



AGENCY-APPROVED LOCAL LAND USE PROGRAMS

What is an Agency-approved Local Land Use Program?

An Agency-approved Local Land Use Program (ALLUP) transfers the administration and enforcement of certain Agency authority over land use and development to a local government. The APA Act provides for the transfer of authority from the Agency to the Town/Village¹. The Program serves as a formal connection between the Town/Village 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 criteria²:

- a. Be compatible with the APA Plan and Official Map.
- b. Reasonably applies the overall intensity guidelines for density of development set forth in the APA Act
- c. Reasonably applies the compatible uses listed in the APA Act
- d. Incorporate the shoreline restrictions
- e. Require review of Class B regional projects
- f. Contain adequate authority for administration and enforcement
- g. Further and support the APA land use and development plan

Program Basics

A Local Land Use Program should:

- Be based on a Comprehensive Plan.
- Contain adequate local land use controls.
 - Zoning and subdivision regulations and a sanitary code for on-site wastewater treatment.
- Provide for the referral of Class B regional projects, variances, and amendments to local laws to the Agency.

Potential Results and Benefits

- **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.
- **Local Authority over Class B Regional Projects** - Agency authority over Class B projects is transferred to the Town. The Agency provides follow-up as requested/necessary and the Agency may participate in a local Class B review with status similar to an adjacent landowner.
- **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.

¹ Sections 807 and 806 of the APA Act

² Section 807(2) of the APA Act

- **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 certain variances.
- **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.
- **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.
- **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/Village’s responsibilities?

- Administration and enforcement of the local program
- Coordination with APA
- Review and referral 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.