hearing thereon. Fifteen days notice of such hearing shall be made by publication at least once in a newspaper of general circulation in each county wholly or partially within the Adirondack Park and in at least three metropolitan areas of the state, and by individual notice served by mail upon the clerk of each county and each local government of the park, and the chairman of all local government, county and regional planning agencies having jurisdiction in the park. Such notice shall contain a statement describing the subject matter of the proposed rules and regulations, and the time and place of the hearing and where further information thereon may be obtained.

15. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation adopted under subdivision fourteen.

## § 810. Class A and class B regional projects

All references in this article to class A regional projects or to class B regional projects shall mean, for the land use areas indicated, the following new land uses or development or subdivisions of land:

### 1. Class A regional projects.

#### a. Hamlet areas.

- (1) All land uses and development and all subdivisions of land involving wetlands except for forestry uses (other than timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres), agricultural uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.
- (2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.
- (3) All land uses and development and all subdivisions of land involving one hundred or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
- (4) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.
- (5) Commercial or private airports.
- (6) Watershed management and flood control projects.
- (7) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

#### b. Moderate intensity use areas.

- (1) All land uses and development and all subdivisions of land located in the following critical environmental areas:
  - (a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation;
  - (b) involving wetlands;

(c) at elevations of twenty-five hundred feet or more;

(d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number nine below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

- (2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.
- (3) All land uses and development and all subdivisions of land involving seventy-five or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
- (4) Commercial or agricultural service uses involving ten thousand or more square feet of floor space.
- (5) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.
- (6) Tourist attractions.
- (7) Ski centers.
- (8) Commercial or private airports.
- (9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
- (10) Sawmills, chipping mills, pallet mills and similar wood using facilities.
- (11) Mineral extractions.
- (12) Mineral extraction structures.
- (13) Watershed management and flood control projects.
- (14) Sewage treatment plants.
- (15) Major public utility uses.
- (16) Industrial uses.
- (17) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**c. Low intensity use areas.**

- (1) All land uses and development and all subdivisions of land located in the following critical environmental areas:

(a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation;

(b) involving wetlands;

(c) at elevations of twenty-five hundred feet or more;

(d) within one-eighth mile of tracts of forest preserve land now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number nine below), agricultural uses, open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such use or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

(3) All land uses and development and all subdivisions of land involving thirty-five or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.

(4) Commercial or agricultural service uses involving five thousand or more square feet of floor space.

(5) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.

(6) Tourist attractions.

(7) Ski centers.

(8) Commercial or private airports.

(9) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.

(10) Sawmills, chipping mills, pallet mills and similar wood using facilities.

(11) Mineral extractions.

(12) Mineral extraction structures.

(13) Watershed management and flood control projects.

(14) Sewage treatment plants.

(15) Waste disposal areas.

(16) Junkyards.

(17) Major public utility uses.

(18) Industrial uses.

(19) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**d. Rural use areas.**

- (1) All land uses and development and all subdivisions of land located in the following critical environmental areas:

(a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation;

(b) involving wetlands;

(c) at elevations of twenty-five hundred feet or more;

(d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands, except for an individual single family dwelling and accessory uses or structures thereto;

(e) within one hundred fifty feet of the edge of the right of way of federal or state highways, except for an individual single family dwelling and accessory uses or structures thereto;

(f) within one hundred fifty feet of the edge of the right of way of county highways designated by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, as major travel corridors by the agency or local government, except for an individual single family dwelling and accessory uses or structures thereto. Provided, however, that the above shall not include forestry uses (other than clear-cutting as specified in number ten below and sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within one hundred fifty feet of the edge of the right of way of the above described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any pre-existing use.

(2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or



at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.

- (3) All land uses and development and all subdivisions of land involving twenty or more residential lots, parcels or sites or residential units, whether designed for permanent, seasonal or transient use.
- (4) Commercial and agricultural service uses involving twenty-five hundred or more square feet of floor space.
- (5) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.
- (6) Tourist accommodations.
- (7) Ski centers.
- (8) Commercial seaplane bases.
- (9) Commercial or private airports.
- (10) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
- (11) Sawmills, chipping mills, pallet mills and similar wood using facilities.
- (12) Mineral extractions.
- (13) Mineral extraction structures.
- (14) Watershed management and flood control projects.
- (15) Sewage treatment plants.
- (16) Waste disposal areas.
- (17) Junkyards.
- (18) Major public utility uses.
- (19) Industrial use.
- (20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**e. Resource management areas.**

