

239-L AND M
INFORMATION MANUAL

This manual was developed by the Lewis County Planning Department to assist Towns and Villages with the General Municipal Law, Article 12-B, Section 239-l and 239-m process.

Prepared by

The Lewis County Planning Department

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1. What is the General Municipal Law?

The General Municipal Law is part of New York State statute law, which authorizes certain actions to be performed by counties, cities, towns and villages.

2. What does the General Municipal Law have to do with planning?

The General Municipal Law enables the County to establish a countywide planning operation within its governmental framework. This statute also empowers the County Board of Legislators to create a Planning Board to perform certain acts with regard to the planning of the County.

3. What does the General Municipal Law have to do with planning in Towns and Villages in Lewis County?

The State Legislature has recognized that certain proposed planning actions considered by local government have area-wide significance and, therefore, should be referred to the County Planning Board. More specifically, Section 239-l and -m sets up a legal procedure wherein certain planning matters are referred to the County Planning Board for review and action.

4. What is the purpose and intent of Section 239-l and -m?

Briefly stated, the primary purpose of this section is to establish a procedure for better coordination of planning and zoning matters on an inter-municipal and countywide basis.

5. Are there any other advantages to Section 239-l and -m?

Yes. Section 239-l and -m review procedure helps facilitate assistance to Towns and Villages from the professional staff Planners and the County Planning Board. This assistance can be very valuable, since Towns and Villages can obtain professional advice with no direct cost to themselves.

6. Does the General Municipal Law make it mandatory that all planning and zoning matters be referred to the County Planning Board for review?

No. Only those planning and zoning matters, which are specifically enumerated in Section 239-l and -m (See No. 8).

7. What considerations are required to be reviewed by the County Planning Board for a referral?

Generally speaking, the County Planning Board shall consider such matters as compatibility of land use; traffic generation and its effect upon existing traffic and the adequacy of existing and/or proposed highways; the impact of such proposed land use upon 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 municipal, county, and state levels.

8. What zoning actions under Section 239-m require a referral to the County Planning Board?

(a) The proposed actions shall be subject to the referral requirements of § 239-m if the proposed action involves one or more of the following:

- (i) Adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law or section 7-722 of the village law;
- (ii) Adoption or amendment of a zoning ordinance or local law, **except**:
 - 1. Amendments to the zoning ordinance which only involve changes or modifications to administration of the code or changes in the fee structure (i.e., general provisions, permit procedures, powers and duties of local boards and officers, penalties for offenses, public hearing requirements, organization, and amendment procedures); and
 - 2. Amendments involving the regulation of signs.
- (iii) Issuance of special use permits and approval of site plans or use variances, **except** applications which involve:
 - 1. Signs;
 - 2. Home Occupations;
 - 3. Extensions to preexisting nonconforming buildings when the nonconformity involves extension of an existing building line;
 - 4. The placement of single-family and two-family dwellings (including mobile homes and manufactured housing);
 - 5. Docks, moorings and related waterfront structures which are on parcels utilized for a single- or two-family residences;
 - 6. The expansion of existing uses in existing buildings on existing lots; **and**

(b) The above actions listed in (a) (iii) shall be subject to the referral requirements of § 239-m only if they apply to real property within 250 feet of the following:

- (i) the boundary of any city, village or town; or
- (ii) the boundary of any existing or proposed county or state Park or any other recreation area; or
- (iii) the right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
- (iv) 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; or
- (v) the existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
- (vi) the boundary of a farm operation located in an Agricultural District, as defined by Article 25-AA of the NYS Agriculture and Markets Law, except this subparagraph shall not apply to the granting of area variances.

9. Does Section 239-l and –m require that all municipalities within Lewis County refer matters to the County Planning Board?

No. Only those municipalities, which are adopting, or have adopted, a zoning law, zoning ordinance, rural development code, or site plan review law.

10. Who decides if a referral to the County Planning Board is required?

It is the responsibility of the local municipalities to determine if a planning matter falls within the jurisdiction of the General Municipal Law. Such matters should be referred to the County Planning Board by the local Planning Board Chairman, Zoning Board of Appeals Chairman (if one exists), or the Municipal Clerk of the Town Board.

11. If a local municipality is not sure if a planning matter is subject to 239-l and –m review, whom can they contact for assistance?

If there is any question concerning a determination, contact should be made with the municipal attorney, the Lewis County Planning Department or the NYS Tug Hill Commission.

