




# Adirondack Park Agency

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Chairwoman

TERRY MARTINO  
Executive Director

## MEMORANDUM

TO: Kathy Regan

FROM: Robyn Burgess 

DATE: September 2, 2015

RE: Town of Willsboro Local Land Use Program Amendment

The Town of Willsboro seeks Agency review and approval to amend its local land use program. The Town proposes to update the Town of Willsboro Zoning Law.

The Town of Willsboro has administered an Agency-approved Local Land Use Program since 1996. The Town zoning law was last amended in 2005 and the proposed program amendment is a rewrite of the entire code.

### Proposed Changes

The Town of Willsboro proposes a re-write of their existing zoning ordinance following adoption of the Town's updated Comprehensive Plan in September 2012. The full text of the law, dated August 20, 2015 is attached for reference. The Town also proposes a new zoning map which has been developed using GIS in order to better depict the zoning districts. In addition to better representing the location of the districts, there has been some minor shifting of zoning district boundaries and the addition of overlay districts which are discussed below. The proposed map, as well as a comparison of the existing and proposed town zoning with the APA's land use areas has also been attached for reference.

Willsboro submitted the proposed amendment to the Agency for review and approval pursuant to APA Act §807, by Town Resolution on July 8, 2015 and received by the Agency on July 27, 2015. A copy of the resolution is also attached.

### Staff Review and Comment

Agency staff began working with the Town of Willsboro on its revised zoning code in 2012 following the adoption of the Town's revised Comprehensive Plan. The proposed Town zoning law builds upon the foundation of the Town's existing zoning code which was approved by the Agency in 1980, became effective as part of the Town's Agency-approved local land use program in 1996 and was last amended in 2005.

The Town proposed zoning code adds several new definitions, including terms that are defined by the Agency but were not previously defined in the Town code. Willsboro's existing code does not have definitions for docks, accessory structures or retaining walls. The new code proposes to adopt the Agency's definitions for these terms. The lack of these definitions in the code had previously necessitated interpretations by the zoning officer as to how certain structures should be addressed with regard to shoreline setbacks. The Town had worked closely with Agency staff in the past to ensure appropriate application of the shoreline restrictions as required by the Act and the Town's approved program. Currently, the Town Zoning Code and the Agency regulations definitions prescribe different methods of measuring floor space, which could lead to conflicting jurisdictional determinations. The proposed zoning code aligns the Town method of measurement to comport with the Agency's regulations.

In addition to new definitions, the Town has chosen to better align its zoning law with New York State Uniform Fire Prevention and Building Code through the use of the current terminology for "mobile home" which is "manufactured home". The New York State building code reserves the term "mobile home" for factory constructed structures built prior to June 15, 1976 and uses the term "manufactured home" for post 1976 factory built structures. The Town code definition adds that a "mobile home" is a type of "manufactured home" in recognition of the Agency's use of the term "mobile home". It should also be noted that the NYS Building Code and the Town code defines "modular home" which is a third type of non-'stick-built' residential dwelling. These types of structures are considered "single family dwellings" under the APA Act and are noted as such in the Town code. This situation illustrates the complexity in trying to address the needs and requirements of the APA Act, Town Law and NYS Building Code in a town zoning code.

The proposed code now includes a tabular list of the uses allowed in each district along with the dimensional requirements. The former code had the uses listed in paragraph format. This table makes it easier to determine which uses are allowed in each district. There are uses that have been added or deleted in every district to both better reflect the Town's defined terms and existing and desired uses in the district. The use table works together with the listings of Class A and B projects in the appendices to assure appropriate level of review for any proposed development within the Town.

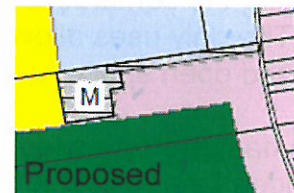
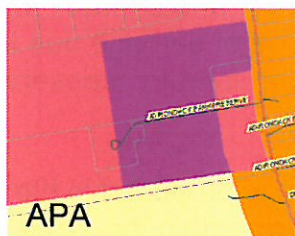
The Town has opted to increase its level of review on Class A projects. Previously the Town reserved the right to review Class A projects on a case by case basis, deferring review solely to the Agency. The Town now proposes to review all Class A projects in addition to the review conducted by the Agency. This adds a level of review for Class A projects which may or may have not been exercised in the past, however this will allow for equal treatment under the Town code for all projects regardless of Class A status. The language regarding Agency consultation with the Town on Class A projects has also been revised to clarify that the Agency will consider any advisory recommendations from the Town regarding compliance with the Town's land use program, but the Agency is not precluded from acting on an application if no recommendation is received.

