

A GUIDE FOR LOCAL OFFICIALS

New York State General Municipal Law Article B, Sections 239-m and 239-n require municipal boards to refer certain planning actions to the County Planning Board for review before taking final action. The purpose of these laws is to encourage local decision-makers to consider the countywide and inter-municipal impacts of their local land use decisions.

Who needs to be aware of these requirements?

Chief elected officials (council presidents, supervisors, and mayors), municipal clerks, zoning enforcement officers, members of local planning & zoning boards, as well as city, town & village boards.

What land use actions should be referred?

The following municipal actions may be subject to County Planning Board review:

- Adoption or amendment of a comprehensive plan
- Adoption or amendment of a zoning ordinance or local law
- Issuance of special use permits
- Approval of site plans
- Granting of use or area variances
- Proposed subdivision plats
- Moratoria
- Other authorization which a referring body may issue under the provisions of any zoning ordinance or local law

What land use actions should not be referred?

- Land separations (not defined as subdivisions)
- Interpretations by the Zoning Board of Appeals
- Sketch subdivision plats or preliminary site plans and other informal reviews by the local boards

When in doubt, please contact the Wyoming County Planning Department for advice.

When or under what circumstance does a planning action need to be referred?

A proposed action is subject to review if the real property is within 500 feet of the following:

- The boundary of any city, village or town.
- The boundary of any existing or proposed county or state park or any other recreation area.
- The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway.
- The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
- The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated.

- The boundary of a farm operation located in an agricultural district, as defined by Article 25-AA of Agriculture & Markets Law (this shall not apply to the granting of area variances).

What is the time schedule for referrals?

The County Planning Board has 30 days after receipt of the full statement of the proposed action in which to respond with a recommendation. The Planning Department will review the Referral Form and the submitted materials to determine completeness. If the statement of the proposed action is deemed incomplete, the department will notify the referring body. If the County Planning Board does not respond within 30 days after the referring body has submitted a full statement of the proposed action, then the municipality may proceed to take final action.

How is a planning action submitted for County Planning Board review?

Referrals are not accepted directly from project sponsors or applicants and must be submitted by the local municipality. Wyoming County Planning Department has prepared a Referral Form to simplify the process of referring planning actions for review. Use of this form is required by our department. The steps of the referring process are as follows:

- Complete the Referral Form
 - **WCPB Referral Form 239**
- Include the following:
 - A State Environmental Quality Review Act (SEQRA) EAF (Environmental Assessment Form) and all materials used by the referring body to make a determination of significance pursuant to the SEQRA.
 - Part I of the SEQRA EAF is required for referral. If the community has determined that the action is a Type II Action requiring no further SEQRA Action, please note on the County Planning Board Referral Form the number of the action as listed under 6NYCRR Part 617.5 (c).
 - One set of plans sized at 8.5" x 11" or 11" x 17" (showing distances to property lines).
 - Copy of the full text of the ordinance or local law being proposed, adopted, or amended (unless the current document is on file with the department).
 - Agricultural Data Statement (if applicable).
 - Letter of Intent explaining the project.
 - For zoning text amendments and local law amendments, copies of both the existing and proposed zoning / local law.
 - Copies of any local meeting minutes.
 - Any other documentation submitted to the municipality as part of the application process.
- Email, mail or deliver by hand by 4:00 PM, the completed Referral Form along with all materials to the Wyoming County Planning Department. Please refer to the Wyoming County Planning Board meeting dates and submittal deadlines chart below. If mailed, the packet must be received by the deadline date and sent to the Wyoming County Planning Department, 36 Center Street, Suite C, Warsaw, NY 14569.
- If the deadline is missed, the application will be put on the following month's meeting agenda.

- If sent via email, each referral must be **one file** in **PDF format** and e-mailed to planning@wyomingcountyny.gov.
- If scanned, it must be in **color** and at least **300 dpi**.

The County Planning Board generally meets on the First Monday of each month (Please refer to the Wyoming County Planning Board Meeting dates and submittal deadlines chart below).

How does the County Planning Board evaluate a referral?

The County Planning Board's job is to determine if there will be any countywide or inter-community impacts as a result of the proposed action. In doing so, they may consider the following:

- Compatibility of adjacent land uses
- Impact of any additional traffic
- Compatibility with existing municipal comprehensive plans
- Effects on community character and appearance
- Impacts on community facilities

What type of recommendations does the County Planning Board make?

Once a full statement of the proposed action is submitted for review, the Wyoming County Planning Board may choose from the following actions:

- **Approval** - No significant countywide or inter-community impact.
- **Approval with Comments** – The municipality may approve with the exact County modifications or disapprove with a simple majority vote. The municipality may add further conditions to its approval. A municipality may approve or override any County modifications with a “super majority vote.” This is a vote of the majority of its members plus one vote (including absent or vacant positions). The board must then adopt a resolution citing the reasons for its decision.
- **Tabled for further information/clarification** – Used when the County Planning Board cannot reach a decision (usually due to lack of information or a quorum for a particular action). Non-binding comments (prefaced by a statement such as “It is recommended...”) can be used alone or in conjunction with the aforementioned actions. These comments are used to address issues of local significance that the board wishes to bring to the municipality's attention.
- **Disapproval with Comments** - Citing serious and unavoidable countywide or inter-municipal impacts or citing that sufficient information was not provided that would allow the board to evaluate the nature and magnitude of potential county-wide or inter-municipal impacts. The municipality may disapprove with a simple majority vote. An approval or approval with conditions would require a “supermajority” vote and resolution.

How do the County Planning Board's decisions and recommendations affect local decision-making?

A municipality may only act after the County Planning Board's decision has been issued. No straw polls or approvals conditioned on County approvals should occur at the municipal level. A

municipality may also act after 30 days without notice from the Wyoming County Planning Board once a full application has been received and accepted by the County.

Regardless of the approval or disapproval of the proposed action, the municipality must always mail or email a **Notice of Final Action (pink form)** to the Wyoming County Planning Board.

The municipality is said to have agreed with the County's decision if the final action required no "supermajority" vote.

What are the consequences if a referral is not made?

Neglecting to refer a land use action pursuant to General Municipal Law may constitute a "procedural or jurisdictional error" that could legally invalidate the local municipality's land use decision. In a court challenge, the local decision on an application may be nullified. To clarify any of these issues, the municipal board may wish to consult their attorney.

If you have any questions, please do not hesitate to contact the Wyoming County Planning Department, contact information is below:

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