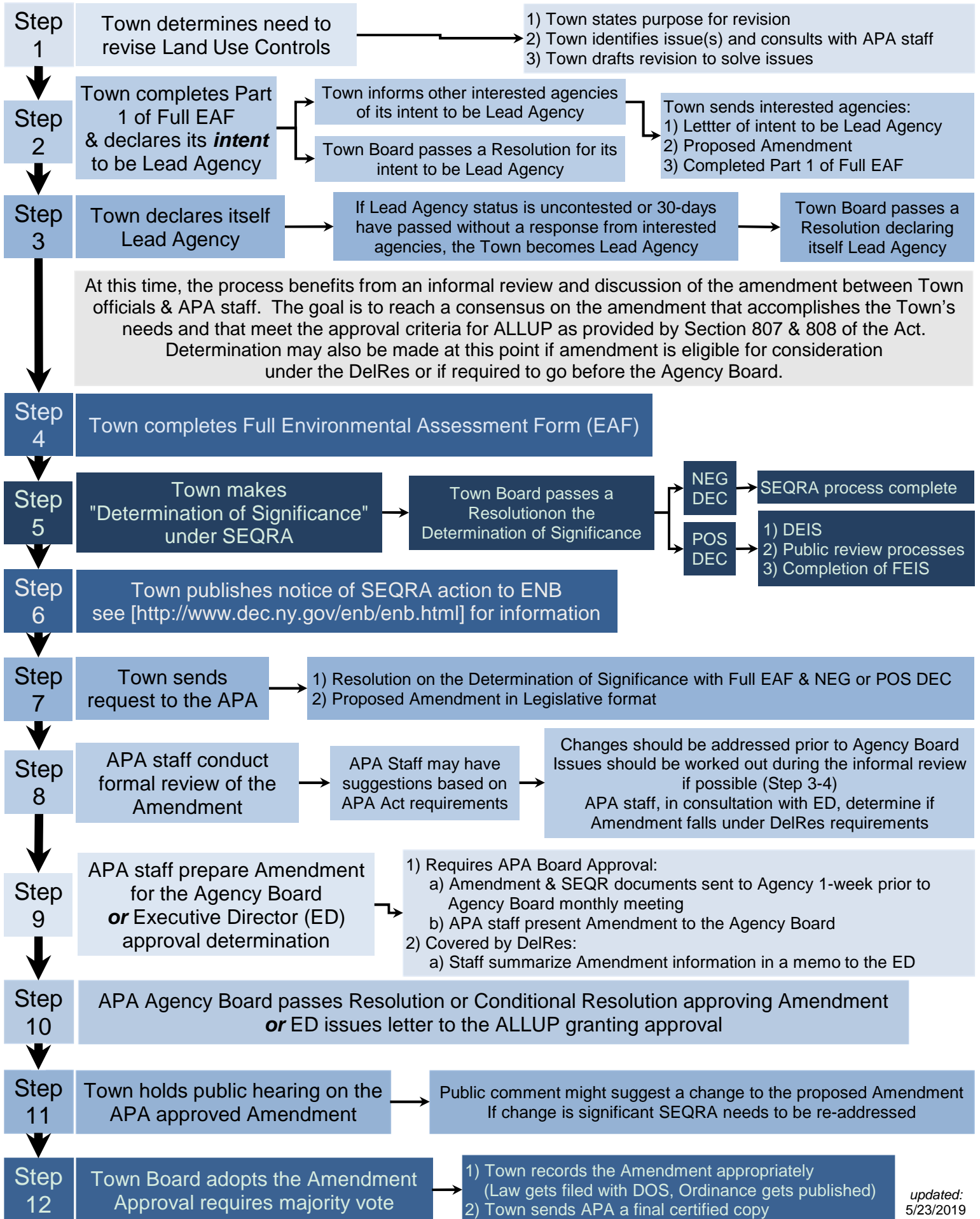


Process for Amending Local Land Use Controls for Towns/Villages with an Agency-approved Local Land Use Program (ALLUP)



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This summary sheet is a guide for stepping through the necessary State Environmental Quality Review (SEQR) actions and Agency-approved Local Land Use Program (ALLUP) requirements* for Towns/Villages preparing to adopt or revise local land use controls including amendments to zoning, subdivision, sanitary, stormwater, and signs codes.

* Relevant APA references: §807(1) & §807(2) of the APA Act and §582.5 of Rules & Regulations.

