

STATE OF NEW YORK

---

5451

2017-2018 Regular Sessions

IN ASSEMBLY

February 9, 2017

---

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to  
the  
Committee on Environmental Conservation

AN ACT to amend the executive law, in relation to preserving  
ecological  
integrity, wildlife and open space in the Adirondack park

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

1 Section 1. Legislative findings and statement of purpose. When  
enacted  
2 in nineteen hundred seventy-three, the Adirondack park land use  
and  
3 development plan represented an historic application of  
natural  
4 resource-based land use control. For over forty years, the plan  
has  
5 sought to insure optimum overall conservation, protection,  
preservation,  
6 development and use of the unique scenic, aesthetic, wildlife,  
recre-  
7 ational, open space, historic, ecological and natural resources of  
this  
8 cherished area.  
9 Conservation science and land use planning techniques have  
advanced  
10 since the enactment of the plan. It is now recognized that the  
spatial  
11 pattern of development is fully, if not more, ecologically important  
as  
12 its overall density.

13 Subdivision of land into large residential lots, or rural  
sprawl,  
14 impairs ecosystem function, decreases biotic integrity, alters  
species  
15 behavior and composition, increases human-wildlife conflicts,  
fragments  
16 ownership, impairs cohesive land management, undermines the open  
space  
17 character of the park, and threatens its healthy timber industry.  
18 The purpose of this act is to strengthen the land use and  
development  
19 plan and its administration by incorporating modern conservation  
design  
20 principles therein and to curtail rural sprawl.  
21 § 2. Section 802 of the executive law is amended by adding four  
new  
22 subdivisions 17-b, 18-a, 52-a and 63-a to read as follows:  
23 17-b. "Conservation subdivision" means the subdivision of any tract  
of  
24 undeveloped or substantially undeveloped land into a residential  
subdi-  
25 vision of twenty-five or more lots, parcels or sites in low  
intensity

EXPLANATION--Matter in italics (underscored) is new; matter in  
brackets

[-] is old law to be omitted.

LBD09620-

01-7

A. 5451

2

1 use areas, ten or more lots, parcels or sites in rural use areas,  
and  
2 five or more lots, parcels or sites in resource management areas  
which:  
3 a. has been designed in accordance with an ecological preservation  
and  
4 forest stewardship plan prepared by qualified experts including, but  
not  
5 limited to experts in terrestrial and aquatic ecology, which is  
approved  
6 by the agency; and  
7 b. provides for the preservation by a deed restriction,  
restrictive  
8 covenant, conservation easement pursuant to title three of  
article  
9 forty-nine of the environmental conservation law or other  
permanent  
10 legal means of at least seventy-five percent of the tract in  
contiguous  
11 and intact open space not part of any residential lot, parcel or site  
in  
12 accordance with the plan.  
13 18-a. "Ecological preservation and forest stewardship plan"  
means a  
14 detailed plan for the design and development of a conservation  
subdivi-

15 sion which:  
16 a. has been prepared by qualified experts in the subject areas  
covered  
17 by the plan;  
18 b. is based on a thorough, specific and detailed study of the  
project  
19 site, performed prior to the preparation of site plans or other  
design  
20 of the project; and  
21 c. determines the size, configuration and allowable uses for  
conserva-  
22 tion, open space recreation and, if desired, forestry, of the area  
of  
23 the project site to be preserved by permanent legal means, taking  
into  
24 account, but not limited to, the following:  
25 (1) the terrestrial and aquatic wildlife inhabiting, breeding  
on,  
26 migrating across, traversing or otherwise using the project site;  
27 (2) corridors, including ridgelines and riparian zones,  
providing  
28 means by which wildlife may travel to adjacent or contiguous  
areas  
29 providing habitat, breeding or spawning areas, or meeting other  
needs;  
30 (3) vegetative buffers on the shorelines of lakes, ponds, rivers  
and  
31 streams, and protection and preservation of vernal pools and  
riparian  
32 areas;  
33 (4) the need to preserve large intact forest tracts for protection  
of  
34 wildlife habitat and biodiversity, especially for protection of  
species  
35 native to or otherwise requiring such tracts: for watershed  
preserva-  
36 tion, and for mitigation of climate change, while at the same  
time  
37 allowing sustainable forestry if desired;  
38 (5) the need to minimize the creation of edges between forested  
tracts  
39 and roads and other open areas;  
40 (6) the need to minimize roads and driveways;  
41 (7) the need to preserve other valuable ecological resources of  
the  
42 site, including but not limited to wetlands, floodplains, natural  
drain-  
43 age ways, snags and fallen woody debris, and steep areas; and  
44 (8) subdivision and spatial design which minimizes the area of  
the  
45 project subject to ecological disturbance through maximum overlap of  
the  
46 ecological impact zones of individual dwellings.  
47 52-a. "Project site" means the land included in a project upon  
which  
48 the applicable overall intensity guideline is calculated pursuant  
to

49 paragraph c of subdivision ten of section eight hundred nine of  
this  
50 article.  
51 63-a. "Substantially undeveloped land" means land in agricultural  
or  
52 forestry use, group camps, campgrounds and land used for  
similar  
53 purposes.

