



M E M O R A N D U M

TO: Jim Townsend, Counsel
FROM: Sarah Reynolds, Associate Counsel
DATE: March 15, 2013
RE: APA Legislative Proposal 01-13

The Adirondack Park Agency's current legislative proposal provides for the same changes to the Adirondack Park Agency Act (Executive Law, Article 27) as Bill S6718, which passed in the Senate during this past year's legislative session. The proposed bill modifies and clarifies procedural requirements relating to the project application process established in EL §809, and provides greater opportunity for transferring development rights.

1. Specific provisions:

Section 1 of the bill:

Amends EL §809(2)(b) and (d) to clarify the deadline for publishing major project notices in the Environmental Notice Bulletin and other language contained in these provisions;

Section 2 of the bill:

Amends EL §809(3)(b), (c), (d) and (e) to clarify language contained in these provisions;

Section 3 of the bill:

Amends EL §809(6)(c) to clarify procedures relating to permit renewal, re-issuance or modification;

Section 4 of the bill:

Amends EL §809(7)(a) to modify provisions relating to the requirement that permits must be recorded in the local county clerk's office;

Section 5 of the bill:

Amends EL §809(8)(b) to modify and clarify the procedures for Agency review of requests for renewal, reissuance, or modification of existing Agency permits;

Section 6 of the bill:

Amends EL §809(10)(c) to modify provisions relating to application of the Act's intensity guidelines to allow greater opportunity for transfer of development rights;

Section 7 of the bill:

Provides that the bill will be effective immediately.

2. Existing law:

EL §809 establishes the procedural and substantive requirements that govern review of projects jurisdictional to the Agency under the Adirondack Park Land Use and Development Plan. EL §809 also establishes procedures for the renewal, reissuance, or modification of existing permits.

EL §809(7)(a) has permits "expiring" if not filed in the local county clerk's office within 60 days of issuance. There are many permits that were issued long ago, and were never filed but have been undertaken and are being adhered to.

EL §809(10) establishes five findings that the Agency must make before approving a project application.¹ The third of these findings, listed under §809(10)(c), requires that the project "be consistent with the overall intensity guidelines for the land use area involved." The overall intensity guidelines are defined in §805(3), and require an average for each approved project of:

1.3 acres per principal building in Moderate Intensity Use
3.2 acres per principal building in Low Intensity Use

¹ Other provisions apply for projects proposed within the eighteen municipalities that administer an Agency-approved local land use program.

8.5 acres per principal building in Rural Use
42.7 acres per principal building in Resource Management

EL §809(10)(c) currently allows lands to be added together for determining the number of potential principal buildings where the lands are: 1) "directly contiguous;" and 2) in the same tax, special levy, or assessment district. Generally, the Agency has read these requirements to mean that the lands must be touching and located in the same land use area.

3. Summary of Changes:

The amendments to EL §§809(2)(b) and (d) and (3)(b), (c), (d), and (e) clarify language regarding public notice, the application of review timeframes, and related provisions.

The amendments to EL §809(6)(c) make clear that when the Agency determines that a request for renewal, reissuance, or modification of an existing permit would constitute a material change, the request must be treated by the Agency as a new application with new time periods. This will ensure that these requests receive full review commensurate with the materiality of the requested changes.

The amendments to EL §809(7)(a) eliminate the provision by which issued permits automatically expire if not recorded within 60 days in the county clerk's office in favor of a statutory condition that a project may not be undertaken until the permit has been filed. The bill also makes clear that permit conditions are enforceable against a permit holder and successors, regardless of whether the permit has been filed, to avoid confusion regarding the legal status of an undertaken project subject to an unrecorded permit.

The amendments to EL §809(8)(b) modify and clarify the process for Agency review of requests for renewal, reissuance, or modification of existing permits. Non-material modification requests are decided within fifteen days of receipt of sufficient information for the decision. Material modification requests require the submittal of a new application.

The amendments to EL §809(10)(c) would allow for the construction of a principal building even where the lands being developed do not contain sufficient acreage, subject to two conditions:

- 1) a development right must be extinguished on other lands within the same municipality and in either the same or a more restrictive land use area; and
- 2) the authorized principal building must be constructed more than one-quarter mile from any lake, pond, or navigable river or stream.

Lands are designated on the Adirondack Park Land Use and Development Plan Map pursuant to their existing services and development patterns, suitability for new development, and other factors. The bill will facilitate "smart growth" by allowing the lands designated as being most suitable to be further developed, using existing infrastructure and consolidating new roads, driveways, and wastewater treatment. At the same time, the bill will encourage protection of the more restricted land use areas from the landscape fragmentation that can result from the current overall intensity guideline system.