- (1) All land uses and development and all subdivisions of land located in the following critical environmental areas:

(a) within one-quarter mile of rivers navigable by boat designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law during the period of such designation;

(b) involving wetlands;

(c) at elevations of twenty-five hundred feet or more;

(d) within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for

management of state lands, except for an individual single family dwelling and accessory uses or structures thereto;

(e) within three hundred feet of the edge of the right of way of federal or state highways, except for an individual single family dwelling and accessory uses or structures thereto;

(f) within three hundred feet of the edge of the right of way of county highways designated as major travel corridors by rule or regulation of the agency adopted pursuant to subdivision fourteen of section eight hundred nine or in an approved local land use program, except for an individual single family dwelling and accessory uses or structures thereto. Provided however, that the above shall not include forestry uses (other than clearcutting as specified in number eleven below and sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), agricultural uses (other than sand and gravel pits associated with such uses located within three hundred feet of the edge of the right of way of the above described travel corridors), open space recreation uses, public utility uses, and accessory uses or structures (other than signs) to any such uses or to any preexisting use.

- (2) Any class of land use or development or subdivision of land that by agreement between a local government and the agency, either prior to or at the time a local land use program is approved by the agency, is to be reviewed by the agency; provided, however, that any class of projects so agreed upon must be designated by and its review authorized in a local ordinance or local law.
- (3) All subdivisions of land (and all land uses and development related thereto) involving two or more lots, parcels or sites.
- (4) Campgrounds involving fifty or more sites.
- (5) Group camps.
- (6) Ski centers and related tourist accommodations.
- (7) Agricultural service uses.
- (8) All structures in excess of forty feet in height, except agricultural use structures and residential radio and television antennas.
- (9) Sawmills, chipping mills and pallet mills and similar wood using facilities.
- (10) Commercial sand and gravel extractions.
- (11) Timber harvesting that includes a proposed clearcutting of any single unit of land of more than twenty-five acres.
- (12) Mineral extractions.
- (13) Mineral extraction structures.
- (14) Watershed management and flood control projects.
- (15) Sewage treatment plants.
- (16) Major public utility uses.

- (17) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**f. Industrial use areas.**

- (1) Mineral extractions.
- (2) Mineral extraction structures.
- (3) Commercial sand and gravel extractions.
- (4) Major public utility uses.
- (5) Sewage treatment plants.
- (6) Waste disposal areas.
- (7) Junkyards.
- (8) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**2. Class B regional projects.**

**a. Moderate intensity use areas.**

- (1) Subdivisions of land (and all land uses and development related thereto) involving fifteen or more but less than seventy-five lots, parcels or sites, other than subdivisions of land involving mobile homes.
- (2) Subdivisions of land (and all land uses and development related thereto) involving less than fifteen lots, parcels or sites, other than subdivisions of land involving mobile homes, which do not meet the following criteria:

(a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least twenty-five thousand square feet in size and complies with all of the provisions of the shoreline restrictions.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least forty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds fourteen.

- (3) Multiple family dwellings.
- (4) Mobile home courts.
- (5) Subdivisions of land involving mobile homes (and all land uses and development related thereto) and involving two or more lots, parcels or sites.

- (6) Public and semi-public buildings.
- (7) Municipal roads.
- (8) Commercial or agricultural service uses involving less than ten thousand square feet of floor space.
- (9) Tourist accommodations.
- (10) Marinas, boatyards and boat launching sites.
- (11) Golf courses.
- (12) Campgrounds.
- (13) Group camps.
- (14) Commercial seaplane bases.
- (15) Commercial sand and gravel extractions.
- (16) Land use or development or subdivisions of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
- (17) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for moderate intensity use areas.
- (18) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
- (19) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.
- (20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**b. Low intensity use areas.**

- (1) Subdivisions of land (and all land uses and development related thereto) involving ten or more but less than thirty-five lots, parcels or sites, other than subdivision of land involving mobile homes.
- (2) Subdivision of land (and all land uses and development related thereto) involving less than ten lots, parcels or sites which do not meet the following criteria:

(a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least fifty thousand square feet in size and complies with all of the provisions of the shoreline restrictions.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least one hundred twenty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds nine.