54 § 3. Paragraph a of subdivision 1 of section 805 of the executive  
law,  
55 as amended by chapter 348 of the laws of 1973, is amended to read  
as  
56 follows:  
A. 5451 3

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

5 § 4. Subparagraph 1 of paragraph e of subdivision 3 of section 805  
of  
6 the executive law, as amended by chapter 348 of the laws of 1973,  
is  
7 amended to read as follows:

8 (1) Character description. Low intensity use areas, delineated  
in  
9 orange on the plan map, are those readily accessible areas,  
normally  
10 within reasonable proximity to a hamlet, where the physical and  
biolog-  
11 ical resources are fairly tolerant and, residential subdivisions  
of  
12 twenty-five or more lots, parcels or sites which are designed as  
conser-  
13 vation subdivisions, can withstand development at an intensity

somewhat  
14 lower than found in hamlets and moderate intensity use areas.  
While  
15 these areas often exhibit wide variability in the land's capability  
to  
16 support development, they are generally areas with fairly deep  
soils,  
17 moderate slopes and no large acreages of critical biological  
importance.

18 Where these areas are adjacent to or near hamlets, clustering homes  
on  
19 the most developable portions of these areas makes possible a  
relatively  
20 high level of residential units and local services.

21 § 5. Subparagraph 2 of paragraph f of subdivision 3 of section 805  
of  
22 the executive law, as amended by chapter 348 of the laws of 1973,  
is  
23 amended to read as follows:

24 (2) Purposes, policies and objectives. The basic purpose and  
objective  
25 of rural use areas is to provide for and encourage those rural land  
uses  
26 that are consistent and compatible with the relatively low tolerance  
of  
27 the areas' natural resources and the preservation of the open  
spaces  
28 that are essential and basic to the unique character of the park.  
Anoth-  
29 er objective of rural use areas is to prevent strip development  
along  
30 major travel corridors in order to enhance the aesthetic and  
economic  
31 benefit derived from a park atmosphere along these corridors.  
32 Residential [~~development~~] subdivision of ten or more lots, parcels  
or  
33 sites, and related development and uses [~~should~~] shall occur [~~on~~  
~~large~~  
34 ~~lots-or~~] in relatively small clusters on carefully selected [~~and~~  
~~well~~  
35 ~~designed~~] sites determined through the application of  
conservation  
36 subdivision design. This will provide for both ecological  
preservation  
37 and further diversity in residential and related development  
opportu-  
38 nities in the park.  
39 § 6. Subparagraph 2 of paragraph g of subdivision 3 of section 805  
of  
40 the executive law, as amended by chapter 348 of the laws of 1973,  
is  
41 amended to read as follows:  
42 (2) Purposes, policies and objectives. The basic purposes and  
objec-  
43 tives of resource management areas are to protect the delicate  
physical  
44 and biological resources, encourage proper and economic management  
of  
45 forest, agricultural and recreational resources and preserve the  
open  
46 spaces that are essential and basic to the unique character of the  
park.  
47 Another objective of these areas is to prevent strip development  
along  
48 major travel corridors in order to enhance the aesthetic and  
economic  
49 benefits derived from a park atmosphere along these corridors.  
50 Finally, resource management areas will allow for residential  
[~~devel-~~  
51 ~~opment-on-substantial-acreages-or~~] subdivision of five or more  
lots,  
52 parcels or sites only in small clusters on carefully selected [~~and~~  
~~well~~  
53 ~~designed~~] sites determined through the application of  
conservation  
54 design principles.

