



## **GIFT EXEMPTION**

**This is a supplement to the Citizen's Guide, which provides basic information about Adirondack Park Agency regulations.**

Pursuant to Sections 809 and 810 of the Adirondack Park Agency Act, certain subdivisions of land within the Adirondack Park require a permit from the Agency. However, §811(1)(c) of the APA Act and §573.4(e) of Agency regulations establish an exemption from these permitting requirements for any subdivision undertaken in compliance with all of the following:

- The subdivision is by bona fide gift, devise, or inheritance, meaning there is no exchange of money, goods, services, or other consideration (and is not part of a common scheme or plan to convey to a party not entitled to an exemption);
- The giver is a natural person (human being or decedent's estate);
- The receiver does not have joint or any other ownership interest in the property;
- If the property does not contain the minimum lot size for the land use area as set forth in §810(2) of the APA Act (or contains less than 42.7 acres in Resource Management)<sup>1</sup>:
  - The giver has continuously owned the land since May 22, 1973<sup>2</sup>,
  - The receiver is a spouse, parent, child, sibling, grandparent, or grandchild of the giver, and
  - There has been no prior subdivision exempted from Agency permitting under these provisions to the receiver of the lot from the same 1973 landholding;
- The property is not located on Low Intensity Use, Rural Use, or Resource Management lands within a designated Wild, Scenic, or Recreational river area as defined in Appendix Q-6 to Agency regulations; and
- The property does not contain wetlands and does not adjoin any other subdivision lot that contains wetlands, unless all of the lots being created as part of the same subdivision meet the standards set forth in §578.3(n)(3)(ii) of Agency regulations.

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<sup>1</sup> These requirements may not apply to properties being gifted to the State of New York.

<sup>2</sup> Names may have been removed from the recorded deed for the lot since May 22, 1973, but no new names may have been added.

The creation of a gifted lot or site by subdivision pursuant to this exemption does not change the Agency's jurisdiction over development activities on the property. Accordingly, a permit must be obtained for all land uses and development listed under §810 of the APA Act, including the construction of a single family dwelling or mobile home within a Resource Management, Industrial Use, or critical environmental area.<sup>3</sup> In addition, a permit must be obtained for all rivers projects as defined under Part 577 of Agency regulations implementing the Wild, Scenic, and Recreational Rivers System Act and all regulated activities as defined under Part 578 of Agency regulations implementing the Freshwater Wetlands Act. In addition, all land use and development on subdivision lots created pursuant to this exemption must comply with the standards set forth in §806 of the APA Act and §577.6 of Agency regulations implementing the Rivers Act.

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This flyer is intended to provide general information regarding Agency jurisdiction. Other provisions or restrictions may apply if an Agency permit or variance is required or if the property has previously been subject to Agency review.

Please contact the Agency with any questions at 518-891-4050. For a binding written response as to whether a specific proposal requires Agency review, please submit a Jurisdictional Inquiry Form (JIF). The JIF form is available on the Agency website at [www.apa.ny.gov/Forms/jiform.pdf](http://www.apa.ny.gov/Forms/jiform.pdf)

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<sup>3</sup> For Agency purposes, the term "subdivision" includes the placement of a second principal building, such as a dwelling or mobile home, on a lot that already contains a principal building. Therefore, the subdivision permitting exemption can also apply for the construction or placement of a dwelling or mobile home on a lot already containing a residence, provided all of the gift criteria have been met. While no subdivision permit is necessary, a development permit must be obtained where the dwelling itself is subject to review.