Importantly, the transfer of development rights could ONLY occur pursuant to an Agency permit. This means that the Agency would also need to make the four other required findings from §809(10), which are generally environmentally-oriented, before a transfer could be authorized. Landowners cannot transfer their development rights under the APA Act without Agency approval.

Example:

A landowner with 17 acres of Rural Use lands, mainly containing wetlands and steep slopes, could transfer two "development rights" to another landowner in the same Town for construction of a 3-unit townhouse/apartment building in a flat, non-shoreline Moderate Intensity Use area with good soils and municipal septic, just outside of an existing Hamlet. The 17 acres in Rural Use would be restricted against any future principal building.

An Agency permit would be required for this undertaking², and would contain conditions ensuring against undue adverse environmental impacts.

² In this example, a permit would be required for the subdivision into sites of Moderate Intensity Use lands resulting in the creation of a non-shoreline lot smaller than .92 acres (EL §810(2)(a)(2)(b)) and for the construction of a multiple family dwelling in Moderate Intensity Use (EL §810(2)(a)(3)).



**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?

Keith P. McKeever
Public Information Officer
Adirondack Park Agency, (518) 891-4050

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship of this proposal

S. _____
Senate

s20 Adams	s17 Felder	s63 Kennedy	s25 Montgomery	s23 Savino
s15 Addabbo	s02 Flanagan	s34 Klein	s54 Nozzolio	s29 Serrano
s11 Avella	s06 Fuschillo	s28 Krueger	s55 O'Brien	s51 Seward
s40 Ball	s59 Gullivan	s24 Lantz	s58 O'Mara	s09 Skelos
s42 Bonacic	s12 Gianaris	s39 Larkin	s21 Parker	s14 Smith
s04 Boyle	s41 Gipson	s37 Latimer	s13 Peralta	s26 Squadron
s44 Breslin	s22 Golden	s01 LaValle	s30 Perkins	s16 Staviskey
s38 Carlucci	s47 Griffo	s52 Libous	s61 Ranzenhofer	s35 Stewart-Cousins
s50 DeFrancisco	s60 Grisanti	s45 Little	s48 Ritchie	
s32 Diaz	s06 Hannon	s05 Marcellino	s33 Rivera	s46 Tkaczyk
s18 Dilan	s36 Hassell	s43 Marchione	s56 Robach	s53 Valesky
s31 Espaillet	Thompson	s07 Martins	s19 Sampson	s57 Young
s49 Farley	s27 Hoylman	s62 Maziarz	s10 Sanders	s03 Zeldin

IN SENATE--Introduced by Sen

--read twice and ordered printed, and when printed to be committed to the Committee on

----- A.
Assembly

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the multi-sponsorship of this proposal:

IN ASSEMBLY--Introduced by M. of A.

a049 Abbate	a034 DenDekker	a097 Jaffee	a136 Morelle	a111 Santabarbara
a092 Abinanti	a081 Dinowitz	a135 Johns	a057 Mosley	a029 Scarborough
a084 Arroyo	a147 DiPietro	a113 Jordan	a039 Moya	a016 Schimel
a035 Aubry	a115 Duprey	a094 Katz	a133 Nojey	a140 Schimminger
a120 Barclay	a004 Englebright	a074 Kavanagh	a037 Nolan	a067 Sepulveda
a106 Barrett	a054 Espinal	a142 Kearns	a130 Oaks	a065 Silver
a060 Barron	a109 Fahy	a076 Kellner	a069 O'Donnell	a027 Simanowitz
a082 Benedetto	a071 Farrelli	a040 Kim	a051 Ortiz	a036 Simotas
a117 Blankenbush	a126 Finch	a131 Kolb	a091 Otis	a104 Skartados
a062 Borelli	a008 Fitzpatrick	a105 Lalor	a132 Palmesano	a099 Skoufis
a055 Boyland	a124 Friend	a013 Lavine	a086 Paulin	a022 Solages
a026 Braunstein	a143 Gabryszak	a050 Lentol	a141 Peoples-Stokes	a114 Stec
a044 Brennan	a095 Galef	a125 Lifton		a110 Steck
a119 Brindisi	a137 Gantt	a102 Lopez, P.	a058 Ferry	a079 Stevenson
a138 Bronson	a007 Garbarino	a053 Lopez, V.	a089 Pretlow	a127 Stirpe
a046 Brook-Krasny	a077 Gibson	a002 Losquadro	a073 Quart	a011 Sweeney
a093 Buchwald	a148 Giglio	a123 Lupardo	a019 Ra	a112 Tedisco
a118 Butler	a080 Gjonaj	a010 Lupinacci	a098 Rabbitt	a101 Tenney
a103 Cahill	a066 Glick	a121 Magee	a012 Raia	a001 Thiele
a043 Camara	a023 Goldfeder	a129 Magnarelli	a006 Ramos	a061 Titone
a086 Castro	a150 Goodell	a059 Maisel	a134 Reilich	a031 Titus
a145 Caretto	a075 Gottfried	a064 Malliotakis	a078 Rivera	a146 Walter
a033 Clark	a005 Graf	a030 Markey	a128 Roberts	a041 Weinstein
a047 Colton	a100 Gunther	a090 Mayer	a056 Robinson	a020 Weisenberg
a032 Cook	a139 Hawley	a108 McDonald	a068 Rodriguez	a024 Weprin
a144 Corwin	a083 Heastie	a014 McDonough	a072 Rosa	a070 Wright
a085 Crespo	a003 Hennessey	a017 McKeVitt	a067 Rosenthal	a096 Zebrowski
a122 Crouch	a028 Hevesi	a107 McLaughlin	a025 Rozic	
a021 Curran	a048 Mikind	a038 Miller	a116 Russell	
a063 Cusick	a018 Hooper	a052 Millman	a149 Ryan	
a045 Cymbrowitz	a042 Jacobs	a015 Montesano	a009 Saladino	

