



**Adirondack Park Agency Act
Procedural Modification Bill
APA #01-13**

What is the purpose and intent of APA Bill #01-13?

The bill will authorize certain landowners to transfer development rights, within the same municipality, from a more restrictive land use area to a less restrictive land use area. The bill will encourage and accommodate "smart growth" on private lands best suited for development and increase protection for the unique natural resources and open space character of the Adirondack Park.

The bill will establish a process for willing landowners to voluntarily transfer and thereby extinguish development rights on lands they own in more restrictive APA land use classification areas to land use areas designated for a higher density of development.

The establishment of a process to transfer development rights from more restrictive land use areas to less restrictive land use areas would further the intent of the APA Act to channel growth to where it is most appropriate and is highly consistent with "smart growth" principles.

The bill also clarifies project application procedural requirements.

Does the APA ACT currently allow for the transfer of development rights?

Yes. Presently, the APA Act limits transfer of development rights to exchanges only between adjacent lands within the same APA classified land use areas.

How will this bill change existing practice related to the transfer of development rights?

This bill will establish the flexibility to transfer development rights from more restrictive land classifications to less restrictive land use areas. In addition, the bill will eliminate the existing requirement that limits the transfer of development rights between only parcels that are adjacent to allow for transfers between non-adjacent lands within the same municipality.

For example, the bill will authorize the transfer of development rights from a Resource Management parcel to a non-adjacent Moderate Intensity Use parcel. This will concentrate development in the Moderate Intensity land use area where residential development is encouraged, while reducing development in Resource Management lands where open space protection is a key statutory consideration.

What are the benefits of transferring development rights?

Landowners will have the option to convey or trade potential building rights from lands that are more environmentally sensitive and encumbered with significant building constraints to land use areas which are capable of withstanding a higher degree of development.

The transfer of development rights proposal would increase protection for critical environmental areas, wildlife connectivity, water resources, open space resources, forestry use, agricultural use and recreational opportunities.

Landowners will have an economic incentive to transfer development rights to areas of the Park that are in closer proximity to existing development and public infrastructure. This will reduce municipal operational costs associated with public services such as road construction, storm water maintenance, and emergency services.

Would APA have a role in the review of transfer of development rights?

Yes. The bill will authorize the transfer of development rights ONLY pursuant to an APA permit. Consistent with other requirements of the APA Act, APA will review all transfer of development right projects to determine if the proposal is fully compliant with the APA's environmental requirements set forth in its statutes and regulations.

Landowners could not transfer development rights without APA approval.

Transfer of development rights would not be eligible for any lands within one-quarter mile from any lake, pond or navigable river or stream.

Transfer of development rights would only be eligible within the municipality wherein the parcel exists.

Why is APA proposing to amend the process to record APA permits in local county clerk's Office?

Currently, the APA Act renders a permit null and void if a permittee fails to file their permit with the local County Clerk's Office within 60 days from the date the permit was issued. Under this provision, the mere failure to properly file the permit can result in a permit becoming null and void - and the resulting development illegal - even if the permittee fully complied with the permit terms and conditions. Permit compliance - not whether a permit is properly filed - should be the priority.

Accordingly, this bill will amend the APA Act to specify that projects may not be undertaken until the permit is filed. The bill will make the non-filing of the permit a technical violation that APA will manage administratively.

The bill also clarifies that permit conditions are enforceable against the permit holder and successors regardless of whether the permit has been filed with the County Clerk's Office.

APA will continue to follow its additional statutory mandate of establishing a time frame during which a project must be undertaken and "in existence," which thereby eliminates the possibility that permit conditions could become outdated.

What specific sections of the APA Act does this Bill propose to amend?

- Amends S 809 (2)(b)and(d) to clarify the deadline for publishing major project notices in the Environmental Notice Bulletin;
- Amends S 809(3)(b),(c),(d) and (e) to clarify language contained in these provisions;

- Amends S 809 (6)(c) to clarify procedures relating to permit renewal, re-issuance or modification;
- Amends S 809 (7) (a) to modify provisions relating to the requirement that permits must be recorded in the local county clerk's office;
- Amends S 809 (8)(b) to modify and clarify the procedures for Agency review of requests for renewal, reissuance or modification of an existing APA permit;
- Amend S 809 (10)(c) to modify provisions relating to application of the APA Act's intensity guidelines to allow greater opportunity for transfer of development rights.

Who should I contact for more information regarding this Bill?

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