- (3) Multiple family dwellings.
- (4) Mobile home courts.
- (5) Mobile home subdivisions (and all land uses and development related thereto) involving two or more lots, parcels or sites.
- (6) Public and semi-public buildings.
- (7) Municipal roads.
- (8) Commercial or agricultural service uses involving less than five thousand square feet of floor space.
- (9) Tourist accommodations.
- (10) Marinas, boatyards and boat launching sites.
- (11) Golf courses.
- (12) Campgrounds.
- (13) Group camps.
- (14) Commercial seaplane bases.
- (15) Commercial sand and gravel extractions.
- (16) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
- (17) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for low intensity use areas.
- (18) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water now or hereafter classified as wilderness, primitive or canoe in the master plan for management of state lands.
- (19) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.
- (20) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**c. Rural use areas.**

- (1) Subdivisions of land (and all land uses and development related thereto) involving five or more but less than twenty lots, parcels or sites, other than subdivisions of land involving mobile

homes.

- (2) Subdivisions of land (and all land uses and development related thereto) involving less than five lots, parcels or sites which do not meet the following criteria:

(a) In the case of such subdivisions involving land having shoreline, each lot, parcel or site is at least eighty thousand square feet in size and complies with all of the provisions of the shoreline restrictions of the plan.

(b) In the case of such subdivisions not involving land having shoreline, each lot, parcel or site is at least three hundred twenty thousand square feet in size.

Any subdivision or subsequent subdivision of such land, either by the original owner or subsequent owners, shall be subject to review as a class B regional project where the total number of lots, parcels or sites resulting from such subdivision and any prior subdivision or subdivisions exceeds four.

- (3) Multiple family dwellings.
- (4) Mobile home courts.
- (5) Mobile home subdivisions (and all land uses and development related thereto) involving two or more lots, parcels or sites.
- (6) Public and semi-public buildings.
- (7) Municipal roads.
- (8) Marinas, boatyards and boat launching sites.
- (9) Golf courses.
- (10) Campgrounds.
- (11) Group camps.
- (12) Commercial sand and gravel extractions.
- (13) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided for in the shoreline restrictions.
- (14) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic or recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.
- (15) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for rural use areas.
- (16) Commercial and agricultural service uses involving less than twenty-five hundred square feet.
- (17) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or water described in item (d) of clause (1) of paragraph d of subdivision one or within one hundred fifty feet of a travel corridor described in such paragraph.

- (18) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**d. Resource management areas.**

- (1) Single family dwellings.
- (2) Individual mobile homes.
- (3) Forestry use structures.
- (4) Hunting and fishing cabins and hunting and fishing and other private club structures involving five hundred or more square feet of floor space.
- (5) Land use or development or subdivision of land involving the clustering of buildings on land having shoreline on the basis of a specified number of principal buildings per linear mile or proportionate fraction thereof, as provided in the shoreline restrictions.
- (6) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for resource management areas.
- (7) Municipal roads.
- (8) Golf courses.
- (9) An individual single family dwelling within one-eighth mile of tracts of forest preserve land or waters described in item (d) of clause (1) of paragraph d of subdivision one or within three hundred feet of a travel corridor described in such

paragraph.

- (10) Campgrounds involving fewer than fifty sites.
- (11) All land uses and development and all subdivisions of land within one-quarter mile of rivers designated to be studied as wild, scenic and recreational in accordance with the environmental conservation law, other than those navigable by boat, during the period of such designation.
- (12) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

**e. Industrial use areas.**

- (1) Sawmills, chipping mills, pallet mills and similar wood using facilities.
- (2) Industrial uses.
- (3) Commercial uses.
- (4) Agricultural service uses.
- (5) Public and semi-public buildings.
- (6) Municipal roads.
- (7) Any land use or development not now or hereafter included on either the list of primary uses or the list of secondary uses for industrial use areas.
- (8) Any material increase or expansion of an existing land use or structure included on this list that is twenty-five percent or more of the original size of such existing use or twenty-five percent or more of the original square footage of such structure.

## **§ 811. Special provisions relating to agency project review jurisdiction and the shoreline restrictions**

1. Notwithstanding any other provision of this article, including the provisions of the land use and development plan and the shoreline restrictions, the following provisions shall apply in connection with the project review jurisdiction of the agency under section eight hundred nine and application of the shoreline restrictions either by the agency in the review of a project or by operation of section eight hundred six.

