

## REFERRALS TO THE WYOMING COUNTY PLANNING BOARD

Section 239-M of the New York State General Municipal Law requires that certain local municipal zoning and planning actions be referred to the County Planning Board for review **prior to final local action**.

The purpose of this law is to encourage local decision-makers to consider the inter-municipal and county-wide impacts of local land use decisions. Towns and villages can also be made aware of project impacts on neighboring municipalities.

### WHO REFERS PROPOSED ACTIONS?

The town or village body responsible for taking final action on an application or proposal is also responsible for referring it to the Wyoming County Planning Board (WCPB).

It is suggested that each municipal board and zoning board of appeals designate an individual to determine when an application is ***complete*** and then be responsible for forwarding the referral of the proposed action to the WCPB. If a local planning board has final approval authority over site plans and/or special permits, the board should assign this responsibility to their designate as well, to ensure that referrals are made to the WCPB. A ***Site Plan Review Checklist*** is available from the WCPB to assist the local board and the applicant. The Checklist is used by the WCPB to review all projects.

### WHEN SHOULD ACTIONS BE SENT?

The Wyoming County Planning Board will consider all **complete** referrals of proposed actions that are received in their office (36 Center St., Suite C, Warsaw, NY 14569) by 5:00 PM on the Monday before their next regularly scheduled board meeting.

The WCPB generally meets on the first Monday of each month at 7:00 PM in the Suite C Conference Room (2<sup>nd</sup> Floor) of the Wyoming County AG & Business Center in Warsaw. When the first Monday is an observed holiday, the WCPB meeting is held on Tuesday after the observed holiday.

### WHAT IS A COMPLETE REFERRAL?

A "Zoning and Planning Action Referral Form" is available from the WCPB. The form should be photocopied and used as a cover sheet for referrals. The form is also used to report the WCPB's recommendation to the local official making the referral.

A referral to the WCPB is considered ***complete*** when it includes a "full statement of such proposed action." Section 239-m defines a full statement as "all materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form [EAF] and all other materials required by such referring body to make its determination of significance pursuant to the state environmental quality review [SEQR] act ...".

### HOW DOES THIS AFFECT LOCAL DECISION MAKING?

The town or village referring body having jurisdiction over a proposed action may take final action on planning and zoning actions referred to the WCPB, only after considering the WCPB's report. If the WCPB report has a recommendation of modification or disapproval, the referring body cannot act contrary to WCPB recommendations except by a vote of a majority plus one of all appointed board members (supermajority).

### WHAT ARE THE CONSEQUENCES OF NOT MAKING REFERRALS?

Failure to refer a zoning or planning matter to the county planning board is considered a procedural error and could lead to a legal challenge pursuant to Article 78. Any local action could be declared void if subjected to a successful legal challenge.

### WHEN DOES THE LOCAL BOARD SEND A REPORT OF ITS ACTION?

Within thirty (30) days of rendering its final action on a referred project, the local referring body is required to send a report of its final action taken to the WCPB. If the referring body has acted contrary to a WCPB recommendation of modification or disapproval, the report must include the reason(s) for its contrary action.

## ZONING AND PLANNING ACTIONS Subject to Referral and Review

The following actions within 500 feet of certain boundaries are subject to referral and review by the WCPB:

- ♦ The adoption or amendment of a **local law, zoning ordinance, zoning map, or comprehensive plan.**
- ♦ The issuance of **special use permits.**
- ♦ The approval of **site plans.**
- ♦ The granting of **use or area variances.**
- ♦ Moratoria or other authorizations that a referring body may issue under the provisions of a zoning ordinance or local law.

Any of the bulleted actions listed above must be referred to the WCPB if the proposed action applies to a property **within 500 feet of the boundary of:**

- ♦ **a village or town,**
- ♦ the right-of-way of any existing or proposed **State or County road or highway,**
- ♦ **farmland within a Wyoming County Agricultural District** (does not apply to area variances),
- ♦ an existing or proposed **County or State park or other recreation area,**
- ♦ existing or proposed **County or State-owned land** on which a public building or institution is located.

Several municipalities have signed an **AGREEMENT EXEMPTING CERTAIN MINOR LAND USE ACTIONS** (such as an area variance from a side yard setback requirement for residential use) **from the Wyoming County Planning Board review.**

## *County Planning Board Review of Proposed Actions*

The Wyoming County Planning Board reviews proposed actions referred to them for inter-community or county-wide considerations and to help coordinate such zoning and planning actions among municipalities.

These considerations include compatibility of various land uses; the traffic-generating characteristics of land use concerning the effect of such traffic on other land uses and the adequacy of existing and proposed roadways; the impact of proposed land uses on existing and proposed County or State institutional or other uses; the protection of community character about predominant land uses; population density; the relationship between residential and non-residential areas; drainage; community appearance; community facilities; official municipal and County development policies; and other matters that relate to achieving and maintaining of a satisfactory community environment.

## *Actions by the County Planning Board*

Based on their review, the Wyoming County Planning Board recommends approval, modification, or disapproval, or may make no recommendation if a proposed action has no significant county-wide or inter-community impact. Comments and recommendations are often provided for local consideration.

## WYOMING COUNTY PLANNING BOARD

### ZONING AND PLANNING REFERRALS

*A Guide for  
Town and Village  
Officials*



**2021**

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