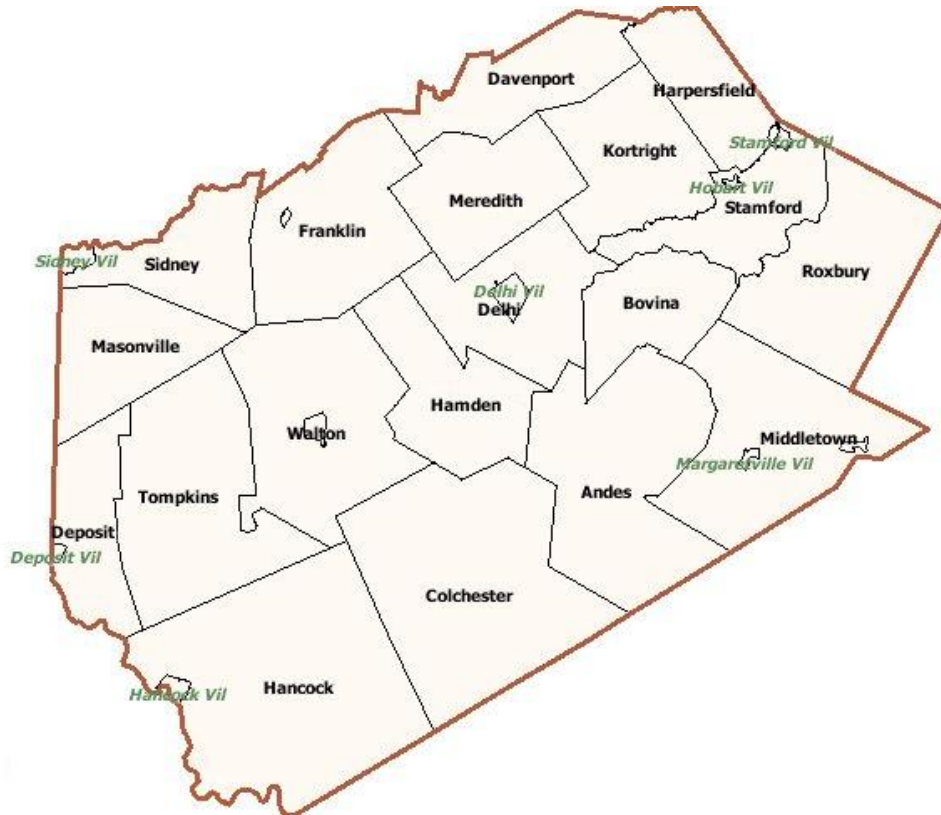


General Municipal Law 239 Review and Procedural Manual



Delaware County covers over 1400 square miles and consists of 19 towns and 10 villages. In order to keep the people of these municipalities informed about certain aspects of state law which relate to planning, this manual has been created. It covers the procedure of General Municipal Law 239 l, m, n, nn, and answers the major questions pertaining to this law.

For further information contact:

Delaware County Department of Planning
P.O. Box 367
Delhi, NY 13753

607-746-2944 (Phone)
607-746-8479 (Fax)

Updated 07/07

What is General Municipal Law? What does it have to do with planning?

General Municipal Law is part of the state enabling statutes which authorize certain actions to be performed by counties, cities, towns, and villages. It enables the county to establish a county-wide planning operation within its governmental framework. This statute also empowers the County Board of Supervisors to create a county planning board to coordinate certain municipal zoning and planning actions in Delaware County.

New York State has recognized that certain proposed planning actions considered by local governments have area-wide significance and, therefore should be referred to the County Planning Board. Sections 239-l, m, and n of the General Municipal Law establish a legal procedure wherein certain planning matters are referred to the County Planning Board for review and recommendation.

Purpose and Intent of Sections 239 l, m, n and nn

The primary purpose of this section is to establish a procedure for county review that will provide for better coordination of planning and zoning matters on an inter-municipal and county-wide basis. Not all planning and zoning matters are required to be referred for County Planning Board review; only those actions that are specifically identified in Sections 239-l, m, and n.

Section 239-l Purpose and Intent

This section of the State Law explains the general purpose and intent of the General Municipal Law review procedures. It refers specifically to the planning factors which must be considered by the Delaware County Planning Board.