12. Does the County Planning Board have any forms for referral?

Yes. One type of referral form has been prepared and a copy is available in Appendix A of this booklet.

13. Are any other forms required?

Yes. There is an Agricultural Data Statement that is only for projects located on property within an Agricultural District or on property within 250 feet of a farm operation located in an Agricultural District (See Appendix A for form).

14. Does a developer/applicant or his representative submit requests to the County Planning Board for report?

No. The developer/applicant or his representative submits his requests to the local municipality pursuant to their land use regulations. The municipality in turn decides whether or not the application must be submitted to the County Planning Board. If County review is required, the Municipal Clerk, Planning Board Chairman, or Zoning Board of Appeals Chairman (as appropriate) forwards the necessary material to the County Planning Board.

15. Can applicants and developers contact the County Planning Board for assistance and advice?

Yes. It is encouraged that applicants and developers contact the County Planning Department prior to review by the County Planning Board so that pertinent planning matters can be discussed.

16. Does the County Planning Board set a public hearing for matters referred under the General Municipal Law?

No. The law does not require that the County Planning Board hold a public hearing. It should be noted that the County Planning Board only **makes recommendations** and that final decisions rest with the local referring board, which has final approval authority.

17. To whom does the municipality submit the referral application?

It should be submitted to the County Planning Department, to the attention of the Chairman of the County Planning Board.

18. When is the deadline for sending referral applications to the County Planning Board?

Referrals must be received by the County Planning Board at least twelve (12) calendar days before its next regularly scheduled meeting (3rd Thursday of each month). **Note:** In certain cases referring boards may be required by State law to make such referrals 5 or 10 days prior to scheduled public hearings held by the referring board.

19. What happens if a referral is sent after the twelve-day deadline?

The referral can be excluded from the agenda of the County Planning Board's next regularly scheduled meeting (3rd Thursday of each month).

20. Does the General Municipal Law put a time limit on the County Planning Board report?

Yes. The County Planning Board shall have thirty (30) days after receipt of a **full statement** of such proposed action, or such longer period as may have been agreed upon by the County Planning Board and the referring body, to report its recommendations. The County Planning Board must recommend approval, approval with modifications, disapproval, or report that the proposed action has no significant countywide or intercommunity impact and is therefore a matter of local concern (See No. 22).

21. Can a local municipality act prior to the receipt of the County Planning Board Report?

Yes. However, a local municipality must wait at least thirty (30) days from the date the County received the full statement, for the recommendations of the County Planning Board **prior** to taking final action. It is preferred that for larger projects the local municipality not hold their final public hearing until it has received the County Planning Board's report and to enter the recommendation into the public minutes of the local board's hearing (See No. 22).

22. What happens if the County Planning Board fails to act within thirty (30) days of official receipt of the application?

If the County Planning Board fails to report within such period, or such longer period as may have been agreed upon, the referring body may take final action on the proposed action without such report. However, if the County Planning Board's report is received after the thirty (30) days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, it shall be subject to the provisions of No. 25.

23. If the County Planning Board reports approval, can the municipality take a disapproval action?

Yes. Approval by the County Planning Board means that the County Planning Board has decided that the matter conforms to the interest of the General Municipal Law. However, the municipality may still disapprove the application if it does not conform to the goals and objectives of the community.

24. What is meant by approval with modifications?

In those cases where the County Planning Board recommends approval with modifications, it is understood that the modification recommended by the County board must be met if the proposed application is to be considered as approved by the County board.

25. If the County Planning Board recommends modifications or disapproval and sets forth its reasons, can the local municipality act contrary to the recommendations of the Board?

A local municipality may act contrary to the County recommendation **providing** that a vote to act contrary consists of a majority plus one of **all** of the members of the board which has final approval authority. Also, the action must be in a resolution stating the reasons why the local municipality is acting contrary to the County Planning Board's recommendations.

26. Is the local municipality required to notify the County Planning Board of its final action?

Yes. The local municipality must notify the County Planning Board within thirty (30) days after final action. This can be accomplished by sending a copy of the Municipal Board's meeting minutes to the Planning Board. If the action was contrary to a recommendation of modification or disapproval of the proposed action the reasons shall be set forth in this notification.

27. What happens if a municipality ignores the requirements of 239-l and -m?

The courts may **invalidate** the action taken by the local board. In other words, those actions in No. 8 that were acted on without following 239-l and -m requirements could be found invalid and struck down by a court of law.