### **a. Single family dwelling on existing vacant lot.**

One single family dwelling or mobile home shall be allowed to be built on any vacant lot which was on record on the date that this act shall become a law regardless of the overall intensity guidelines, or the minimum lot width provisions of the shoreline restrictions. For the purposes of this exemption, such a lot must not adjoin other lots in the same ownership, provided however, that all such lots in the same ownership may be treated together as one lot. In addition to the foregoing exemption, where the agency has jurisdiction, for a reason other than its location in a critical environmental area, of a single family dwelling or mobile home on a lot described in this paragraph which is owned by an individual who has continually owned such lot since May twenty-second, nineteen hundred seventy-three, it may not disapprove the project on any of the grounds specified in paragraph e of subdivision ten of section eight hundred nine, but may impose such reasonable conditions on the type and manner of placement of any individual on-site sewage disposal facilities as are in furtherance of the purposes of this article and in compliance with applicable standards of the department of health.

### **b. Conversions of certain existing uses.**

Those structures in existence on the date that this act shall become a law that are associated with resort hotels, rental cottages and group camps shall be allowed to be converted from their previous use to individual single family residence use, notwithstanding the fact that such structures, as converted, do not conform to the overall intensity guidelines or the shoreline restrictions.

### **c. Gifts, devises and inheritances.**

The mere division of land resulting from bona fide gift, devise or inheritance by and from natural persons shall not be subject to review by the agency. New land use or development on lots, parcels or sites conveyed by individuals, who on the date that this act shall become law own such land, to members of their immediate families by

bona fide gift, devise or inheritance, shall be exempt from the overall intensity guidelines and the minimum lot size criteria specified in the class B regional project lists for the purpose of constructing one single family dwelling or mobile home on any such lot, parcel or site.

2. Any pre-existing land use and development shall not be subject to review by the agency.

3. Any (a) pre-existing subdivision of land, (b) any subdivision or portion of a subdivision that involves seventy-five or fewer lots, parcels or sites for the completion of which any or all permits and other approvals required by or pursuant to law were obtained after July first, nineteen hundred seventy-one and for which all such required permits were in full force and effect on July thirty-first, nineteen hundred seventy-three, or (c) individual single family dwelling or mobile home, erected or placed on any lot, parcel or site in any subdivision referred to in clauses (a) and (b) hereof which has been approved by the state department of health, shall not be subject to review by the agency, provided, however, that a subdivision or portion of a subdivision described in clause (b) hereof shall become subject to review by the agency on August first, nineteen hundred seventy-four if such subdivision or portion is not in existence on said date. Any individual single family dwelling or mobile home referred to in clause (c) of this subdivision hereof shall not be subject to the minimum lot width provisions of the shoreline restrictions.

4. With respect to any land use or development or subdivision of land or portion thereof approved by the agency under its interim project review authority, in section eight hundred fifteen, such land use or development or subdivision or portion thereof may proceed in accordance with the terms of the approval and shall not be subject to further review by the agency so long as such land use or development or subdivision or portion thereof is substantially commenced and/or material expenditures and financial obligations have been incurred with regard to such land use or development or subdivision or portion thereof within two years of such approval.

5. Any existing land use or development, including any structure being restored or rebuilt in whole or in part, being increased or expanded, whether in successive stages or at one time, to a total of less than twenty-five percent of its size or square footage at the date of enactment or when originally built or undertaken, whichever is later, shall not be subject to review by the agency. Any material increase or expansion thereafter shall constitute a reviewable land

use or development if otherwise within the agency's review jurisdiction. In no case shall any increase or expansion violate, or increase non-compliance with, the minimum setback requirements of the shoreline restrictions. Notwithstanding the foregoing, a single family dwelling or

mobile home may always be enlarged or rebuilt to any extent provided that it continues to be used as such, provided, however, that no such increase or expansion shall violate, or increase any non-compliance with, the minimum setback requirements of the shoreline restrictions.

## § 812. Public hearings

1. Public hearings authorized or required by section eight hundred nine to be held by the agency in connection with the review of projects shall be conducted as provided in this section, the applicable project review rules and regulations of the agency adopted under subdivision fourteen of such section, and the state administrative procedure act.

2. Notice of such public hearings shall be given as required in section eight hundred nine. Individual notices of hearing required under such section shall be served by mail in the manner required by section eight hundred nine of this article to the last known address of such individuals. Individual notice of hearing shall also be so served on any other person or agency, public or private, as may be required under the agency's project review rules and regulations.

