

General Municipal Law Referrals: A Guide for Local Officials

New York State General Municipal Law Article B, Section 239m requires municipal boards to refer certain planning actions to the County Planning Board for review before taking final action. The purpose of the law 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?

Town supervisors, village mayors, town & village clerks, zoning enforcement officers, members of local planning & zoning boards, as well as town & village boards.

What planning 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
- Other authorization which a referring body may issue under the provisions of any zoning ordinance or local law
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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 twenty-five-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. The planning department will review the **Referral Form** and the submitted materials to determine completeness. If the statement of proposed action is deemed incomplete, the department will notify the referring body within three business days. The 30-day period will begin once the referring body has completed the statement.

If the County Planning Board does not respond within that 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?

*Washington County Planning & Community Development 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 and sign the **Referral Form**.
- 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.
 - **At a minimum**, 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).
 - Copy of the full text of the ordinance or local law being proposed, adopted or amended (unless current document is on file with the department).
 - Copy of any application submitted to the referring body.
 - Copies of all maps and plans submitted to the referring body. For oversized maps and/or plans (larger than 11X17 inches), please include 12 copies or reduce to 11X17 inches or smaller (include one full set in the original size).
- Mail or deliver by hand by 4:00 P.M., the completed and signed **Referral Form** along with all materials to the Washington County Planning & Community Development Office at least 10 days before the regularly scheduled meeting of the County Planning Board.
- If mailed, the postmarked date will be the date of delivery.
- If the deadline is missed, we will make every attempt to put the proposed action on the next meeting's agenda for review. If that is not possible, we will contact the referring body with the following two options:
 - The statement can be put on the following meeting's agenda with a new submission date.
 - The statement can be returned to referring body to be submitted at a later date.

The County Planning Board meets on the second Tuesday of each month. In the event that the second Tuesday of the month falls on a county designated holiday, then the regular meeting will be held on the third Tuesday of the month. The deadline for submitting referrals will also be moved ahead by one week.

What is the County Planning Board looking for in their reviews?

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 will the County Board make?

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

- Approve
- Approve with conditions (modifications)
- Disapprove citing serious and unavoidable countywide or inter-municipal impacts.
- Disapprove 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.
- Non-binding comments 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.
- No recommendation is used when the board has determined there are no significant countywide or inter-municipal impacts.
- No action (After 30 days without notice, the municipality may proceed to take final action).

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

A municipality may act contrary to the County Board's decisions and recommendations and approve the application. A simple majority vote will approve the application in most cases. In the event the County Board has disapproved or approved with conditions, then the municipal board may approve the application with a "super majority vote." This is a vote of the majority of its members, plus one vote. The board must then adopt a resolution citing the reasons for its decision.

Regardless of the approval or disapproval of the proposed action, the municipality must always send a **Notice of Final Action** to the County Planning Board.

Voluntary referrals

If a review of a proposed action is not required by General Municipal Law, the local board may send it voluntarily. In doing so; however, the referral shall be subject to all the requirements set forth in this guide and under GML 239m.

When can referrals be exempted from County Planning Board review?

Counties may enter into an agreement with each referring body to exempt certain planning actions deemed to have no inter-municipal or countywide implications from County Planning Board review.

Contact the Washington County Department of Planning & Community Development to learn how your community can enter into an exemption agreement.

The following actions may be exempted by agreement:

- Certain agricultural farm management practices
- Granting an individual setback
- Granting lot line and area variances for single-family residences
- Dimensional variances for accessory structures
- Placement of signs

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 town or village attorney.

<http://www.co.washington.ny.us>