

## 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 County planning for review and comment. The intent of the law is to identify actions that might have inter-municipal and countywide impacts.

The Broome County Department of Planning and Economic Development has prepared this guide to explain to local municipalities and applicants how the 239 Review process works in Broome County.

## Who is this Guide for?

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

## When are you required to submit a 239 Review?

Certain zoning and land use actions may trigger 239 Review. These are:

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

You only need to submit these actions to Broome County Planning for 239 Review if they take place within 500 feet of one or more of the following:

- boundary of any city, village or town; or
- boundary of any existing or proposed county or state park or any other recreation area; or
- right-of-way of any 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 do not need to submit it for review).

### ***How do towns and villages benefit from the 239 Process?***

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

***Building permits and zoning interpretations are not subject to 239 Review***

## How can you determine if the action is within 500 feet?

At the Broome County GIS portal we make it easy to learn whether the affected real property is located within 500 feet of one or more of the above listed real property. Here's how to do it:

- Go to [www.bcgis.com](http://www.bcgis.com)
- Click on Interactive Mapping Applications
- Click on UPIS
- Click on Search
- Enter the Parcel ID or Parcel Address
- Click 'Find'

*The GIS Portal is useful for more than just 239 Reviews. You can see if the site has steep slopes, is in the floodplain, if there are wetlands, or has other features that you should consider when reviewing projects.*

A pop up will tell you information about the property including whether it is subject to 239 Review. You can confirm this by zooming to the parcel and turning on the map layers showing the municipal boundaries, County and State right-of-ways; agricultural district boundaries; state parks, county parks and other recreation areas; drainage ways and watercourses; and state-owned and county-owned land.

## Still not sure if 239 Review is necessary?

The municipality may also contact Broome County Planning to confirm whether the proposed action is subject to 239 Review. Contact Lora Zier by e-mail: [lzier@co.broome.ny.us](mailto:lzier@co.broome.ny.us) or telephone: (607) 778-2370.

## How do actions get referred to Broome County Planning 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 Broome County Planning. ***This needs to happen before the local board takes final action on the action.***

To submit an action for 239 Review, municipal staff completes the 239 Review Submission Form. You will find this form online at: [gobroomecounty.com/planning/forms](http://gobroomecounty.com/planning/forms). The form can be filled out online, downloaded and saved. Municipal staff submits the 239 Review Submission Form and full application to Broome County Planning.

*We recommend that the 239 Review form and the full application be submitted in electronic format to assist in speeding up our review.*

- When **mailing** the submittal, address the submittal to:  
Ms. Lora Zier, Senior Planner  
Edwin L. Crawford County Office Building, 5<sup>th</sup> Floor  
P.O. Box 1766  
Binghamton, New York 13902
- When **e-mailing** the submittal, e-mail to: [lzier@co.broome.ny.us](mailto:lzier@co.broome.ny.us)
- When **hand-delivering** the full statement, deliver to the front desk of the Broome County Department of Planning and Economic Development, located on the 5<sup>th</sup> floor of the County Office Building.

### 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 County Planning:

- 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 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.

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

## Broome County Guide To The Section 239 Review Process

Required Submittals	Site Plan Review, Special Use Permit, Use or Area Variance	Zoning Text Adoption or Amendment	Rezoning	Comprehensive Plan Adoption or Amendment
239 Review Submission Form	✓	✓	✓	✓
Project Application with Description	✓	✓	✓	✓
SEQR Documentation	✓	✓	✓	✓
Site Plan showing the following:	✓			
Existing Conditions	✓			
Grading and Clearing	✓			
Lighting	✓			
Landscaping	✓			
Utilities	✓			
Vehicle, Pedestrian and Bicycle Circulation	✓			
Signage	✓			
Wetlands and Floodplain	✓			
Drainage Plan, Erosion and Sediment Control, or Stormwater Pollution Prevention Plan (SWPPP)	✓			
Building Elevations and Renderings	✓			
Traffic Generation	✓			
Traffic Impact Study	✓			
Existing Zoning	✓		✓	
Proposed Zoning		✓	✓	
Proposed Zoning 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, and 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, County planning 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 Broome 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 Broome 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 Broome 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 Broome County Planning will notify the municipal staff when Broome 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:

- Broome County Countywide 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)

Links to the local and regional plans that we use can be found at:

[gobroomecounty.com/planning/pubs](http://gobroomecounty.com/planning/pubs)

In addition to our review, we forward the full application to other agencies when appropriate. Typically, these are:

- Broome County Health Department (BCHD)
- Binghamton Metropolitan Transportation Study (BMTS)
- New York State Department of Transportation (NYSDOT)
- Broome County Department of Public Works (DPW)

As a courtesy, Broome County Planning may also forward the submittal to municipalities located within 500 feet of the proposed action. This depends upon the proposed action. However, the local board is legally obligated to notify local municipalities under certain circumstances. This is discussed under the 'Letting neighboring municipalities know what is happening' section of this guide.

Each agency looks at different elements of the action. Their areas of interest are summarized below:

Broome County Health Department (BCHD): BCHD issues permits for hotels/motels, campgrounds, children's camps, restaurants, mobile home parks, public swimming pools. BCHD approves plans for new septic systems and subdivisions. BCHD also keeps records for existing septic systems. BCHD maintains a database of spills and underground tanks.

Binghamton Metropolitan Transportation Study (BMTS): BMTS will address any issues with site access or traffic impact that may be created based on the proposed project. When appropriate,

BMTS will also comment on bicycle and pedestrian issues. Most of the time a site plan showing parking spaces, driveways (and driveway measurements), buildings, etc. will be necessary for BMTS to properly review a project. BMTS would like to see anticipated traffic generation for proposed projects. For projects where there is potential for more than 100 one-way trips per hour, BMTS would like to see a traffic study.

Broome County Department of Public Works – Engineering Division (DPW): The primary scope of the DPW review is to evaluate the potential impact of the proposed action on County-owned infrastructure. This includes impact to County properties or facilities, roadways, drainage systems, etc. Also, if a project is located directly on a County road, DPW will review the project with respect to County permits that may be required by the applicant.

DPW may also comment on other issues such as potential safety concerns or impact to Town infrastructure as well as other adjacent or near-by projects.

In addition to project submittal paperwork which explains the scope and intent of the application, staff reports are also helpful to DPW's initial reviews. In order to evaluate the impact of a project on County infrastructure it is most important for DPW to have an accurate, "to-scale", site plan layout which illustrates existing as well as proposed conditions. For larger and more complex projects, DPW needs more information (such as traffic studies) to adequately review the project.



If a project is located directly on a County road DPW will need detail about the driveway access and surface runoff that may be entering the County right-of-way. DPW will also review new access points with respect to sight distances and traffic impacts to County roadways. For new driveway entrances onto County roads, DPW asks that NYSDOT driveway design standards be used. This information is necessary for a new County driveway permit to be issued, so DPW commonly comments on missing or incorrect information that will be required to obtain that permit.

A County work permit is required for other types of grading or disturbance within the County right-of-way. This includes underground utility connections, grading to accommodate site drainage, and other projects. DPW will commonly note these items and make sure that proposed work will not interfere with County infrastructure such as culverts and drainage ditches.

Site drainage (or surface runoff) into County right-of-ways that is increasing (or being rerouted) due to the addition of impervious areas is also something that DPW evaluates carefully and will often comment on, especially if the site is located in an area where there are existing drainage issues or concerns.

New York State Department of Transportation, Region 9 (NYSDOT): Since any development along a state highway could potentially impact the NYSDOT transportation system, NYSDOT requests to be notified whenever Broome County Planning 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.



New York State  
Department of Transportation

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 BMTS. For most cases, NYSDOT provides a formal written response to Broome County Planning 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 know what is happening**

As a courtesy, Broome Planning will send certain projects to neighboring municipalities for their comment. However, 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. 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 Commissioner of Planning and Economic Development. The Broome County Planning 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, then 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?

*If you have questions about the 239 Review process, please contact Senior Planner Lora Zier by e-mail: [lzier@co.broome.ny.us](mailto:lzier@co.broome.ny.us) or telephone: (607) 778-2370.*