28. Where can one obtain further information on General Municipal Law, Section 239-l and -m?

Information can be obtained from the Lewis County Planning Department, the NYS Tug Hill Commission, or your Municipal attorney.

APPENDIX A

The Lewis County Planning Board requests that the following forms be used when submitting a referral for 239 review. The information required on these forms will enable the County Planning Board to complete a review, and provide appropriate assistance (if necessary) to your board on this referral.

Please photocopy the forms as needed!



LEWIS COUNTY PLANNING BOARD
 LEWIS COUNTY COURT HOUSE
 7660 NORTH STATE STREET; LOWVILLE, NY 13367
 PHONE: (315) 376-5422 FAX: (315) 377-3137

GENERAL MUNICIPAL REFERRAL FORM

Required pursuant to General Municipal Law Article 12B, Sections 239-l and 239-m

Date _____

1. Municipality (check appropriate box):
 Town of _____ Village of _____

2. Referring body (check appropriate box):
 Town/Village Board Zoning Board of Appeals Planning Board

3. Name, title and address of official to whom our recommendation is to be mailed:

4. Applicant's Name: _____
 Address: _____

 Phone: (_____) _____ - _____

5. Local project identification number (if applicable): _____

6. Type of Referral (check each appropriate line):
 Area Variance Zoning Map Amendment
 Use Variance Other (specify): _____
 Special Permit _____
 Site Plan Review _____
 Zoning Text Amendment(s) _____

7. Location of real property pertaining to referral (**fill out completely**):
 A. Frontage Road Name: _____
 B. Nearest Intersecting Road:
 Name: _____ Direction: _____ Distance: _____
 C. Tax Map Parcel: Map _____ Block _____ Lot _____
 D. Dimensions/Area of Property: _____

 E. Existing Zoning District: _____

8. Brief written summary of proposed action: _____

9. Enclosures: **(please check all that apply)**

_____ * Sketch of proposal drawn to **scale** depicting existing and proposed buildings, proposed entrance/exit, internal traffic circulation pattern, designated parking areas, and north arrow.

_____ * Location map(s), example: (topographic map, real property tax map)

_____ * SEQR Environmental Assessment Form (EAF)

_____ Existing Area Zoning

_____ Agricultural Data Statement

_____ Copies of textual amendments

_____ Other (specify): _____

* **Mandatory for all referrals**

10. Other involved agencies (i.e., other agencies having permitting authority) – **(Please check all that apply)**

_____ NYS Department of Environmental Conservation

_____ NYS Department of Health

_____ NYS Department of Transportation

_____ Lewis County Soil and Water Conservation District

_____ Adirondack Park Agency

_____ Other(s): _____

11. Is this parcel located in an Agricultural District? _____ (yes or no)

If yes, then an Agricultural Data Statement needs to be completed and submitted with all applications for a Special Use Permit, Site Plan Approval or Use Variance Approval for projects occurring on property within an Agricultural District containing a farm operation, or on property with boundaries within 250 feet of a farm operation located in an Agricultural District. Please complete and submit the attached Agricultural Data Statement, if applicable.

Name of Local official completing this form: _____

Address: _____

Phone: (_____) _____ - _____

Send completed form and enclosures (*no later than 12 days before the next County Planning Board meeting – 3rd Thursday of each month*) to:

LEWIS COUNTY PLANNING BOARD
c/o LEWIS COUNTY PLANNING DEPARTMENT
7660 NORTH STATE STREET; COURT HOUSE
LOWVILLE, NY 13367

OFFICE USE ONLY:

Date Received: _____

Reviewed By: _____

AGRICULTURAL DATA STATEMENT

This statement is to be submitted with all applications required for a Special Use Permit, Site Plan Approval or Use Variance Approval for projects occurring on property within an Agricultural District containing a farm operation, or on property with boundaries within 250 feet of a farm operation located in an Agricultural District. (Ref. Town Law 283-a)

1. Applicant's Name: _____
Address: _____
Phone: (_____) _____ - _____

2. Description of proposed project: _____

3. List names and addresses of farming operations * within 250 feet of the proposed project:
(attach additional sheet if necessary)

1. _____
2. _____
3. _____

4. Written description of exact location of proposed project: Please attach a tax map or clearly drawn map showing proposed project relative to all farming operations identified in the Data Statement:

* Farming operations, as defined by NYS Agriculture and Markets Law, Article 25-AA, means the land used in agricultural production, farm buildings, equipment, and farm residential buildings.