

Adirondack Park Agency

FIFTEEN YEAR REVIEW OF RULES ADOPTED BY THE ADIRONDACK PARK  
AGENCY IN 2002 AND REQUIRED TO BE REVIEWED IN CALENDAR YEAR 2017

As required by section 207 of the State Administrative Procedure Act (SAPA), the following is a list of rules that were adopted by the Adirondack Park Agency in calendar year 2002 which must be reviewed in calendar year 2017. Public comment on the continuation or modification of these rules is invited and will be accepted until February 20, 2017. Comments may be directed to: Paul Van Cott, Associate Attorney, Legal Division, Adirondack Park Agency, P.O. Box 99, NYS Route 86, Ray Brook, NY 12977.

RULES ADOPTED IN 2002 AND EFFECTIVE ON May 1, 2002

Legal basis for these rules: Adirondack Park Agency Act, Executive Law, article 27; Wild, Scenic and Recreational Rivers System Act (ECL section 15-2709); Freshwater Wetlands Act (ECL section 24-0801)

(1) Amended former 9 NYCRR section 570.3(a)(1) to remove definition of “guest cottage” from the definition of “accessory structure.” The definition of “accessory structure” was deleted in 2005 as duplicative of the statutory definition.

Analysis of the need for the rule: This was a companion change to the addition of a new definition of “guest cottage” in 2002.

(2) Amended former 9 NYCRR section 570.3(b)(1) to delete the phrase “customarily incidental” from the definition of “accessory use.” The definition of “accessory use” was deleted in 2005 as duplicative of the statutory definition.

Analysis of the need for the rule: This was a companion change to the addition of a new definition of “customarily incidental” in 2002.

(3) Added 9 NYCRR section 573.8(a) to identify certain activities and uses which will be accessory to residential uses.

Analysis of the need for the rule: To codify existing practices and to provide clear guidance.

(4) Added a new definition for “bed and breakfast” as former 9 NYCRR section 570.3(e). This definition was renumbered to 9 NYCRR section 570.3(b) in 2005.

Analysis of the need for the rule: To clarify that a “bed and breakfast” is a tourist accommodation except when accessory to a residential use.

(5) Added 9 NYCRR section 573.8(b) to describe certain small “bed and breakfasts” as accessory to residential uses.

Analysis of the need for the rule: To avoid situations where certain small bed and breakfasts, comparable to other home occupations unregulated by the APA Act and which would cause little or no environmental impact, would require permits as tourist accommodations.

(6) Renumbered 9 NYCRR section 570.3(e) to former 9 NYCRR section 570.3(f) and amended definition of “boathouse.” This definition was renumbered to 9 NYCRR section 570.3(c) in 2005 and was further amended in 2010.

Analysis of the need for the rule: To define a term that is used, but not defined, in the APA Act.

(7) Amended 9 NYCRR section 575.4(c) to delete the definition of “boathouse” and to add a shoreline setback restriction for decks or porches associated with boathouses.

Analysis of the need for the rule: To clarify the APA Act shoreline restrictions as they apply to a “boathouse.”

(8) Added a new definition of “customarily incidental” as former 9 NYCRR section 570.3(n). This definition was renumbered to 9 NYCRR section 570.3(h) in 2005.

Analysis of the need for the rule: To define a term that is used, but not defined, in the APA Act.

(9) Added a definition of “dock” as former 9 NYCRR section 570.3(p). This definition was renumbered to 9 NYCRR section 570.3(j) in 2005 and was amended in 2010.

Analysis of the need for the rule: To define a term that is used, but not defined, in the APA Act.

(10) Renumbered former 9 NYCRR section 570.3(p) to former 9 NYCRR section 570.3(s) and deleted unnecessary language from the definition of “group camp.” The definition of “group camp” was deleted in 2005 as duplicative of the statutory definition.

Analysis of the need for the rule: To make the definition of “group camp” consistent with the APA Act.

(11) Added former 9 NYCRR section 570.3(t) to provide a definition of “guest cottage.” This definition was renumbered to 9 NYCRR section 570.3(l) in 2005.

Analysis of the need for the rule: To codify the Agency’s practice with respect to guest cottages.

(12) Added former 9 NYCRR section 570.3(ee) to provide a definition of “marina.” This definition was renumbered to 9 NYCRR section 570.3(u) in 2005.

Analysis of the need for the rule: To define a term that is used, but not defined, in the APA Act.

(13) Added former 9 NYCRR section 570.3(ff) to provide a definition of “material detrimental reliance.” This definition was renumbered to 9 NYCRR section 570.3(v) in 2005.

Analysis of the need for the rule: To define a term used in 9 NYCRR section 571.5(b).

(14) Added former 9 NYCRR section 570.3(vv) to provide a definition of “retaining wall.” This definition was renumbered to 9 NYCRR section 570.3(ae) in 2005.

Analysis of the need for the rule: To define a previously undefined term for purposes of the application of the shoreline restrictions.

(15) Added 9 NYCRR sections 575.4(e) and (f) to explain how retaining walls are to be measured under the shoreline restrictions and to allow an exception from the shoreline restrictions for certain small retaining walls.

Analysis of the need for the rule: To codify existing Agency practice and to provide clarity with respect to the application of the shoreline restrictions to retaining walls.

(16) Renumbered former 9 NYCRR section 570.3 (vv) to former 9 NYCRR section 570.3 (ccc) and deleted unnecessary language from the definition of “structure.” This definition was renumbered to 9 NYCRR section 570.3(ak) in 2005.

Analysis of the need for the rule: To make the definition of “structure” consistent with the APA Act.

(17) Amended 9 NYCRR section 574.8 to clarify the applicability of the conversion provision of APA Act section 811(1)(b) to certain structures.

Analysis of the need for the rule: To codify existing Agency practice and to provide clarity with respect to the conversion of certain structures under the APA Act.

(18) Amended 9 NYCRR section 577.2(u) to conform the definition of “structure” to the statutory definition in the Wild, Scenic, Recreational Rivers Act.

Analysis of the need for the rule: To make the definition of “structure” consistent with the Wild, Scenic, Recreational Rivers Act.

(19) Amended 9 NYCRR sections 577.6(b)(2) and (3) to conform the exemptions of the shoreline restrictions for certain structures with the Wild, Scenic and Recreational Rivers Act.

Analysis of the need for the rule: To make certain exemptions in 9 NYCRR part 577 consistent with the Wild, Scenic and Recreational Rivers Act.

(20) Amended 9 NYCRR section 575.1(b)(3) to provide a definition of “navigable.”

Analysis of the need for the rule: To define a term that is used, but not defined, in the APA Act.

(21) Amended 9 NYCRR section 580.4(9) in an attempt to clarify that there are certain persons who are automatically entitled to party status in adjudicatory hearings and that other persons must take additional procedural steps in order to intervene.

Analysis of the need for the rule: To clarify the regulations by making it easier to determine who is entitled to seek party status, and according to what procedural steps.

(22) Added 9 NYCRR section 573.8(c) to allow certain small waste disposal areas to be established without an Agency permit as an accessory use to residential structures.

Analysis of the need for the rule: To exempt from permitting certain small waste disposal areas associated with residential structures.