

General Municipal Law § 239-l, m, &n

§ 239-l. Coordination of certain municipal zoning and planning actions; legislative intent and policy.

1. Definitions. For the purposes of this section and sections two hundred thirty-nine-m and two hundred thirty-nine-n of this article, the following terms shall apply:

(a) "County planning agency" means a county planning board, commission or other agency authorized by the county legislative body to review proposed actions referenced for inter-community or county-wide considerations subject to the provisions of this section, and sections two hundred thirty-nine-m and two hundred thirty-nine-n of this article.

(b) "Regional planning council" means a regional planning board or agency established pursuant to the provisions of this chapter.

2. Intent. The purposes of this section, sections two hundred thirty-nine-m and two hundred thirty-nine-n of this article shall be to bring pertinent inter-community and county-wide planning, zoning, site plan and subdivision considerations to the attention of neighboring municipalities and agencies having jurisdiction. Such review may include inter-community and county-wide considerations in respect to the following:

(a) compatibility of various land uses with one another;

(b) traffic generating characteristics of various land uses in relation to the effect of such traffic on other land uses and to the adequacy of existing and proposed thoroughfare facilities;

(c) impact of proposed land uses on existing and proposed county or state institutional or other uses;

(d) protection of community character as regards predominant land uses, population density, and the relation between residential and nonresidential areas;

(e) drainage;

(f) community facilities;

(g) official municipal and county development policies, as may be expressed through comprehensive plans, capital programs or regulatory measures; and

(h) such other matters as may relate to the public convenience, to governmental efficiency, and to the achieving and maintaining of a satisfactory community environment.

3. Review considerations. In no way shall the review of inter-community and county-wide considerations pursuant to the provisions of this section, or pursuant to sections two hundred thirty-nine-m and two hundred thirty-nine-n of this article, preclude a county planning agency or a regional planning council from making informal comments, or supplying such technical assistance as may be requested by a municipality.

§ 239-m. Referral of certain proposed city, town and village planning and zoning actions to the county planning agency or regional planning council; report thereon; final action.

1. Definitions. As used herein:

(a) The term "proposed" as used in subparagraphs (ii) and (iii) of paragraph (b) of subdivision three of this section shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county comprehensive plan adopted pursuant to section two hundred thirty-nine-d of this article or adopted on an official map pursuant to section two hundred thirty-nine-e of this article.

(b) The term "referring body" shall mean the city, town or village body responsible for final action on proposed actions subject to this section.

(c) The term "full statement of such proposed action" shall mean all materials required by and submitted to the referring body as an application on a proposed action, including a completed environmental assessment form and all other materials required by such referring body in order to make its determination of significance pursuant to the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. When the proposed action referred is the adoption or amendment of a zoning ordinance or local law, "full statement of such proposed action" shall also include the complete text of the proposed ordinance or local law as well as all existing provisions to be affected thereby, if any, if not already in the possession of the county planning agency or regional planning council. Notwithstanding the foregoing provisions of this paragraph, any referring body may agree with the county planning agency or regional planning council as to what shall constitute a "full statement" for any or all of those proposed actions which said referring body is authorized to act upon.

(d) The term "receipt" shall mean delivery of a full statement of such proposed action, as defined in this section, in accordance with the rules and regulations of the county planning agency or regional planning council with respect to person, place and period of time for submission. In no event shall such rule or regulation define delivery so as to require in hand delivery or delivery more than twelve calendar days prior to the county planning agency's or regional planning council's meeting date. In the absence of any such rules or regulations, "receipt" shall

mean delivery in hand or by mail to the clerk of the county planning agency or regional planning council. Where delivery is made in hand, the date of receipt shall be the date of delivery. Where delivery is made by mail, the date as postmarked shall be the date of delivery. The provisions of this section shall not preclude the rules and regulations of the county planning agency or regional planning council from providing that the delivery may be a period greater than twelve days provided the referring body and the county planning agency or regional planning council agree in writing to such longer period.

2. Referral of proposed planning and zoning actions. In any city, town or village which is located in a county which has a county planning agency, or, in the absence of a county planning agency, which is located within the jurisdiction of a regional planning council duly created pursuant to the provisions of law, each referring body shall, before taking final action on proposed actions included in subdivision three of this section, refer the same to such county planning agency or regional planning council.

3. Proposed actions subject to referral.

(a) The following proposed actions shall be subject to the referral requirements of this section, if they apply to real property set forth in paragraph (b) of this subdivision:

- (i) adoption or amendment of a comprehensive plan pursuant to section two hundred seventy-two-a of the town law, section 7-722 of the village law or section twenty-eight-a of the general city law;
- (ii) adoption or amendment of a zoning ordinance or local law;
- (iii) issuance of special use permits;
- (iv) approval of site plans;
- (v) granting of use or area variances;
- (vi) other authorizations which a referring body may issue under the provisions of any zoning ordinance or local law.

