



LETTERS OF NON-JURISDICTION
FOR PROJECTS IN TOWNS/VILLAGES GOVERNED BY
AN AGENCY-APPROVED LOCAL LAND USE PROGRAM

A determination that a project is non-jurisdictional to the Adirondack Park Agency does not make any assumption as to the approvability of a project at the local level.

The jurisdictional inquiry process is often the first step for landowners proposing projects within the boundaries of the Adirondack Park. This process results in a legally binding letter from the Agency as to whether a proposed project will require a permit and/or variance from the Adirondack Park Agency. If a letter of non-jurisdiction is issued by the Agency it does not constitute Agency approval of the proposed project. Instead, the letter of non-jurisdiction simply means that the proposed project does not require a permit and/or variance from the Adirondack Park Agency.

If a project is in one of the 18 municipalities with an Agency-approved Local Land Use Program, there are certain types of projects that would normally require Agency approval but instead are only subject to local requirements because of the Town/Village's Local Land Use Program. In these instances, a letter of non-jurisdiction is issued by the Agency because the proposed project does not require a permit and/or variance from the Adirondack Park Agency. However, the proposed project may still require a permit and/or variance from the Town/Village the project is located in.

In Towns/Villages with an Agency-approved Local Land Use Program, the Agency's jurisdiction is mainly limited to projects that are: (1) Class A¹, (2) involve/impact wetlands, and/or (3) in a rivers area.² The Town/Village administers approval requirements for Class B projects³ and the shoreline restrictions contained in §806 of the Adirondack Park Agency Act (APA Act). This means that these types of projects, which would normally require a permit and/or variance from the Agency, now only require a permit and/or variance from the Town/Village.

When a landowner applies for a permit and/or variance for a project in a Town/Village with an Agency-approved Local Land Use Program, there is generally a referral requirement to the Agency. For Class B projects, the Town/Village typically notifies the Agency and the Agency has the option to participate as a party in the local review of the project.⁴ When a variance is required (in any land use area other than Agency's Hamlet land use area) the project must be referred to the Agency for review.⁵ The Agency then has 30-days to determine if the variance was granted in accordance with the appropriate statutory provisions. If the Agency determines that the variance was not granted in accordance with the appropriate statutory requirements the Agency can reverse the local variance. A variance that has been reversed by the Agency is to be treated the same as a denial and means the project cannot proceed.

¹ Listed in §810(1) of the APA Act

² Note that the Town of Horicon administers the provisions of the Wild, Scenic & Recreational Rivers Act

³ Listed in §810(2) of the APA Act

⁴ As per §808(2) of the APA Act.

⁵ As per §808(3) of the APA Act