with M. of A. as co-sponsors

--read once and referred to the Committee on

EXECLA *Adirondack Park Agency 1*
(Relates to applications for minor and major projects before the Adirondack park agency)

Exec. #91 APA 01-13

AN ACT

to amend the executive law, in relation to applications for minor and major projects before the Adirondack park agency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1) Single House Bill (introduced and printed separately in either or both houses). Uni-Bill (introduced simultaneously in both houses and printed as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed copies of bill and 4 copies of memorandum in support (single house); or 4 signed copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Paragraphs b and d of subdivision 2 of section 809 of the
2 executive law, as amended by chapter 428 of the laws of 1979, are
3 amended to read as follows:

4 b. [On or before fifteen calendar days after the receipt of such
5 application] Within fifteen days of the receipt of an application, the
6 agency shall [notify] mail written notice to the project sponsor by
7 certified mail determining whether or not the application is complete.
8 For the purposes of this section, a "complete application" shall mean an
9 application for a permit which is in an approved form and is determined
10 by the agency to be complete for the purpose of commencing review of the
11 application but which may need to be supplemented during the course of
12 review as to matters contained in the application in order to enable the
13 agency to make the findings and determinations required by this section.
14 If the agency fails to mail such notice within such fifteen-day period,
15 the application shall be deemed complete. If the agency determines the
16 application is not complete, the notice shall include a concise state-
17 ment of the respects in which the application is incomplete, and a
18 request for additional information. [The submission by the project spon-
19 sor of the requested additional information shall commence a new fifteen
20 calendar day period for agency review of the additional information for
21 the purposes of determining completeness. If the agency determines the
22 application is complete, the notice shall so state.] Within fifteen days
23 of the receipt of the requested additional information, the agency shall
24 mail written notice to the project sponsor by certified mail determining
25 whether or not the application is complete.

26 A notice of application completion shall not be required in the case
27 of applications for minor projects which the agency determines to be

1 complete when filed. Such applications shall be deemed complete for the
2 purposes of this section upon the date of receipt.

3 d. [Immediately upon] Upon determining that an application is
4 complete, the agency shall, except in relation to minor projects, cause
5 a notice of application completion to be published in the next available
6 environmental notice bulletin published by the department of environ-
7 mental conservation pursuant to section 3-0306 of the environmental
8 conservation law[, which publication shall be not later than ten calen-
9 dar days after the date of such notice]. The time period for public
10 comment on a permit application shall be stated in the notice of appli-
11 cation completion. The agency shall at the same time mail a copy of the
12 notice of application completion to the Adirondack park local government
13 review board and to the persons named in paragraph a of this subdivision
14 [two of this section], and invite their comments.

15 § 2. Paragraphs b, c, d and e of subdivision 3 of section 809 of the
16 executive law, as amended by chapter 428 of the laws of 1979, are
17 amended to read as follows:

18 b. In the case of an application for a permit for which no public
19 hearing has been held, the agency shall mail its decision [shall be
20 mailed on or before] within ninety [calendar] days or, in the case of a
21 minor project, within forty-five [calendar] days[, after] of (i) the
22 date the agency [notifies] mails the project sponsor [that the applica-
23 tion is complete] the notice of application completion or [after] (ii)
24 the date the application is deemed complete pursuant to the provisions
25 of this [section] subdivision.

