

## LOCAL BOARD ACTION

In doing its review, the Tioga County Planning Board looks across geographic and political boundaries to protect the environment and economy of the County. The Board also takes into consideration the possibility that a project may have a County wide or inter-municipal impact when rendering a recommendation.

If the County Planning Board recommends approval of a referral, then the referring board's final decision is governed by a majority vote. If the County recommends disapproval or approval of a referral subject to stated conditions or modifications, the local board may override the county opinion only by a majority plus one vote and by following the procedure outlined below:

1. The local board studies the county review and identifies its reason for disagreeing.
2. The local board adopts a resolution stating its reasons for desiring to override the county.
3. The local board votes on the matter under review and passes it by a majority plus one.

The local board must inform the County of the final local decision on a referral within 7 days of their decision. In the case of a County recommendation for disapproval with the local board overriding such recommendation, a copy of the resolution stating the reasons for overriding the County opinion must also be sent to the County within 7 days.

## TIOGA COUNTY PLANNING BOARD 2016 MEETING SCHEDULE

### 239 DUE DATE MEETING DATE

January 8 <sup>th</sup>	January 20 <sup>th</sup>
February 5 <sup>th</sup>	February 17 <sup>th</sup>
March 4 <sup>th</sup>	March 16 <sup>th</sup>
April 8 <sup>th</sup>	April 20 <sup>th</sup>
May 6 <sup>th</sup>	May 18 <sup>th</sup>
June 3 <sup>rd</sup>	June 15 <sup>th</sup>
July 8 <sup>th</sup>	July 20 <sup>th</sup>
August 5 <sup>th</sup>	August 17 <sup>th</sup>
September 9 <sup>th</sup>	September 21 <sup>st</sup>
October 7 <sup>th</sup>	October 19 <sup>th</sup>
November 6 <sup>th</sup>	November 16 <sup>th</sup>
December 9 <sup>th</sup>	December 21 <sup>st</sup>

**\*\*All Meetings start at 7:00 PM\*\***

*Ronald E. Dougherty County Office Building  
56 Main Street, Owego NY  
Legislative Conference Room, Main Floor*



### Tioga County Planning

Department of Economic  
Development and Planning  
56 Main St.  
Owego, NY 13827

Phone: 607-687-8255  
Fax: 607-687-1435

Forms and additional information  
can be found on the department website:  
[edp.tiogacountyny.com](http://edp.tiogacountyny.com)  
[tiogacountyny.com](http://tiogacountyny.com)

## TIOGA COUNTY PLANNING

TIOGA COUNTY DEPARTMENT OF  
ECONOMIC DEVELOPMENT  
AND PLANNING  
56 MAIN ST  
OWEGO, NY 13827

## PLANNING AND ZONING REFERRALS GUIDE (THE "239" REVIEW) FOR 2016



Owego Gardens  
Senior Housing

Special Use Permit  
Site Plan Review

Village of Owego

TEL: 607-687-8255

[EDP.tiogacountyny.com](http://EDP.tiogacountyny.com)  
[tiogacountyny.com](http://tiogacountyny.com)

## 239 REVIEW PROCESS

## PROCEDURE



**Tioga Downs**  
**Casino, Hotel and Amenities Expansion**  
**Area Variance**  
**Special Use Permit**  
**Town of Nichols**

Under New York State Law, certain local planning and zoning matters must be referred to the county planning board for review before the local government takes any final action. This referral/review activity (commonly called the "239 Review") is required by Sections 239l and 239m of the General Municipal Law and is designed to assure that county concerns are taken into consideration in the local planning process. The county planning board review is advisory in nature and applies equally to towns and villages.

The failure of the local government to follow the procedural requirements of GML "239" is a jurisdictional defect which may invalidate any final municipal action. Therefore, it is very important that everyone involved in local planning and zoning, including the governing body, planning and zoning boards, municipal attorneys and enforcement officers, be aware of the state law requirements.

### **Matters to be Referred:**

Local actions that must be referred to the Tioga County Planning Board include:

1. adoption or amendment of a zoning map or regulations;
2. adoption or amendment of a comprehensive plan;
3. issuance of special use permits;
4. approval of site plans;
5. granting of use or area variance;
6. other authorizations which a referring body may issue under the provisions of any zoning or local law.

However, not all such actions require county referral; the law establishes location criteria, which determine whether or not an action comes under county jurisdiction. The General Municipal Law states that local actions must be referred only if they affect real property within five hundred feet (500') of any of the following:

1. the boundary of any municipality including the boundary of a village within a town;
2. the boundary of any existing or proposed county or state park or other recreation area;
3. the right-of-way of any existing or proposed county road;
4. the right-of-way of any existing or proposed state road\*;
5. the existing or proposed boundary of any county or state owned land on which a public building or institution is situated;
6. the boundary of a farm operation within an agricultural district.

***\*Must also be submitted to  
NYSDOT Region 9 Site Plan Review  
Committee in Binghamton.***

The Tioga County Planning Board will accept referrals only from officials of the municipality involved, not from the applicant or prospective developer. The referral should be made on a Tioga County 239 referral form (available on the department website) and must be accompanied by "full statement" of the proposed action, which means all materials required by and submitted to the referring municipality as an application on the proposed action, including an environmental assessment form part I and all other materials required by the referring body to make its determination on significance pursuant to the state environmental quality review act.

This procedure is a legal requirement to obtain county input. More importantly, the referral process allows for a regional perspective to be brought into the decision making process. The goal is to encourage coordinated and quality development throughout the county. For these reasons, the points raised by the county must be seriously considered, or the referral process is ineffective.

The Tioga County Planning Board has thirty (30) days from the date of receipt of a full statement from a municipality to take action on a "239 Review". However, this 30-day period may be extended by mutual agreement. If the county fails to act on a referral in this time period, the law allows the municipality to take final action without regard to the county review and recommendation. Referrals must be received by the Tioga County Planning Department at least 12 days prior to the board's monthly meeting, which is held on the third Wednesday of each month.