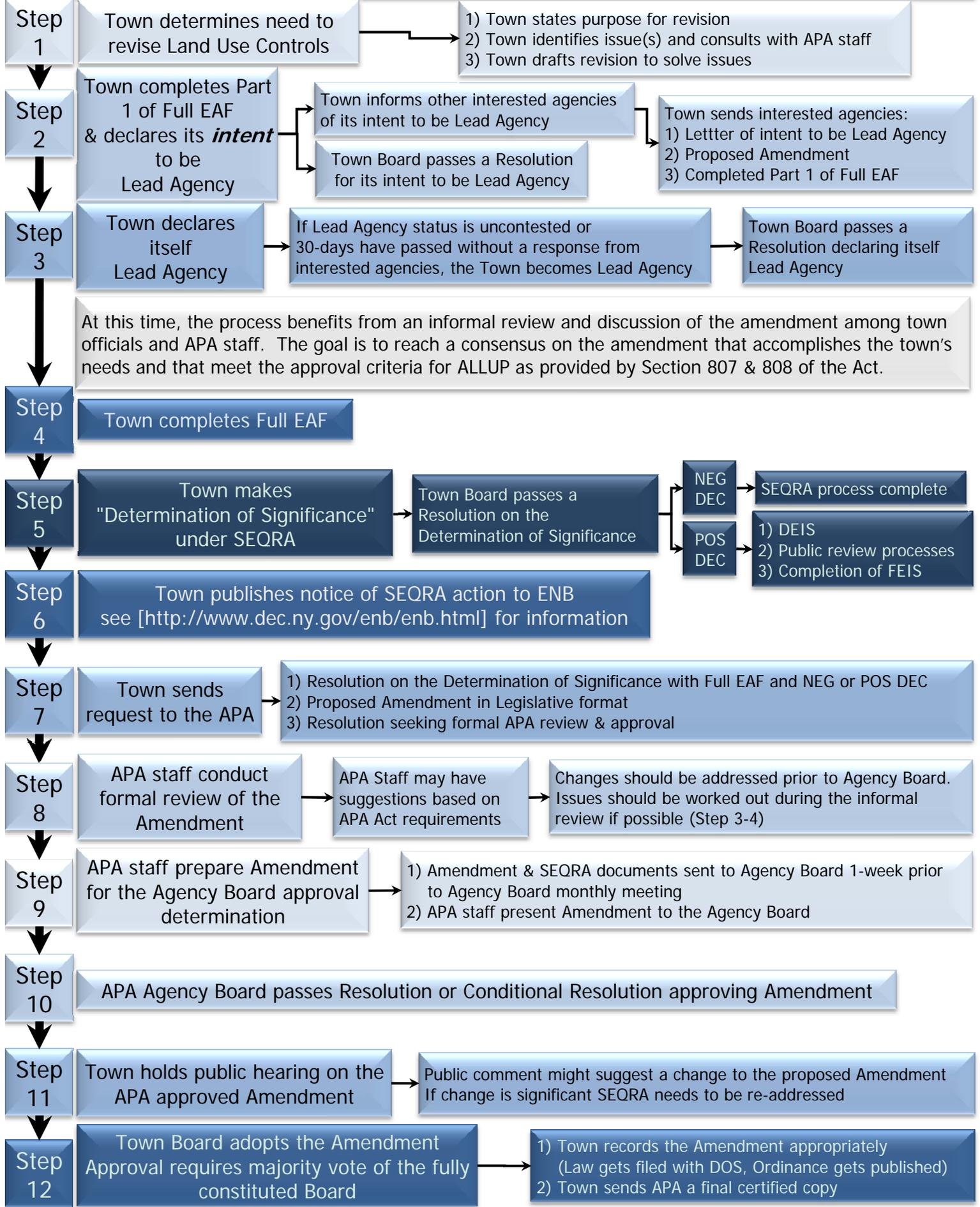


**Process for Towns with an APA Approved Local Land Use Program (ALLUP)
Amending Local Land Use Controls - A general guide [12/20/2011] - www.apa.ny.gov**



Process for Amending Local Land Use Controls for Towns with an Agency Approved Local Land Use Program

Staff DRAFT revised: December 20, 2011

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This summary sheet is a guide for stepping through the necessary SEQRA actions and APA local land use program (LLUP) requirements for towns preparing to adopt or revise land use controls including amendments to zoning, subdivision, sanitary, stormwater and signs codes.

Most LLUP amendments are SEQRA Type 1 actions requiring a Full EAF ([Environmental Assessment Form](#)).

For the complete SEQRA procedures and list of Type 1 actions see: <http://www.dec.ny.gov/permits/357.html>
SEQRA Handbook http://www.dec.ny.gov/docs/permits_ej_operations_pdf/seqrhandbook.pdf

Guide...