26 c. In the case of an application for a permit for which a public hear-
27 ing has been held, the agency shall mail its decision [shall be mailed
28 on or before] within sixty [calendar] days [after] of receipt by the

1 agency of a complete record, as that term is defined in paragraphs (a)
2 through (e) of subdivision one of section three hundred two of the state
3 administrative procedure act.

4 d. If the agency determines to hold a public hearing on an application
5 for a permit, the agency shall [notify] mail written notice to the
6 project sponsor of its determination by certified mail [on or before
7 sixty calendar] within sixty days or, in the case of a minor project,
8 within forty-five [calendar] days [after] of (i) the date the agency
9 [notifies] mails the project sponsor [that] the notice of application
10 [is complete] completion or [after] (ii) the date the application is
11 deemed complete pursuant to the provisions of this [section]
12 subdivision. The determination of whether or not to hold a public hear-
13 ing on an application shall be based on whether the agency's evaluation
14 or comments of the review board, local officials or the public on a
15 project raise substantive and significant issues relating to any find-
16 ings or determinations the agency is required to make pursuant to this
17 section, including the reasonable likelihood that the project will be
18 disapproved or can be approved only with major modifications because the
19 project as proposed may not meet statutory or regulatory criteria or
20 standards. The agency shall also consider the general level of public
21 interest in a project. No project may be disapproved without a public
22 hearing first being held thereon.

23 e. If the agency has notified the project sponsor of its determination
24 to hold a public hearing, the sponsor shall not undertake the project
25 during the time period specified in paragraph c of this subdivision. The
26 notice of determination to hold a public hearing shall state that the
27 project sponsor has the opportunity within fifteen days to withdraw his
28 application or submit a new application. A public hearing shall commence

1 [on or before ninety calendar] within ninety days, or in the case of a
2 minor project, within seventy-five days, [after] of the date the agency
3 [notifies] mails notice to the project sponsor [that the application is
4 complete or after the application is deemed complete pursuant to the
5 provisions of this section] of its determination to hold a public hear-
6 ing. In addition to notice of such hearing being mailed to the project
7 sponsor, such notice shall also be given by publication at least once in
8 the environmental notice bulletin and in a newspaper having general
9 circulation in each local government wherein the project is proposed to
10 be located, by conspicuous posting of the land involved, and by individ-
11 ual notice served by certified mail upon each owner of record of the
12 land involved, and by mail upon: the Adirondack park local government
13 review board, the persons named in paragraph a of subdivision two of
14 this section, any adjoining landowner, to the extent reasonably discern-
15 ible from the latest completed tax assessment roll, and the clerk of any
16 local government within five hundred feet of the land involved. Public
17 hearings held pursuant to this section shall be consolidated or held
18 jointly with other state or local agencies whenever practicable.

19 § 3. Paragraph c of subdivision 6 of section 809 of the executive law,
20 as amended by chapter 428 of the laws of 1979, is amended to read as
21 follows:

22 c. At any time during the review of an application for a permit or a
23 request by a permit holder for the renewal, reissuance, or modification
24 of an existing permit pursuant to subdivision eight of this section, the
25 agency may request additional information from the project sponsor or
26 permit holder with regard to any matter contained in the application or
27 request when such additional information is necessary for the agency to
28 make any findings or determinations required by law. Such a request

1 shall not extend any time period for agency action contained in this
2 section, unless the agency determines that such renewal, reissuance, or
3 modification would constitute a material change, in which case at the
4 agency's discretion such renewal, reissuance, or modification shall be
5 treated as a new application with new time periods. Failure by the
6 project sponsor or permit holder to provide such information may be
7 grounds for denial by the agency of the application or request.

8 § 4. Paragraph a of subdivision 7 of section 809 of the executive law,
9 as separately amended by chapters 428 and 578 of the laws of 1979, is
10 amended to read as follows:

11 a. A project authorized by a permit or certificate issued by the agen-
12 cy pursuant to subdivision five or six of this section shall [expire
13 within sixty days from the date thereof unless within such sixty-day
14 period such permit or certificate] not be undertaken unless and until it
15 shall have been duly recorded in the name of the landowner in the office
16 of the clerk of the county wherein the project is proposed to be
17 located. Where a permit or certificate involves action in concert by two
18 or more landowners as described by paragraph c of subdivision ten of
19 this section, the permit or certificate shall be recorded in the name of
20 each landowner. Any such permit or certificate, whether or not
21 recorded, shall be effective and shall be enforceable against any person
22 undertaking the project permitted and subsequent landowners.