Generally speaking, the review shall consider such matters as compatibility of land use; traffic generation and its effect upon existing traffic; the adequacy of existing and proposed facilities; protection of community character; population density; community appearance; drainage, sewer, and other community facilities; and the impact upon official land development policies at the local, county, and state levels.

Section 239-m Zoning Actions

Section 239-M deals specifically with zoning actions that must be referred to the County Planning Board for review and recommendation. These actions are:

1. adoption or amendment to a Comprehensive Plan
2. adoption or amendment of a zoning ordinance or local law
3. issuance of special use permits;

4. approval of site plans;
5. granting or use or area variances;
6. other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law

The above are referred only if these zoning actions are within 500 feet:

1. of a municipal boundary
2. of the boundary of any existing or proposed County or State Park or other recreation area;
3. of the right-of-way of any existing or proposed County or State Parkway, thruway, expressway, road, or highway
4. of 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;
5. of the existing or proposed boundary of any County or State owned land on which a public building or institution is situated
6. of a boundary of a "farm operation". A farm operation is considered to be land used in agricultural production, farm buildings, equipment and farm residential buildings within an agricultural district. NOTE: An application for an area variance within 500' of an agricultural district is not subject to county review UNLESS the application meets other referral requirements listed above.

Only those municipalities in Delaware County which have adopted zoning must refer all matters listed above to the County Planning Board for review and action. (See Appendix 1 for a list of those towns and villages who have adopted zoning regulations.) In addition, any municipality intending to adopt zoning must submit the proposed zoning text to the County Planning Board. If a site plan or special use permit requires a public hearing and county review, then the Delaware County Planning Board must be notified at least ten (10) days prior to the Public Hearing.

Section 239 n Subdivision Actions

General Municipal Law requires that certain proposed subdivisions be referred to the Delaware County Planning Board for review and action. Again, the intent of the law is to provide for better planning coordination on an inter-municipal and county-wide basis.

The County Planning Board when reviewing subdivisions considers the impact of the proposed subdivision on state and county facilities. This review process can promote the orderly growth and prevent possible adverse effects that could result in substantial cost to county taxpayers.

A subdivision for the purposes of Section 239 n includes any subdivision which requires review and approval, disapproval, or conditional approval by a local board. All subdivisions must be referred to the County Planning Board if they are located within 500 feet:

1. of a municipal boundary;
 2. of the boundary of any existing or proposed County or State Park or other recreation area;
 3. of the right-of-way of any existing or proposed County or State parkway, thruway, expressway, road, or highway;
 4. of 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;
 5. of the existing or proposed boundary of any County or State owned land on which a public building or institution is situated;
 6. of a boundary of a "farm operation". A farm operation considered to be land used in agricultural production, farm building, equipment and farm residential buildings within an agricultural district;
- OR-
7. that occurs on property within an agricultural district containing a "farm operation"

Only those municipalities in Delaware County which approve, disapprove, or conditionally approve subdivisions must refer these actions to the County Planning Board (See appendix 1 for a list of towns and villages that review subdivisions)

Section 239 nn Actions

As of July 1, 2006 there is a requirement in General Municipal Law 239-nn that an adjacent municipality's clerk be notified of a hearing on a special use permit, use variance, site plan review or subdivision review for property that is within five hundred feet of an adjacent municipality. The intent of the provision is to give adjacent municipalities an opportunity to appear at the public hearing and express their concerns, if any, on the application.

Who Determines if A Referral is Required?

It is the responsibility of the local municipality to determine if a planning matters falls within the jurisdiction of the General Municipal Law. It is common for a planning board or a board of appeals to submit applications. If there is any question concerning a determination, contact should be made with the County Planning Department.

Information to Be Submitted to The County Planning Board

The Delaware County Planning Board requires that a 239 Referral Form be completed. This form is included in this manual and is also available from the County Planning Department. In addition, a "full statement" of the proposed action must be submitted. This statement shall include "all materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form..." (General Municipal Law 239-m 1(c)). Therefore, certain materials are required for all actions reviewable under General Municipal Law 239.