3. Parties to a public hearing shall be the project sponsor and any person or agency entitled to individual notice and any other person or agency as may be authorized under the agency's project review rules and regulations.

4. The public hearing may, if authorized by the agency's project review rules and regulations, be conducted

by any member or designee of the agency, but any findings, decision, order, permit or certificate of the agency shall be adopted by the agency, all members voting having familiarized themselves with the record.

5. The agency, or member or designee thereof presiding at the hearing shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.

6. The parties shall be afforded the opportunity to present evidence and argument and, in the case of the project sponsor, any person or agency entitled by law to individual notice and any other public agency, to cross-examine witnesses on all relevant issues, but the member or designee presiding may impose reasonable limitations as to time and number of persons heard.

7. The agency shall keep a verbatim record of the proceedings and certified copies shall be made available, and for such reasonable charges, as may be provided by rule or regulation of the agency.

## **§ 813. Penalties and enforcement**

1. Any person who violates any provision of this article or any rule or regulation promulgated by the agency, or the terms or conditions of any order or permit issued by the agency pursuant to this article shall be liable to a civil penalty of not more than five hundred dollars for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the agency by the attorney general on his own initiative or at the request of the agency.

2. Alternatively or in addition to an action to recover the civil penalties provided by subdivision one of this section, the attorney general may institute in the name of the agency any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce any provision of this article or any rule or regulation promulgated by the agency, or the terms or

conditions of any order or permit issued by the agency pursuant to this article. The court in which the action or proceeding is brought may order the joinder of appropriate persons as parties and may order the appropriate person or the person responsible for the violation to take such affirmative measures as are properly within its equitable powers to correct or ameliorate the violation, having regard to the purposes of this article and the determinations required by subdivision ten of section eight hundred nine.

3. Such civil penalty may be released or compromised by the agency before the matter has been referred to the attorney general, and where such matter has been referred to the attorney general, any such penalty may be released or compromised and any action or cause of action commenced to recover the same may be settled or discontinued by the attorney general with the consent of the agency.



## § 814. State agency projects

1. Any state agency which intends to undertake any new land use or development within the Adirondack park, other than land use or development by the department of environmental conservation pursuant to the master plan for management of state lands, irrespective of whether the land use area wherein the project is proposed to be located is governed by an approved local land use program shall give due regard to the provisions of the plan and the shoreline restrictions and shall file a notice of such intent thereof with the agency. Such notice shall be filed at the earliest time practicable in the planning of such project, and in no event later than the submission of a formal budget request for the funding of such project or any part thereof. Such notice shall contain a description of the proposed project, together with such additional information relating thereto as the agency may determine necessary and appropriate for the purposes of this section. The state agency shall not undertake such project for a period of thirty days, or such earlier time as the agency may specify, following the filing of the notice of intent.

2. During such thirty day period, the agency may review the project to determine whether it:

a. might be inconsistent with the provisions of the plan and shoreline restrictions, or

b. may have an undue adverse impact upon the natural, scenic, aesthetic, ecological, wildlife, historic, recreational or open space resources of the park, taking into account the economic and social benefits to be derived from such project. In making such determination, the agency

shall apply the development considerations.

3. If, on or before the conclusion of such thirty-day period, the agency determines that the project will not be inconsistent with such provisions or restrictions and will not have an undue adverse impact upon such resources, it shall report its findings to the state agency. If the agency determines, at or before the conclusion of such period, that the project might be inconsistent with such provisions or restrictions, or might have such an undue adverse impact upon such resources, it shall notify the state agency by mail, that the agency will hold public hearing on the project within thirty days of such notice and, at the same time, issue an order to the state agency not to undertake the project for up to ninety days following the commencement of such public hearing. During such ninety-day or lesser period, the agency shall further review the project and determine whether or not it will be inconsistent with such provisions or restrictions or have such undue adverse impact. On or before the conclusion of such ninety-day period, the agency shall report its findings in the manner provided above.

4. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation.

5. The agency may adopt, and have authority to amend or repeal, rules and regulations, consistent with this section, to govern its procedures for the reviews authorized by this section.