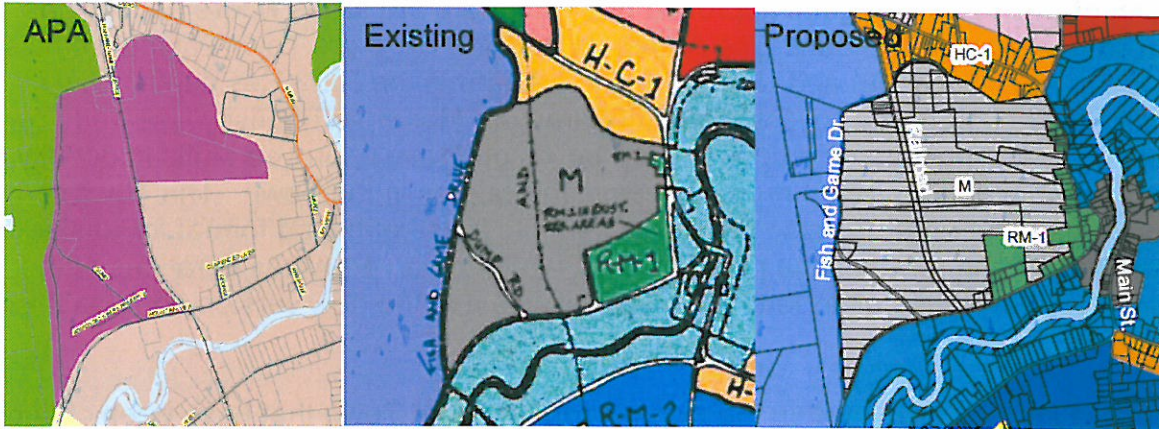
As part of the Town's original approved program there are areas where density has been shifted within APA Land Use Areas. In addition there are Town zoning districts that cover multiple APA Land Use Areas. For example the RL-3 Residential Low Density District currently covers areas that are both Moderate Intensity Use and Low Intensity Use. The current proposed map builds on those approved shifts in density and uses available data to better represent the use patterns in the Town. The Town's proposed zoning map has also been digitized into a parcel-based format for easier interpretation and reduces the number of split-lot parcels. Previous iterations of the zoning map were difficult to read at smaller scales and the new version corrects this issue.

There are several areas within the Hamlet portion of the Town that have been changed. In the Town's 1,263 acres of Hamlet, the Agency's jurisdiction is limited and there are no overall intensity guidelines. Because of this limitation, a Town has almost complete control over how it desires its Hamlet area to appear and function. The shifting of Town Zoning Districts within the Hamlet has not been evaluated by staff since by default any zoning in Hamlet is more restrictive than what the Agency would allow.

The Town has three Industrial Use areas which have been incorporated into the Town Zoning Districts as M-Industrial Zoning Districts. The location of these areas on the APA land use map had been determined in the past using the information available during the map's creation. Due to advances in technology, the Town is able to better determine and depict these areas for incorporation into their Zoning Map. Two of these areas have been refined to confine the M-Industrial District to the areas and parcels of actual industrial use and the third area has been shrunken to only cover the parcel where the historic industrial mining use exists.

The first M-Industrial change restricts the district to the specific industrial use parcel and its associated access road and is a smaller area than the APA's Industrial Use Area. The second M-Industrial change represents a parcel specific interpretation of the current M-Industrial zoning district and omits parcels that do not fit in with the district. This area encompasses both Industrial and Hamlet APA Land Use areas and the level of review for the uses allowed in the M-Industrial area are appropriate in Staff's opinion.





The Town's proposed code adds three new overlay districts to the zoning map: Stream Conservation Overlay, Lakefront Overlay and, Adult Use Overlay. These overlay districts recognize the need for balancing certain development with the preservation of the existing character and resources of the Town.

The Adult Overlay District allows the Town to determine which areas would be best suited to this type of use. Adult uses are protected by law and cannot be prohibited outright within a Town. Without specific definitions, an adult use would be considered a type of commercial use within the Town and allowable anywhere a commercial use would be allowed. Under the APA Act an "adult use" is a type of "commercial use" and therefore would be allowable anywhere with or without a permit (depending on land use area).

The Lakefront Overlay district extends 500-feet from the mean high water mark of all lakes within the Town. In this overlay district any use that is allowed in the underlying zoning district requires Site Plan Review. This allows the Town to have a greater level of review on projects affecting and involving the shoreline.

The Stream Conservation Overlay applies to properties along the Bouquet River and other permanent streams within the Town. This overlay is intended to limit development to protect the natural appearance and water quality of the river and streams and also, by prohibiting the construction of buildings, minimizes the risk of damage due to flooding. The only uses allowable in this area are agriculture, forestry, conservation practices and open space recreation.

The Town has also proposed additional standards for projects proposed in the newly created Ridge Line Areas, protecting the ridge line viewsheds within the Town. Any development proposed in the Ridge Line Area will require Site Plan Review and vegetative buffers. Any proposed structures in these areas must be placed so that the highest point of the structure is at least 50-feet below the top of the ridge. There are also limits on vegetative clearing in order to limit the visual impacts of development in these areas.

## **Conclusion**

Based on its review, Agency staff believe that the Town of Willsboro's proposed amendments to its Zoning Law comply with the standards for approval set forth in APA Act §807(2) and NYCRR §582.2(e). Accordingly, Agency staff recommend approval of the proposed amendment.