1 § 7. Paragraph b of subdivision 10 of section 809 of the  
executive  
2 law, as added by chapter 348 of the laws of 1973, is amended to read  
as

3 follows:

4 b. The project would be compatible with the character description  
and  
5 purposes, policies and objectives of the land use area wherein it  
is  
6 proposed to be located. If the project is on the classification  
of  
7 compatible uses list for the land use area involved, there shall be  
a  
8 presumption of compatibility with the character description,  
purposes,

9 policies and objectives of such land use area. Provided, however,  
if

10 the project is a residential subdivision of (1) twenty-five or  
more

11 lots, parcels or sites in a low intensity use area, (2) ten or  
more

12 lots, parcels or sites in a rural use area, or (3) five or more  
lots,

13 parcels or sites in a resource management area, it may not be  
presumed

14 compatible unless it is a conservation subdivision. If the project  
is a

15 class B regional project because, as provided in section eight  
hundred

16 ten, it is not listed as either a primary use or a secondary use on  
the

17 classification of compatible uses list for the land use area wherein  
it

18 is proposed to be located, there shall be a presumption that  
such

19 project would not be compatible with the character  
description,

20 purposes, policies and objectives of such land use area and the  
burden

21 shall be on the project sponsor to demonstrate such compatibility to  
the

22 satisfaction of the agency.

23 § 8. Subdivision 14 of section 809 of the executive law is amended  
by

24 adding a new paragraph d to read as follows:

25 d. Procedures governing the design of conservation  
subdivisions,

26 defined in subdivision seventeen-b of section eight hundred two of  
this

27 article, and the preparation of ecological preservation and  
forest

28 stewardship plans, defined in subdivision eighteen-a of section  
eight

29 hundred two of this article, including but not limited to: (1) the  
types

30 of expertise to be required of those preparing such plans; (2)  
the  
31 scope, content and level of detail to be required in the project  
site  
32 study upon which such plans are to be based; (3) the uses to be  
allowed  
33 in the open space portion of such subdivisions, and (4) if  
sustainable  
34 forestry is to be practiced in such open space portion, the  
scope,  
35 content and level of detail to be required in a forest management  
plan.

36 § 9. Subparagraph 3 of paragraph d of subdivision 1 of section 810  
of  
37 the executive law, as added by chapter 348 of the laws of 1973,  
is  
38 amended to read as follows:

39 (3) All land uses and development and all subdivisions of land  
involv-  
40 ing ~~twenty~~ twenty-five or more residential lots, parcels or sites  
or  
41 residential units, whether designed for permanent, seasonal or  
transient  
42 use.

43 § 10. Subparagraph 3 of paragraph c of subdivision 1 of section 810  
of  
44 the executive law, as added by chapter 348 of the laws of 1973,  
is  
45 amended to read as follows:

46 (3) All land uses and development and all subdivisions of land  
involv-  
47 ing ~~thirty-five~~ twenty-five or more residential lots, parcels or  
sites  
48 or residential units, whether designed for permanent, seasonal or  
tran-  
49 sient use.

50 § 11. Subparagraph 1 of paragraph b and subparagraph 1 of  
paragraph c  
51 of subdivision 2 of section 810 of the executive law, as added by  
chap-  
52 ter 348 of the laws of 1973, are amended to read as follows:

53 (1) Subdivisions of land (and all land uses and development  
related  
54 thereto) involving ten or more but less than ~~thirty-five~~ twenty-  
five  
55 lots, parcels or sites, other than subdivisions of land involving  
mobile  
56 homes.

A. 5451

5

1 (1) Subdivisions of land (and all land uses and development  
related  
2 thereto) involving five or more but less than ~~twenty~~ ten lots,  
parcels  
3 or sites, other than subdivisions of land involving mobile homes.

4 § 12. Nothing in this act shall be deemed to prevent the  
Adirondack

5 park agency from requiring any subdivision requiring a permit from  
it  
6 pursuant to section 810 of the executive law, but not meeting the  
defi-  
7 nition of conservation subdivision, as defined in subdivision 17-b  
of  
8 section 802 of the executive law, to be designed and developed  
in  
9 accordance with an ecological preservation and forest stewardship  
plan,  
10 as defined in subdivision 18-a of section 802 of the executive law,  
and  
11 to provide for the preservation of a portion of the tract in  
contiguous  
12 and intact open space by a conservation easement pursuant to title 3  
of  
13 article 49 of the environmental conservation law or other  
permanent  
14 legal means of protection.

15 § 13. The Adirondack park agency shall, within 180 days of the  
effec-  
16 tive date of this act, promulgate the rules and regulations referred  
to  
17 in paragraph d of subdivision 14 of section 809 of the executive law,  
as  
18 added by section eight of this act.

19 § 14. Nothing in this act shall be construed to authorize the  
Adiron-  
20 dack park agency to require that any interest in land comprising part  
of  
21 a conservation subdivision be conveyed to a public body or any  
other  
22 legal entity.

23 § 15. This act shall take effect on the one hundred eightieth  
day  
24 after it shall have become a law, and shall apply to  
applications  
25 received by the Adirondack park agency after that date, and to any  
resi-  
26 dential subdivisions which have received a permit from such agency  
but  
27 which are not then "in existence" as defined in subdivision 25  
of  
28 section 802 of the executive law.