Required materials for all 239 Referrals:

- Delaware County 239 Referral Form
- Copy of all application forms as required by local municipality
- Environmental Assessment Form-Part 1 (or an Environmental Impact Statement), as required under the New York State Environmental Quality Review Act (SEQRA)
- Agricultural Data Statement, if applicable

Additionally, information required for each specific type of action is listed as follows:

A. *239 m Zoning Action*

1. Site Plan Review
 - a. Copy of a larger scale map showing location of property.
 - b. Map showing the following:
 - Lot or parcel lines and their dimensions
 - Any existing structures and waterways on lot
 - Any proposed new structures, or improvements, and their exterior dimensions (Including parking areas, wells, septic tanks, signs, etc.)
 - Distance (in feet) showing front, side, and rear setbacks or all structures from respective lot lines
 - Names and locations of all roads within 500' of lot.
 - Location of any proposed or existing easements or rights-of-ways.
 - Location of any agricultural district within 500' of lot
 - c. Any comments from planning board, ZBA, or trustees, Enforcement Officer, Highway Superintendent, etc.
 - d. Additional required information (i.e. Road Access Permits, NYC DEP Permits, NYS DEC or DOH Permits, or any pertinent reports or studies, etc.)

2. Special Use Permits (Conditional Use Permits) and Variances
 - a. Copy of a larger scale map showing location of property
 - b. Additional required information (i.e. Road Access Permits, NYC DEP Permits, NYS DEC or DOH Permits, or any pertinent reports or studies)
 - c. Copy of maps, sketches, and plans

3. Amendment of Zoning Ordinance Text and/or Map
 - a. If text change:
 - i. Text the original and proposed amendment
 - ii. Report of the planning board
 - iii. Report of the Zoning Board of Appeals, if available.

 - b. If map change:
 - i. Map to scale showing current district zoning lines, with proposed new district lines clearly identified
 - ii. Any reports available from other public agencies, petitioners, or other interested parties
 - iii. Location of any existing structures that will be affected by change
 - iv. Existing zoning and land use of site and area within 500' of site

4. New Zoning Ordinance and Maps
 - a. Complete Zoning Ordinance Text
 - b. Zoning map
 - c. Report of Town/Village Planning Board and/or any other local body
 - d. Any information that the local municipality feels will assist the County Planning Board with its review.

5. Adoption of or amendment to a Comprehensive Plan
 - a. Complete text of proposed document. If an amendment, proposed amendments and original portion.
 - b. Any reports of planning board or other local body
 - c. Zoning map of municipality
 - d. Any other information that the local municipality feels will assist the County Planning Board with its review

B. 239-n Subdivision Actions (See "Required Materials for ALL 239 referrals" above)

1. A copy of the preliminary plat (including topography) and the final subdivision plat, if available.

2. A summary of the layout characteristics
 - a. total acres
 - b. total number of lots
 - c. detail of project and lot access, including any needed access permits

- d. deep test pit and percolation test results
 - e. soils data, if commonly available
3. Development Plans (when available)
 - a. types of units to be constructed
 - b. recreation units
 - c. sanitary facilities
 - d. water supply
 4. Soil profile analysis, if septic systems are to be used
 5. Any other information that may be helpful in reviewing the action

The County Planning Board reserves the right to make inquiries to obtain information it feels is necessary for an adequate review to be completed.

