

Chenango County Guide To The Section 239 Review Process

What is a 239 Review?

Section 239 l, m, n and nn of General Municipal Law (commonly called 239 Review) is a State law that requires local municipalities to send certain projects to the County Planning Board for review and comment. The intent of the law is to identify actions that might have inter-municipal and countywide impacts.

The Chenango County Department of Planning and Development has developed this guide to explain the 239 review process in Chenango County to local municipalities and applicants.

Who is this guide for?

This guide is for municipal officials who handle applications for use and area variances, site plan reviews, special use permits, and subdivision reviews. Officials who work on comprehensive plans, zoning adoption, amendments to zoning maps, zoning ordinances, or land use laws will also benefit from this guide.

When are you required to submit a 239 Review?

You only need to submit an application to The Chenango County Planning Department for 239 Review if the project/application is within 500 feet of one or more of the following:

- Boundary of any city, village, town, adjacent county; or
- Boundary of any existing or proposed county or state park or any other recreation area; or
- Right-of-way of an existing or proposed county or state parkway, thruway, expressway, road or highway; or
- 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; or
- Existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
- Boundary of a farm operation located in an agricultural district (unless it is an area variance, then you don't need to submit it for review).

How do local towns and villages benefit from the 239 review Process?

- *You receive professional assistance in reviewing projects*
- *You avoid inter-municipal impacts*
- *By following the correct legal process, you avoid having your decision overturned by a judge*

*Building permits and zoning interpretations are **NOT** subject to 239 review*

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Certain zoning and land use actions **MAY** trigger a 239 review. They are:

- If your municipality is adopting or amending its comprehensive plan
- If your municipality is adopting or amending its land use laws
- If your municipality is adopting or amending its zoning ordinance or local zoning law;
- If an applicant applies for a special use permit, site plan approval, use or area variance, or subdivision plat
- Other proposed zoning actions

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 §239.

Not sure if a 239 Review is necessary?

The municipality or applicant can contact the Chenango County Department of Planning and Development to confirm. Contact the office by email at Planning@co.chenango.ny.us or by phone at (607) 337-1640.

How do actions get referred to the Chenango County Planning Department for 239 Review?

The applicant, usually a developer or property owner, submits an application to a municipal board, planner, code officer, town clerk, town engineer, municipal attorney or other staff person. If that staff person determines that the action is subject to 239 Review, they send a copy of the full application to the Chenango County Planning Department for review. **This needs to happen before the local board takes final action on the application.**

To submit an action for 239 Review, municipal staff completes the 239 Review Submission Form. You will find this form online at: <http://www.co.chenango.ny.us/planning/planning-board/documents/239%20REVIEW%20SUBMISSION%20FORM.pdf>

- When mailing the submittal, address the submittal to:

Attn: Chenango County Planning Department
5 Court Street
Norwich, NY 13815
- When e-mailing the submittal, e-mail to: Planning@co.chenango.ny.us . Please put 239-Review application in the subject header.

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Applications should be completed, signed, and have all supporting materials submitted no later than 4pm **AT LEAST 10 DAYS Prior To** the regularly scheduled Chenango County Planning Board meeting.

The Chenango County Planning Board Typically Meets Every Second (2nd) Tuesday of the Month at 8:15 am. Meetings are subject to change due to County observed holidays.

What do we need in addition to the 239 Review form?

In addition to the 239 Review form, the municipality must submit the following items to the County Planning Department:

- All materials required by the municipality and submitted as part of the application
- A completed SEQRA form
- All other materials required by the municipality to make its determination of significance pursuant to the SEQRA
- For adoption or amendment of a zoning ordinance or zoning local law, the complete text of the proposed ordinance or local law and all existing affected provisions.

The application or project description should include the reason for the action, existing and proposed project uses, hours of operation, numbers of employees expected during construction and operation, amount and type of traffic generated during construction and operation, numbers of dwelling units and bedrooms and future phases of development and construction phases.

