



NYS Municipal Law Essentials

Site Plan Review • SEQRA • General Municipal Law §239

A Training for New York State Local Government Officials

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PART ONE

Site Plan Review



Zoning Authority • Required Elements • Standards of Review

Town Law §274-a | Village Law §7-725-a | GCL §27-a

Site Plan Review — Legal Authority

Town Law §274-a

Town Planning Board has authority to review site plans when local law or ordinance grants such power. No authority exists without enabling local law.

Village Law §7-725-a

Village Planning Board gains authority via local law. Standards and procedures must be set forth in the local ordinance — not just by board practice.

General City Law §27-a

Cities may grant planning boards site plan review authority by local law, with required procedural safeguards including notice and public hearing.



Key Point: Without specific enabling local law, your board has NO site plan authority. Check your zoning code!

Required Elements of a Site Plan Application

PHYSICAL / SITE ELEMENTS

- ✓ Boundaries, dimensions & north arrow
- ✓ Existing & proposed structures
- ✓ Parking layout, loading areas & traffic flow
- ✓ Landscaping, buffers & open space
- ✓ Lighting plan
- ✓ Drainage & stormwater management
- ✓ Utilities: water, sewer, gas connections
- ✓ Grading & topography (contours)

PROCEDURAL / LEGAL ELEMENTS

- 📄 Owner/applicant information & signatures
- 📄 Deed, title evidence or authorization
- 📄 SEQRA short or full EAF
- 📄 Fees per adopted fee schedule
- 📄 NYS DEC — wetland/floodplain permits if applicable
- 📄 State/county highway access permits
- 📄 Notice of hearing (published + posted)
- 📄 GML §239 referral (if required)

Standards of Review & Decision-Making

✓ BOARDS MAY CONSIDER

- ✓ Compliance with zoning district standards
- ✓ Adequacy of parking & traffic circulation
- ✓ Stormwater & drainage adequacy
- ✓ Landscaping, screening & buffering
- ✓ Lighting impact on neighbors
- ✓ Pedestrian safety & accessibility
- ✓ Compatibility with neighborhood character
- ✓ Protection of natural features

✗ BOARDS MAY NOT CONSIDER

- ✗ Personal opposition — "we don't like it"
- ✗ Competition with existing businesses
- ✗ Subjective aesthetics not in local law
- ✗ Economic impact on neighboring property values (generally)
- ✗ Race, ethnicity, or religion of applicant
- ✗ Speculation about future uses
- ✗ "Too many" of this type of business
- ✗ Conditions not authorized by local law

Site Plan Review Process & Key Timelines

1

Application Submission

Complete application filed with Zoning/Planning Dept. Fee paid per schedule. Clock starts at completeness.

4

GML §239 Referral

If within 500 ft. of county/state facility, refer to county. 30-day waiting period before final action.

2

Completeness Review

Board/staff determines completeness. Incomplete apps tolled — clock does not start.

5

Public Hearing

Notice published in official newspaper ≥5 days prior. All interested parties may be heard.

3

SEQRA Determination

Board acts as Lead Agency. Classify action (Type I, II, Unlisted). Must be completed before final site plan approval.

6

Board Decision

Approval, conditional approval, or denial. Findings must be in writing. Conditions must be reasonable.

Section 8: Tier 3 Solar Energy Projects Permitting Requirements

SITE PLAN REVIEW

- ✓ General information including name, address, and contact info of system installer, owner/ operator, property owners, & applicant
- ✓ Nameplate Capacity of the system (MW)
- ✓ Zoning district designation for the parcel(s) of land
- ✓ Property lines and physical features of the project site
- ✓ Map(s) of MSG 1-4 Soils and Active Agriculture Lands of the Facility Area
- ✓ Adjacent land uses on contiguous parcels
- ✓ Proposed changes to landscape, grading, vegetation, lighting, etc.
- ✓ Erosion and sediment control and stormwater management plans prepared to NYSDEC standards
- ✓ A one, or three-line electrical diagram showing layout, equipment components and associated National Electric Code compliant devices
- ✓ Equipment specification sheet for proposed panels, significant components, mounting system and inverter
- ✓ Property Operation and Maintenance Plan
- ✓ Decommissioning Plan