Notes on SEQR:

- Most ALLUP Amendments are Type 1 actions under & require a Full EAF ([SEQR Forms](#)).
- Visit the [NYS DEC website for the complete SEQRA procedures](#) including [list of Type 1 actions](#).
- [SEQR Handbook](#) & general [SEQR steps](#).
- Scoping may be required under SEQR – *DEC is currently updating SEQR Regulations with regards to when Scoping is required* (2017).
 - Scoping is a process that develops a written document which outlines the topics and analyses of potential environmental impacts of an action that will be addressed in a draft environmental impact statement (DEIS, or draft EIS). The process for scoping is set out in 6 NYCRR [617.8](#).

Steps for Amendments to Agency-approved Local Land Use Programs:

1. Town determines need to amend local 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)
 - i. It is advisable to get public input early and often during the Amendment process
2. Town completes [Part 1 of Full EAF](#) & declares its *intent* to be “Lead Agency” for SEQR
 - a. Town Board passes Resolution of its intent to be Lead Agency
 - b. Town Informs other “interested agencies” and potentially “involved agencies” of its intent
 - i. Agencies to include: APA, NYS Department of Environmental Conservation (DEC), NYS Department of State (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 Amendment, and
 - c. Completed Part 1 of the Full EAF.
 - c. If Lead Agency status is contested, the DEC Commissioner designates a Lead Agency.
3. Town *declares* itself Lead Agency. If intent to be Lead Agency is uncontested or if the Town receives no response from involved agencies after 30-day notice, the Town will be the Lead Agency
 - a. Town Board passes Resolution declaring itself to be Lead Agency

Meanwhile... *The Amendment process benefits from an informal review and discussion of the Amendment among Town officials, consultants and APA staff. The goal of the informal review is to reach a consensus on the Amendment that accomplishes the Town's needs and also meets the approval criteria for ALLUP as provided by §§807 & 808 of the APA Act and §582 of the Agency Regulations. During the informal review process it may also be determined if the proposed Amendment is eligible for consideration by the APA Executive Director under the Agency [Del Res](#) or whether it will require Agency Board approval.*

4. Town as Lead Agency completes [Part 2 of Full EAF](#)
5. Town as Lead Agency makes “[Determination of Significance](#)” under SEQR - [Part 3 of Full EAF](#)
 - a. Town Board passes resolution on the Determination of Significance
 - i. [Neg Dec](#) (Negative Declaration) -- 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](#) (Positive Declaration) -- 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 \(Environmental Notice Bulletin\)](#)
 - 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@dec.ny.gov.
 - ii. SEQR notices received by close of business on a Wednesday will be published the following week.
7. Town sends Amendment to the APA:
 - a. Town Board resolution on the Determination of Significance with attached SEQR documents including:
 - i. [Part 1](#) & [Part 2](#) of Full EAF and
 - ii. [Neg Dec, or FEIS](#)
 - b. The proposed Amendment (preferably in legislative or *track changes* format), and
 - c. Town Board Resolution seeking formal APA review and approval of the Amendment

APA Action – To be completed within 45 days of receiving Town/Village request for approval:

8. APA staff formally review the Amendment for consistency with APA Act and regulation requirements
 - a. APA staff determine, in consultation with the Executive Director, if the Amendment falls under the provisions of the Del Res or if the Amendment will be required to go before the Agency Board.
 - b. If there are still concerns regarding the Amendment & compliance with the Act & Regulations, Agency staff advise Town of possibility of conditional approval to address concerns.
9. APA staff prepare Amendment for approval consideration
 - a. APA staff draft memo to Executive Director outlining the proposed Amendment including:
 - i. Evaluation of all statutory approvability issues addressed,
 - ii. Text of proposed changes,
 - iii. SEQRA documents, and
 - iv. Town Board Resolution seeking formal Agency review and approval.
 - b. If the Amendment will require Agency Board approval, all materials must be forwarded to the Board Members at least 1-week prior to monthly Agency meeting.

10. APA considers the Amendment for approval

- a.** If Amendment is required to go before the Agency Board:
 - i.** Documents included in mailing to Agency Board 1-week prior to Agency monthly meeting
 - ii.** Agency staff drafts resolution for approval or conditional approval of the Amendment.
 - iii.** Agency staff presents 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.
 - iv.** Agency Board passes resolution approving or conditionally approving the Amendment.
- b.** If Amendment is *not* required to go before the Agency Board (meets requirements under the [Del Res](#)):
 - i.** Executive Director issues letter to the ALLUP granting approval of the Amendment.

Town Action:

11. Town holds public hearing on the Amendment as approved by the APA.

- 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 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 Amendment with the NYS Department of State (DOS).
 - 1.** Amendment becomes effective upon filing with the DOS or at a later specified date.
 - ii.** [DOS guidance on Adopting Local Laws](#)
- b.** If an “Ordinance²”
 - i.** Town Clerk publishes the text of the Ordinance in a newspaper published in the Town or widely circulated within the Town (Town Law Article 16, Section 265).

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.