## § 815. Interim development controls

1. The legislature hereby finds that development is taking place in the Adirondack park which threatens the accomplishment of the basic purpose of this article to insure optimum overall conservation, protection, preservation, development and use of the park's unique scenic, historic, ecological and natural resources. Such development presents an imminent danger to the integrity of an area of the state which has always been considered a priceless possession of the people of this state. If such development is left uncontrolled until the land use and development plan is effective and its implementation is underway, the purposes of this article may be irreparably and irreversibly compromised. It would, therefore, be prejudicial to the interests of the people of the state to delay regulatory action until the land use and development plan becomes effective as adopted in this article. Accordingly, the agency is authorized until August one, nineteen hundred seventy-three to exercise the powers set forth in this section.

2. The agency shall, after public hearing, adopt, and may from time to time amend, rules and regulations to carry out the purposes of this section for the review of any proposed development in the Adirondack park which might have an adverse effect upon the park's unique scenic, historic, ecological and natural resources, hereinafter referred to as a project, including criteria by which such project shall be evaluated by the agency. Such review shall not include review of projects on state lands within the park. The rules and regulations of the agency currently in force and effect shall remain in force to the extent consistent with this section and unless and until otherwise amended.

3. Before adopting or amending such rules and regulations, the agency shall submit them to the department of environmental conservation for comments and recommendation.

4. Such rules and regulations may exclude projects in specified areas or specified kinds of projects and shall exclude (a) bona fide management, including logging, of forests, woodlands or plantations or the construction or maintenance of wood roads, landings or temporary structures, directly associated with such management, (b) bona fide management of land for agriculture, livestock raising, horticulture and orchards and (c) any project involving less than five acres and fewer than five lots, from review under this section.

5. Such rules and regulations shall set forth a procedure for the informal discussion of preliminary and informal plans for a project and for preliminary approval or recommendations by the agency with respect to the project.

Such informal discussion shall be optional with the project sponsor, and no such preliminary approval or recommendations by the agency shall relieve any agency or person from complying with any provision of this section.

6. This section shall not apply to any emergency project which is immediately necessary for the protection of life or property as defined by the agency by rule and regulation.

7. A public or private agency or person proposing to undertake a project subject to review under this section or the rules and regulations adopted hereunder, shall submit to the agency a description thereof, in such form and manner as shall be sufficient to enable the agency to make the findings and determinations required by this section. For a period of ninety days following the submission of such description to the agency, or until such earlier time as the agency may specify, such agency or person shall not undertake or continue such project. The agency shall review such description to determine the effect of the proposed project upon the scenic, historic, ecological and natural resources of the park, and to assess the commercial, industrial, residential, recreational or other benefits of the project.

8. If, on or before the conclusion of such ninety-day period and after a public hearing is held on the project in accordance with subdivision nine the agency finds that the proposed project (1) is not in substantial conformity with the policies of this article and (2) would have a substantial and lasting adverse impact upon such resources of the park, it may issue an order upon the project sponsor prohibiting the commencement or continuation of the project until August first, nineteen hundred seventy-three. The findings and order of the agency shall be in writing and notice of the findings and order shall be mailed to persons to whom it is directed at their last known address.

9. Notice of a formal hearing shall be given by conspicuous posting of the land which is or will be subject to the agency action in question and by publication at least once in a newspaper of general circulation in the county or counties wherein such land is situated. In addition, individual notice shall be given by depositing the same in the mails addressed at the last known address to: (1) The owner or owners of the land which is or will be subject to the agency order; (2) the public or private agency or person proposing to undertake the project; and (3) the local government or local governments exercising jurisdiction over the land which is or will be subject to the agency order.

Notices shall be given at least seven days in advance of the hearing and shall contain a statement describing the matters to be considered at the hearing, the time and place where further details may be obtained, and the time and place of the hearing.

10. Any review and determination made pursuant to this section shall take into account existing local controls.

11. All orders made by the agency shall be enforceable by appropriate proceedings at law or in equity and any person who violates any provision of this section or rules, regulations and orders adopted pursuant thereto may be fined for not more than five hundred dollars or imprisoned not more than thirty days, or both. Each day the violation continues is hereby deemed to be a separate offense for purposes of determining the amount of such fines and length of imprisonment.

12. A project which has been approved by the agency shall also be subject to approval by local government if such approval is required by law.

13. In regard to a project with respect to which the ninety-day period specified in subdivision seven hereof has been commenced on or before July thirty-first, nineteen hundred seventy-three, unless the agency approves said

project in accordance with the provisions of this section, the project sponsor may not undertake said project if it is of a type subject to the agency's project review jurisdiction under section eight hundred nine until the sponsor has obtained a permit therefor as required therein.