The site plan must be drawn to scale and **(as much of the following items as possible)** include a north arrow and scale, lot size and dimensions, any planned demolition, existing and proposed principal and accessory buildings (footprints, dimensions, elevations), existing and proposed setbacks (front yard, side yard and rear yard), adjacent land uses, open spaces, landscaping, driveways (location and dimensions, intersections with the streets and highways, curb cuts, egress and ingress), traffic circulation patterns for vehicles, pedestrians and bicycles, parking (employee spaces, customer spaces, accessible parking spaces, vehicle display spaces, delivery loading area), walkways, bikeways and bike facilities, exterior lighting, drainage patterns, drainage system, fencing and screening, architectural features, retaining walls, existing and proposed contours, easements, dumpster enclosures, floor plans, future phases.

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The following table shows what we need for each type of action:

Required Submittals	Site Plan Review, Special Use Permit, Use or Area Variance, Subdivision	Zoning and Land Use Law Text Adoption or Amendment	Rezoning	Comprehensive Plan Adoption or Amendment
239 Review Submission Form	✓	✓	✓	✓
Project application With Description	✓	✓	✓	✓
SEQR Documents	✓	✓	✓	✓
Site Plan showing the following:				
Existing Conditions	✓			
Grading and Clearing	✓			
Lighting	✓			
Utilities	✓			
Signage	✓			
Wetland and Floodplain	✓			
Drainage Plan, Erosion and Sediment Control, or Storm water Pollution Prevention Plan (SWPPP)	✓			
Building Elevations and Renderings	✓			
Traffic Generation	✓			
Traffic Impact Study	✓			
Zoning or Land Use Laws:				
Existing Text	✓	✓	✓	✓
Proposed Text	✓	✓	✓	✓

For large scale projects, we understandably need more information. This includes building elevations, lighting plan, grading and clearing plan, drainage plan, erosion and sediment control plan, circulation plan, utilities, landscaping, signage, and a traffic impact study. If they are available, local staff reports, minutes of meetings, correspondence, and photographs are also helpful to our review.

How long does the 239 review process take?

By State law, the County Planning Board has 30 days from the date of receipt of a complete application for our review. Date of receipt means delivery of the full application to Chenango County Planning as follows:

- If mailed, the postmark is the date of receipt.
- When hand delivered, the date hand delivered is the date of receipt.
- When the application is e-mailed, the e-mail date is the date of receipt.

Generally we complete our review well before 30 days. In some cases, however, County Planning may contact you and request more time to prepare our comments.

If Chenango County Planning fails to report within the 30 days, the local municipality may take final action on the proposed action without our comments. However, any County Planning report received after 30 days or such longer period as may have been agreed upon, but 2 or more days prior to the local board taking final action, must still be considered when making your decision.

When establishing the meeting dates, the municipal staff should keep in mind that Chenango County Planning has 30 days to complete its review. We make every effort to complete our review before the meeting date. A request for expedited review when absolutely necessary should be noted on the 239 Review form and Chenango County Planning will notify the municipal staff when Chenango County Planning cannot submit comments before the expedited review date.

What will we comment on?

The intent of the law is to bring important inter-municipal and countywide matters to your attention as you review certain zoning and subdivision actions. These inter-community and county-wide matters include the following:

- Land use compatibility
- Traffic generation
- Impact on existing and proposed county or state institutional or other uses;
- Protection of community character
- Storm water drainage;
- Impact on community facilities;
- Official municipal and county development policies
- Effect on public convenience, governmental efficiency, and the community environment.

General Municipal Law also allows us to make informal comments, or provide technical assistance as may be requested by the municipality.

What goes into preparing our comments?