1. Town determines need to amend Land Use Controls
 - a. Town states purpose for Amendment
 - b. Town identifies issue(s) that need to be resolved by Amendment
 - c. Town drafts Amendment to solve issue(s)
2. Town completes [Part 1 of Full EAF](#) & declares its *intent* to be “Lead Agency”
 - a. Town Board passes resolution for its intent to be Lead Agency
 - b. Informs other “interested agencies” and potentially “involved agencies” of its intent
 - i. Agencies to include: APA, DEC, DOS, County Planning Office, & others (not all agencies may apply to each situation)
 1. Town sends to all “interested” and potentially “involved” agencies:
 - a. Intent to be Lead Agency
 - b. The proposed zoning Amendment
 - c. Completed Part 1 of the Full EAF
 - ii. If Lead Agency status is contested
 1. In accordance with 617.6(b)(5), the DEC Commissioner designates a Lead Agency
3. Town *declares* itself Lead Agency. If intent to be Lead Agency is uncontested or Town receives no response after 30-day notice from involved agencies, the Town will be the Lead Agency
 - a. Town Board passes resolution for declaring itself to be Lead Agency

Meanwhile... At this time, the process benefits from an informal review and discussion of the amendment among town officials, consultants and APA staff. The goal is to reach a consensus on the amendment that accomplishes the town’s needs and that meet the approval criteria for ALLUP as provided by Section 807 & 808 of the Act and by Section 582 of the Agency Regulations .

4. Town as Lead Agency completes Full EAF
5. Town as Lead Agency makes “Determination of Significance” under SEQRA
 - a. Town Board passes resolution on the Determination of Significance
 - i. Neg Dec -- Lead Agency determines the proposed action will not have a significant adverse impact on the environment;
 1. If Neg Dec then the SEQR review process ends
 - ii. Pos Dec -- Lead Agency determines the proposed action will have a significant adverse impact on the environment
 1. If Pos Dec, DEIS is developed, public review process initiated followed by completion of FEIS (*draft or full environmental impact statement*)
6. Town publishes notice of SEQR action to ENB (Environmental Notice Bulletin) See: <http://www.dec.ny.gov/enb/enb.html>
 - a. Notices for publication in the ENB must be filed with the DEC Division of Environmental Permits.

- i. Submission by e-mail is preferred, to enb@gw.dec.state.ny.us.
 - ii. Any SEQR notice received by close of business on a Wednesday will be published on the following Wednesday.
7. Town sends to the APA:
- a. Town Board resolution on the Determination of Significance with attached SEQR documents including:
 - i. [Full EAF](#) and
 - ii. [Neg Dec, or FEIS](#)
 - b. The proposed zoning Amendment (preferably in legislative format); and
 - c. Town Board resolution seeking formal APA review and approval of the zoning Amendment.

APA Action:

8. APA staff review the zoning amendment for consistency with APA ACT and regulation requirements.
9. APA staff present the zoning Amendment to the Agency Board with recommendation for approval assuming any issues related to APA Act requirements have been resolved. APA staff may also recommend Board approval on condition that necessary changes are incorporated within the final proposal for Town implementation, or as requested by the Agency Board.
- a. APA staff draft memo to Executive Director outlining the proposed zoning Amendment including:
 - i. Evaluation of all statutory approvability issues addressed
 - ii. Text of proposed changes
 - iii. SEQRA documents
 - iv. Town Board Resolution seeking formal Agency review and approval.
 - b. Staff draft resolution for APA approval of the Amendment
 - c. Documents included in mailing to Agency Board 1-week prior to Agency monthly meeting
 - d. Presentation to the APA Board for Agency determination
10. If approved, APA Board passes resolution or conditional resolution authorizing the local land use program Amendment

Town Action:

11. Town holds public hearing on the APA approved zoning Amendment.
- a. Public comment may cause officials to alter the proposed Amendment.
 - i. If the change is significant, it may result in updating the SEQR and the APA LLUP approvals. (*if so, return to step 5*)
12. Town Board adopts the Amendment by a majority vote of the fully constituted Board
- a. If a “Law¹”
 - i. Town Clerk files the zoning law amendment with the Department of State
 - 1. Zoning amendment become effective upon filing with the Department of State or at a later date as specified in the local law.
 - a. DOS guidance on Adopting Local Laws <http://www.dos.state.ny.us/lgss/pdfs/locallaw.pdf>
 - b. If an “Ordinance²”
 - i. Town Clerk must follow procedures to notice Ordinance pursuant to Town Law Article 16, Section 265 which entails publishing the text of the Ordinance in a newspaper published in the Town or widely circulated within the Town.

¹ A **local law** is the highest form of local legislation, since the power to enact a local law is granted to local governments by the State Constitution. In this respect, a local law has the same quality as an act of the State Legislature, since they both are exercises of legislative power accorded representative bodies elected by the people. Indicative of this is the fact that acts of the State Legislature and local laws are both filed with the Secretary of State, the traditional record keeper for State government.

² An **ordinance** is an act of local legislation on a subject specifically delegated to local governments by the State Legislature. Counties do not ordinarily possess ordinance powers and the power of villages to adopt ordinances was eliminated in 1974.