14. If the agency approves a project reviewed under this section, the project sponsor may request, within ten days thereafter, and the agency shall issue within ten days after receipt of such request, a certificate to the effect that the project is approved and may be undertaken or continued, and that permit therefor as called for in section eight hundred nine is not required for such project so long as the project is completed within two years after issuance of such certificate. Irrespective of whether a certificate is issued pursuant to this section, a permit shall be required for the undertaking or continuation of a project approved under this section if such project is not completed within two years after its approval.

15. For the purposes of this section, the term "development" shall mean any activity which materially affects the existing conditions, use or appearance of any land, structure or improvement including the division of any land into parcels or units but shall not include the division of any land resulting from devise, inheritance, gift or operation of law.

## **§ 816. Master plan for management of state lands**

1. The department of environmental conservation is hereby authorized and directed to develop, in consultation with the agency, individual management plans for units of land classified in the master plan for management of state lands heretofore prepared by the agency in consultation with the department of environmental conservation and approved by the governor. Such management plans shall conform to the general guidelines and criteria set forth in the master plan. Until amended, the master plan for management of state lands and the individual management plans shall guide the development and management of state lands in the Adirondack park.

2. The master plan and the individual management plans shall be reviewed periodically and may be amended from time to time, and when so amended shall as amended henceforth guide the development and management of state lands in the Adirondack park. Amendments to the master plan shall be prepared by the agency, in consultation with the department of environmental conservation, and submitted after public hearing to the governor for his approval.

3. The agency and department are hereby authorized to develop rules and regulation necessary, convenient or desirable to effectuate the purposes of this section.

## **§ 817. Activities of the United States in the Adirondack park**

1. It is hereby declared to be the policy of this state that new land use or development or acquisition of land by the United States within the Adirondack park shall conform to the land use and development plan and the master plan for the management of state lands so far as practicable, and to any further extent as the Congress of the United States may by law provide.

2. The agency may, on request of the United States, advise whether any particular proposed land use and development or acquisition will conform to the land use and development plan or the master plan.

## **§ 818. Judicial review**

1. Any act, omission, or order of the agency or of any officer or employee thereof, pursuant to or within the scope of this article, may be reviewed at the instance of any aggrieved person in accordance with article seventy-eight of the civil practice law and rules, but application for such review must be made not later than sixty days from the effective date of the order or the date when the act or omission occurred.

2. Any local government which appears as a party in any proceeding before the agency, shall have standing to have the agency's decision on such project reviewed pursuant to article seventy-eight of the civil practice law and rules.

## **§ 819. Applicability**

1. No provision of this article shall be construed to prohibit any local government from adopting and enforcing land use and development controls for lands, other than those owned by the state.

2. Any local land use program which has been validly enacted or adopted by a municipality shall be valid and enforceable notwithstanding its not having been approved by the agency, and any new land use or development or subdivision of land shall be subject to the provisions of such local land use program and to the shoreline restrictions contained in section eight hundred six. If the agency has project review jurisdiction over any such land use or development or subdivision of land under section eight hundred nine, such land use, development or subdivision shall, in addition to its being subject to the provisions of any such local land use program, be subject to such agency jurisdiction. The project sponsor may not undertake or continue such land use, development or subdivision, however, or any part thereof, notwithstanding the granting of a permit therefor by the agency, unless such undertaking or continuance is also permitted by the municipality under

and in accordance with the provisions of its local land use program.

3. No provision of this article shall be deemed to prohibit any land use and development or subdivision of land existing prior to the effective date of this article, including those uses and development and subdivisions of land expressly not subject to agency review as provided in section eight hundred eleven.

4. Nothing in this article shall be construed to empower the agency to acquire any interest in real property by purchase or condemnation. No right of first refusal or first option to purchase in favor of the agency, the department of environmental conservation or any other state agency shall in any way be created by this article or the land use and development plan.

5. Nothing in this article shall be construed to supersede or replace or diminish in any way any regulatory or review authority of any other state agency.

## **§ 820. Severability**

If any section of this article or the application thereof to any person or circumstances shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of

any provision of any section or the application of any part thereof to any other person or circumstance and to this end the provisions of each section of the article are hereby declared to be severable.

**STATE OF NEW YORK**  
**Executive Department**

**George E. Pataki, Governor**

**ADIRONDACK PARK AGENCY**  
**Richard H. Lefebvre, Chairman**  
**Daniel T. Fitts, Executive Director**

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