As we review the action, the Planning Department considers the following:

- Chenango County Comprehensive Plan
- County-wide and Region-wide Plans
- Municipal Comprehensive Plans and Zoning Regulations
- Other State and Local Laws
- Guidance from the New York State Department of State
- Sound Planning Principles and Practices
- Site conditions
- Comments from Adjacent Municipalities
- Local Board Meeting Minutes, Municipal Staff Reports and Correspondence (if available)

New York State Department of Transportation (NYSDOT) Referral

Since any development along a state highway could potentially impact the NYSDOT transportation system, NYSDOT requests to be notified whenever the Chenango County Planning Department receives an application for a project that is located within 500 feet of any state road. Although not required by law, NYSDOT also requests to be notified of any significant projects located beyond the 500 foot threshold if impacts to the state highway system can be reasonably expected as a result of the project.

NYSDOT requests to receive a copy of all relevant materials regarding the proposed action, including any applications, staff reports, site plan drawings, traffic studies, SWPPPs, and photographs as appropriate.

NYSDOT reviews the proposed action to determine if it will have any impacts to the state roadway system. The following is a list of some of the items that are evaluated during a review:

- Curb cuts—number of curb cuts/access management, locations, and dimensions
- Anticipated traffic volumes
- Traffic operational issues
- Sight distances
- Drainage
- Encroachment in right-of-way
- Need for a Highway Work Permit
- Pedestrian Access

NYSDOT has established a formal Site Plan Review Committee to review all 239 Review applications that are submitted to the agency. The Committee consists of nine individuals representing several NYSDOT offices, including Traffic Engineering & Highway Safety, Planning & Program Management, Design, Operations, and the Regional Director's Office, plus a representative from Binghamton Metropolitan Transportation Study (BMTS). For most cases, NYSDOT provides a formal written response to the Chenango County Planning Department within one week of the meeting. More complicated projects, such as those

which involve a traffic impact study or drainage study, require additional time for review and comment.

Letting neighboring municipalities and counties know what is happening

It is the municipality's responsibility to notify and send all pertinent information to the neighboring municipality. A neighboring municipality and/or county must be notified when there is a public hearing for a special use permit, use variance; site plan review and approval; or subdivision review and approval within 500 feet of an adjacent municipality, the local board is obligated by State law to let them know about the project. The notification should be at least 10 days prior to the public hearing, you need to send mail or email to the clerk of the neighboring municipality advising them of the public hearing. The adjacent municipality may speak at the public hearing.

What do the County's comments mean to you?

After we hear from all the relevant agencies and review the project, we make our official comments in the form of a letter from the Chairman of the Chenango County Planning Boards 239-Review Committee. The Chenango County Planning Board comments may include one of the following findings:

- Finding of no significant countywide or inter-community impacts with no comments;
- Finding of no significant countywide or inter-community impacts with advisory comments and recommendations; or
- Finding of significant countywide or inter-community impacts, recommendation of denial and reasons for the recommendation of denial.

Our opinion is only advisory, but if we recommend denial or modification of the proposed action, the local board cannot act contrary unless they have a vote of a majority plus one of all board members. This is a super-majority, which 239 law calls an 'Extraordinary Vote'.

Included with our comments may be references to required permits or other laws or regulations that need to be addressed. We also may make suggestions, comments, or other technical assistance advice that is strictly advisory.

What happens after you make a decision?

After the local board makes a decision, General Municipal Law requires that you send us a copy. If you acted contrary to our recommendation of modification or denial, you have to note the reasons for this action. **You have 30 days to send us this final report.**

Do you have questions?

Call the Chenango County Planning Department at (607) 337-1640 or email at Planning@co.chenango.ny.us with 239-review question(s) in the subject header.

Resources:

Chenango County Comprehensive plan:

<http://www.co.chenango.ny.us/planning/planning-board/documents/Comprehensive%20Plan%20January%202016.pdf>

New York General Municipal Law:

https://newyork.public.law/laws/n.y._general_municipal_law_section_239-b

New York State Department of State Local Government Trainings:

<https://www.dos.ny.gov/LG/publications.html>

New York State Department of Environmental Conservation SEQR:

<https://www.dos.ny.gov/LG/publications.html>

New York State Department of Transportation District 9 Info:

<https://www.dot.ny.gov/regional-offices/region9/general-info>