



# APA Approved Local Land Use Program Information Sheet

## What is an APA Approved Local Land Use Program?

A local land use program provides local government the administration and enforcement of certain Agency authority over land use and development in their town. The APA Act, Section 807 & 808, provides for the transfer of authority from the Agency to the Town. The program serves as a formal connection between the Town and the Agency in the review of local and regional land use and development projects. For Agency approval, the local land use program must meet the following criteria:

- a. The program is compatible with the APA Plan and Official Map.
- b. The program reasonably applies the overall intensity guidelines for density of development set forth in the APA Act
- c. The program reasonably applies the compatible uses listed in the APA Act
- d. The program incorporates shoreline restrictions
- e. The program requires review of Class B regional projects
- f. The program contains adequate authority for administration and enforcement
- g. The program furthers and supports the APA land use and development plan

### **Program Basics:**

A local land use program should be based on a locally adopted Comprehensive Plan. A Comprehensive Plan typically provides a current and thorough inventory of natural, cultural and demographic resources. Additionally the plan identifies the goals, objectives, principles, guidelines, policies, and standards for the immediate and long-range protection, enhancement, growth and development of the town.

A local land use program at a minimum must contain local land use controls to include zoning and subdivision regulations and a sanitary code for on-site wastewater treatment.

A local land use program must provide for the referral to the Agency of Class A regional projects, variances and amendments to the local law as set forth in the APA Act.

### **Results and Benefits -- The results and benefits to the town in having an approved local land use program include the following:**

1. Coordinated permit system -- Typically, the approval of a program results in a permit system that requires that an applicant obtain one permit, either from the Town for local and Class B projects or the Agency, for Class A projects.

2. Local Authority over Class B Regional Projects which include most residential subdivision and small commercial projects that do not involve wetlands – Agency authority over Class B projects is transferred to the town. The Agency provides follow-up as requested/necessary to help program get started. The Agency may participate in a local Class B review with status similar to an adjacent landowner.
3. More Local Participation in Agency Review of Class A Regional Projects -- The Agency uses the local regulations for reviewing Class A projects and consults with the planning board or other local representatives according to the procedures set up in the local program.
4. Local Authority over Shoreline Restrictions -- The community administers the shoreline rules, including variances which may be requested. The Agency may reverse a ZBA approval of shoreline variances.
5. Map Amendments -- Towns with completed background studies are in a better position to justify amendments to the Park Plan. The APA Act provides for amendments with a simple majority Agency vote required after local adoption of a comprehensive plan.
6. Refinement of density patterns -- Some Agency approved programs adjust the density patterns of the Plan. The APA Act states the program must be a “reasonable application” of the overall intensity guidelines contained in the Plan. The adjustment can accommodate a simple allowance of “mother-in-law” apartments or provide for more complex adjustments for entire local zoning districts. The Agency then uses the intensity criteria in the local program.
7. Legal Defense -- The Attorney General represents the local government upon request and at no cost on challenges involving provisions of the APA Act within the local program.

#### **What are the Town’s responsibilities?**

- Administration of program
- Coordination with APA
- Review of Class B regional projects
- Referral of all variances completed by the town (outside of Hamlet land use areas) for Agency review. Agency retains authority to reverse certain variance approvals, within 30-days of receipt, particularly those that involve APA shoreline or density provisions and do not meet statutory approval criteria.
- Referral of program amendments for Agency review and approval to ensure the program remains in accordance with APA Statute and Regulations and other pertinent State laws.

#### **What are the APA’s responsibilities?**

- Coordination with the Town and technical support in the review of projects
- Review of Class A regional projects with advice of Town Planning Board
- Monitor Class B regional projects review and approvals
- Review of local shoreline, density and certain other variances for compliance with the APA Act criteria. The Agency may reverse within 30 days of receipt of the complete record.
- Agency review and approval authority of program amendments.
- Work with the Attorney General’s Office to provide legal assistance and defense of legal challenges to the local land use program.

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