Site Plan vs. Special Use Permit

SPECIAL USE PERMIT

- SUP is for a use that is allowed by zoning
- SUP is a tool which adds flexibility to the zoning law. It is a way of allowing uses on some parcels which may not be suitable everywhere in a district but are still considered desirable
- SUP deals with use compatibility, and only allows uses on a particular site if they can meet additional requirements of the zoning law.
- NYS statutes give the authority to adopt and administer special use permit laws or ordinances to cities and towns, and grants villages the authority to adopt and administer special use permit laws.
 - General City Law §27-b
 - Town Law §274-b
 - Village Law §7-725-b



Solar Energy Examples:
Lot coverage / setbacks
Fencing
Underground requirements

PART TWO

SEQRA

State Environmental Quality Review Act



Environmental Conservation Law Article 8 | 6 NYCRR Part 617

Type I • Type II • Unlisted Actions • EAF • DEIS • Lead Agency

SEQRA — Purpose & Scope

What SEQRA Requires

Applies to all discretionary government actions

Federal, state, and local agencies that approve, fund, or directly undertake projects.

Requires environmental review before approval

Agencies must consider environmental impacts and alternatives before committing to an action.

Cannot segment review

You cannot divide a project into pieces to avoid full review. The entire action must be considered.

Applies to private projects needing government approval

Site plans, subdivisions, special use permits, variances all trigger SEQRA if they have environmental impact.

Result: findings statement or negative declaration

Board must formally document its SEQRA determination before any final approval.

Key Facts

1975

Year SEQRA enacted

**6 NYCRR
Part 617**

Implementing regulations

3 Types

Type I, Type II, Unlisted Actions

**Lead
Agency**

One agency coordinates review

**Neg. Dec.
or DEIS**

Two main outcomes

SEQRA — The Three Action Types

TYPE I

Presumed Significant

More likely to require an EIS.
Triggered by size thresholds or sensitive areas.

Examples:

- Non-agricultural use of ≥ 100 acres
- Residential development of ≥ 250 units (or less in sensitive areas)
- Any project in or near critical environmental areas
- Actions involving > 2.5 acres of physical alteration on or adjacent to a historic site, public park

Full Environmental Assessment Form (FEAF) and coordinate review with Involved Agencies

TYPE II

Exempt from SEQRA

No environmental review required.
Board need only note the exemption in its record.

Examples:

- Routine maintenance of existing facilities
- Installation of minor accessories (fences, signs)
- Solar projects < 25 acres on impacted lands (closed landfills, brownfields, inactive hazardous waste disposal, parking lots)
- Emergency actions by agencies

UNLISTED

Case-by-Case Review

Most common category. Board must prepare EAF and determine significance.

Examples:

- Commercial projects below Type I thresholds
- Small subdivisions
- Site plan approvals not meeting Type I criteria
- Most local land use actions

FEAF with coordinated review or Short EAF without coordinated review

SEQRA — Lead Agency & Environmental Assessment

Lead Agency

Who is Lead Agency?

Generally the agency with principal discretionary authority over the action.

Single vs. Multiple Agencies

If multiple agencies are involved, they must coordinate. Planning board is often lead on site plans.

30-Day Coordination

Notify involved agencies of intent to serve as lead. 30-day period for objection/acceptance.

Cannot Segment

Lead agency must look at the entire connected action — not just the piece before it.

Responsibilities

Issue the determination of significance, oversee EIS if required, make findings before approval.

Environmental Assessment Form (EAF)

Short EAF (Part 1)

Completed by applicant for most Unlisted actions. Board completes Parts 2 & 3.

Full EAF

Required for Type I actions. More detailed; covers cumulative impacts.

Part 1

Applicant's description of project and potential impacts.

Part 2

Board identifies potential significant adverse impacts using checklist.

Part 3

Board evaluates significance of impacts identified in Part 2 — key decision document.

Negative Declaration

"Neg Dec" — Board finds no significant environmental impact. Written notice required.

SEQRA — EIS Process & Findings Statement

Positive Declaration

Board finds likely significant adverse impact. Written statement required.