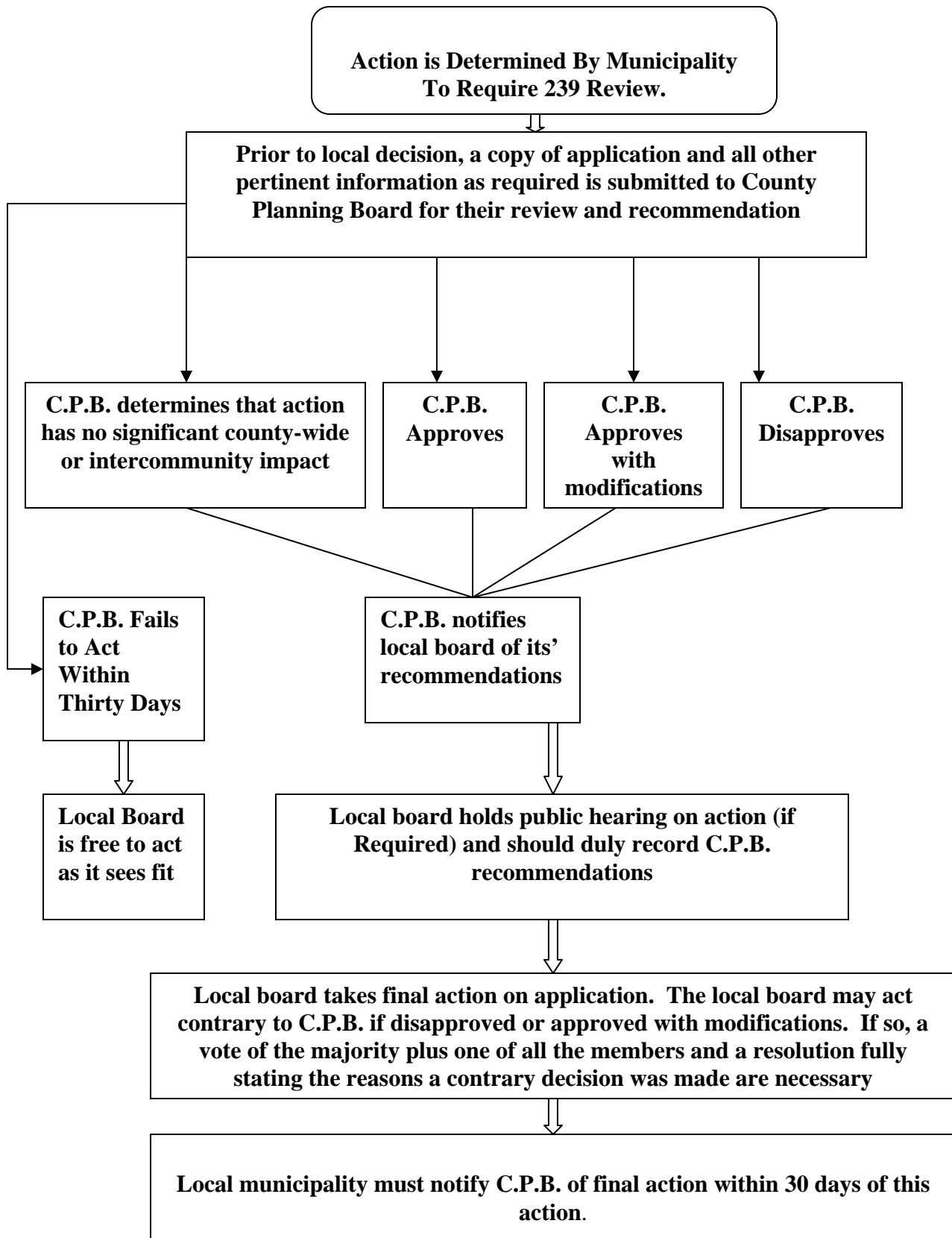
Procedure For ALL 239 Referrals

See Flow Chart (page 7)

Note: Prior to taking action, the local municipality must wait for County Planning Board recommendation(s). However, if the County Planning Board has not made a decision within 30 days, then the local municipality may take action.

Failure To Comply

If a local municipality fails to comply with the required referrals, specified under Sections 239 l, m, and n, legal problems can result. Decisions of local boards on certain planning and zoning actions are rendered null and void if those actions are not referred to the County Planning Board. It is important for all communities in Delaware County to follow the procedure outlines in this manual to provide for proper Planning Board Review.



Appendix 1

Municipalities with Zoning:

Towns:

Andes
Bovina
Delhi
Franklin
Middletown
Sidney
Walton

Villages:

Delhi
Deposit
Fleischmanns
Hancock
Hobart
Margaretville
Sidney
Stamford
Walton

Municipalities with Site Plan Review Only:

Towns:

Stamford
Hamden
Deposit
Harpersfield

Municipalities with Subdivision Regulations:

Towns:

Andes
Bovina
Colchester
Delhi
Deposit
Franklin
Hamden
Hancock
Harpersfield
Kortright
Meredith
Middletown
Roxbury
Sidney
Stamford
Tompkins
Walton

Villages:

Delhi
Sidney