(b) The proposed actions set forth in paragraph (a) of this subdivision shall be subject to the referral requirements of this section if they apply to real property within five hundred 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; or

(vi) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law, except this subparagraph shall not apply to the granting of area variances.

(c) The county planning agency or regional planning council may enter into an agreement with the referring body or other duly authorized body of a city, town or village to provide that certain proposed actions set forth in this subdivision are of local, rather than inter-community or county-wide concern, and are not subject to referral under this section.

4. County planning agency or regional planning council review of proposed actions; recommendation, report.

(a) The county planning agency or regional planning council shall review any proposed action referred for inter-community or county-wide considerations, including but not limited to those considerations identified in section two hundred thirty-nine-l of this article. Such county planning agency or regional planning council shall recommend approval, modification, or disapproval, of the proposed action, or report that the proposed action has no significant county-wide or inter-community impact.

(b) Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty 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 agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the proposed action without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section.

5. Extraordinary vote upon recommendation of modification or disapproval. If such county planning agency or regional planning council recommends modification or disapproval of a proposed action, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

6. Report of final action. Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

§ 239-n. Referral of certain proposed subdivision plats to the county planning agency or regional planning council; report thereon; final action.

1. Definitions. As used herein:

(a) The term "proposed" as used in subparagraphs (ii) and (iii) of paragraph (a) of subdivision three of this section shall be deemed to include only those recreation areas, parkways, thruways, expressways, roads or highways which are shown on a county comprehensive plan, adopted pursuant to subdivision seven of section two hundred thirty-nine-d of this article, or shown on an official map adopted pursuant to section two hundred thirty-nine-e of this article.

(b) The term "undeveloped plat" shall mean those plats already filed in the office of the clerk of the county in which such plat is located where twenty percent or more of the lots within the plat are unimproved unless existing conditions, such as poor drainage, have prevented their development.

(c) The term "referring body" shall mean the city, town or village body authorized by a municipal legislative body to approve preliminary or final plats or to approve the development of undeveloped plats and/or plats already filed in the office of the county clerk.

2. Referral of proposed plats. In any city, town or village which is located in a county which has a county planning agency authorized by the county legislative body to review preliminary or final plats or to approve the development of undeveloped plats, the clerk of the municipal planning agency, upon receipt of application for preliminary and/or final approval of a subdivision plat or proposal to develop an undeveloped plat and/or plats already filed in the office of the county clerk, shall refer certain of such plats to the county planning agency. In the absence of a county planning agency, the county legislative body may authorize a regional planning council whose geographic area includes the county, to perform the review functions prescribed herein.

3. Plats subject to referral.

(a) The following applications for approval of preliminary or final plats and undeveloped plats shall be subject to the referral requirements of this section, if the application applies to real property within five hundred 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 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; or
- (vi) the boundary of a farm operation located in an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law.

(b) The county planning agency or regional planning council may enter into an agreement with the referring body or other duly authorized body of a city, town or village to provide that certain proposed plats are of local, rather than inter-community or county-wide concern, and are not subject to referral under this section.

4. County planning agency or regional planning council review of proposed plats; recommendation, report.

(a) The county planning agency or regional planning council, when authorized by the county legislative body, shall review any referred plat for inter-community or county-wide considerations, including but not limited to those considerations identified in section two hundred thirty-nine-l of this article. The county planning agency or regional planning council may adopt such rules and regulations as are necessary to perform such function. Such county planning agency or regional planning council shall recommend approval, modification, or disapproval, of such plat, or report that such plat has no significant county-wide or inter-community impact.

(b) Such county planning agency or regional planning council, or an authorized agent of said agency or council, shall have thirty days after receipt of a preliminary or final plat or proposal to develop an undeveloped plat, or such longer period as may have been agreed upon by the county planning agency or regional planning council and the referring body, to report its recommendations to the referring body, accompanied by a statement of the reasons for such recommendations. If such county planning agency or regional planning council fails to report within such period, the referring body may take final action on the referred plat without such report. However, any county planning agency or regional planning council report received after thirty days or such longer period as may have been agreed upon, but two or more days prior to final action by the referring body, shall be subject to the provisions of subdivision five of this section.

5. Extraordinary vote upon recommendation of modification or disapproval. If such county planning agency or regional planning council recommends modification or disapproval of a referred plat, the referring body shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

6. Report of final action. Within thirty days after final action, the referring body shall file a report of the final action it has taken with the county planning agency or regional planning council. A referring body which acts contrary to a recommendation of

modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.