Scoping

Optional but recommended. Defines scope of DEIS to keep review focused.

DEIS Submitted

Applicant prepares Draft EIS addressing all identified impacts and alternatives.

Public Comment

30+ day comment period. Public hearing must be held on the DEIS.

FEIS Completed

Final EIS responds to all substantive public comments.

Findings Statement

Board adopts findings before any approval. Must consider all alternatives.



Department of
Environmental
Conservation

The SEQR Handbook

FOURTH EDITION, 2020

DIVISION OF ENVIRONMENTAL PERMITS

Andrew M. Cuomo, Governor | Basil Seggos, Commissioner



PART THREE

General Municipal Law

Section 239



County & Regional Referrals — A Mandatory Procedural Requirement

General Municipal Law §239-l, §239-m, §239-n | Regional Planning Councils

GML §239 — What It Is & When It Applies



What is GML §239?

General Municipal Law §239-l, §239-m, and §239-n require local boards to refer certain land use applications to the county planning board (or regional planning council) for review and recommendation before taking final action. Failure to refer when required voids the local board's decision.

When Must You Refer? (500-foot rule)



State or County Highway

Property within 500 ft. of the centerline of a state or county highway.



Agricultural District

Within 500 ft. of a boundary of a farm operation located in an agricultural district



County/State Facility

Within 500 ft. of county or state park, recreation area, or owned land.



Municipal Boundary

Within 500 ft. of a municipal boundary with another municipality.

GML §239 — The 30-Day Rule & Consequences

The 30-Day Referral Process



County Board Responses

Approval

Local board may act immediately.

Conditional Approval

Local board may approve with same or more protective conditions only.

Disapproval

Local board may override by majority+1 vote with written reasons.

No Response in 30 Days

Deemed approved — local board may act without restriction.

Failure to Refer — Consequences



Decision is VOID

Failure to refer when required renders the local board's entire decision null and void — not just voidable. This cannot be fixed retroactively. The entire process must begin again.



Always check 500-ft. radius before scheduling hearing.

Putting It All Together — Integrated Review Process

1

Application Received

Site plan application filed

4

GML §239 Referral?

Within 500 ft. of trigger?

7

Board Deliberation

Apply standards of review

2

Completeness Check

Is application complete?

5

Public Hearing Scheduled

Proper notice required

8

Decision & Findings

Written determination required

3

SEQRA Classification

Type I / II / Unlisted?

6

SEQRA Determination

Neg Dec or Pos Dec

9

File with Municipality

Record keeping & FOIL

SEQRA must be completed BEFORE final site plan approval • GML §239 referral must precede final action • Both are mandatory, not discretionary

Common Mistakes & Best Practices

Category	Common Mistake	Best Practice Fix
Site Plan	 Acting without enabling local law	 Verify your zoning code grants planning board explicit authority.
Site Plan	 Denial based on personal dislike	 Cite specific code provisions. Document findings in writing.
SEQRA	 Skipping classification step	 Every action must be classified. Document Type II exemption or complete EAF.
SEQRA	 Segmenting the review	 Consider the entire connected action — all phases, all impacts.
GML §239	 Failing to refer (voids decision)	 Map every project. Measure 500 ft. from centerline/boundary.
GML §239	 Acting before 30 days expire	 Wait for county response or expiration. Document in minutes.

Key Resources & References

Statutes

- Town Law §274-a (site plan — towns)
- Village Law §7-725-a (site plan — villages)
- General City Law §27-a (site plan — cities)
- Environmental Conservation Law Art. 8 (SEQRA)
- General Municipal Law §239-l, §239-m, §239-n

Regulations & Guidance

- 6 NYCRR Part 617 (SEQRA implementing regs)
- DEC SEQRA Handbook
- DOS Zoning & Land Use Training Program
- County Planning Board — contact your local board
- Association of Towns of NYS

Practical Tips

- Keep a SEQRA & §239 checklist in every application file
- Municipal attorney: consult before novel or complex applications
- Minutes must reflect all findings and determinations
- FOIL-proof your records — keep everything
- Use your county planning board as a resource, not just a hurdle