23 § 5. Paragraph b of subdivision 8 of section 809 of the executive law,
24 as added by chapter 428 of the laws of 1979, is amended to read as
25 follows:

26 b. A permit holder may make written request to the agency for the
27 renewal, reissuance, or modification of an existing permit. Such a

1 request shall be accompanied by sufficient information supporting the
2 request for the agency action sought.

3 (1) Upon receipt of sufficient information, the agency shall mail
4 written notice to the project sponsor that sufficient information has
5 been provided.

6 (2) In the case of a request to the agency for a modification to the
7 permit which does not involve a material change in permit conditions, or
8 the project, the applicable law, environmental conditions or technology
9 since the date of issuance of the existing permit, the agency shall [on
10 or before] within fifteen [calendar] days [after the receipt of a
11 request] of the date of the notice provided pursuant to subparagraph one
12 of this paragraph mail a written determination to the permit holder of
13 its decision [on] to grant or deny the request. If the decision is to
14 deny the request, the permit holder shall be afforded an opportunity for
15 hearing and notice of such decision shall be given by the agency in the
16 next available issue of the environmental notice bulletin.

17 [(2)] (3) In the case of a request which may involve a material change
18 as described in subparagraph [one] two of this paragraph, the agency
19 shall [on or before] within fifteen [calendar] days [after the receipt
20 of a request] of the date of the notice provided pursuant to subpara-
21 graph one of this paragraph mail a written determination to the permit
22 holder that the request shall be treated as an application for a new
23 permit.

24 If pursuant to subparagraph [one] two or [two] three of this para-
25 graph, the agency fails to mail a written determination to the permit
26 holder within such fifteen [calendar] day period, the provisions of
27 subdivision six of this section shall apply.

1 § 6. Paragraph c of subdivision 10 of section 809 of the executive
2 law, as amended by chapter 578 of the laws of 1979, is amended to read
3 as follows:

4 c. The project would be consistent with the overall intensity [guide-
5 line] guidelines for the land [use area involved] included in the
6 project. A landowner shall not be allowed to construct[, either directly
7 or as a result of a proposed subdivision,] more principal buildings on
8 the land included within the project than the overall intensity [guide-
9 line] guidelines for [the given land use area in which the project is
10 located] such land. [In determining the] The land area upon which the
11 intensity guideline is calculated [and which is included within a
12 project, the landowner shall only include land under his ownership and
13 may include all adjacent land which he owns within that land use area
14 irrespective of such dividing lines as lot lines, roads, rights of way,
15 or streams and, in the absence of local land use programs governing the
16 intensity of land use and development, irrespective of local government
17 boundaries] may include all land within the project in the given land
18 use area irrespective of such dividing lines as lot lines, roads, rights
19 of way, or streams and, in the absence of local land use programs
20 governing the intensity of land use and development, irrespective of
21 local government boundaries. Principal buildings proposed as part of the
22 project shall not be counted in applying the intensity guidelines
23 provided that: (1) each such principal building shall correspond to a
24 permanent reduction by one principal building of the lawfully available
25 development intensity of lands, whether or not they are lands included
26 in the project, that are in the same or any more restrictive land use
27 area and within the same local government boundary; and (2) no such
28 proposed principal building shall be located within one-quarter mile of

1 any lake, pond, navigable river or stream. Principal buildings in exist-
2 ence within the [area included within a project, as such area is defined
3 by the landowner,] land ownership proposed for the project shall be
4 counted in applying the intensity guidelines. [As between two or more
5 separate landowners in a given land use area the principal buildings on
6 one landowner's property shall not be counted in applying the intensity
7 guidelines to another landowner's project, except that two or more land-
8 owners whose lands are directly contiguous and located in the same
9 general tax district or special levy or assessment district may, when
10 acting, in concert in submitting a project, aggregate such lands for
11 purposes of applying the intensity guidelines to their lands thus aggre-
12 gated.] The area upon which the intensity guideline is calculated shall
13 not include (a) bodies of water, such as lakes and ponds, (b) any land
14 in the same ownership that is directly related to any principal building
15 in existence on August first, nineteen hundred seventy-three, which land
16 is not included in the project, and (c), in the case of any principal
17 building constructed after August first, nineteen hundred seventy-three,
18 any land in the same or any other ownership that was included within the
19 area of any previous project in order to comply with the overall inten-
20 sity guideline.

21 § 7. This act shall take effect immediately and shall apply to all
22 applications received after it shall have become a law.