

GENERAL MUNICIPAL LAW

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§ 96-a. Protection of historical places, buildings and works of art.

In addition to any power or authority of a municipal corporation to regulate by planning or zoning laws and regulations or by local laws and regulations, the governing board or local legislative body of any county, city, town or village is empowered to provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art, and other objects having a special character or special historical or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both. In any such instance such measures, if adopted in the exercise of the police power, shall be reasonable and appropriate to the purpose, or if constituting a taking of private property shall provide for due compensation, which may include the limitation or remission of taxes.

§ 99-g. Capital program.

1. Any municipal corporation, by resolution or ordinance of the governing board, may undertake the planning and execution of a capital program in accordance with the provisions of this section.
2. A capital program shall be a plan of capital projects proposed to be undertaken during a six-year period, the estimated cost thereof and the proposed method of financing.
3. The officer charged with the preparation of the tentative budget shall annually cause the capital program to be prepared, and shall submit it to the governing board with the tentative budget. It shall be arranged in such manner as to indicate the order of priority of each project, and to state for each project:
 - (a) a description of the proposed project and the estimated total cost thereof;
 - (b) the proposed method of financing, indicating the amount proposed to be financed by direct budgetary appropriation or duly established reserve funds; the amount, if any, estimated to be received from the federal and/or state governments; and the amount to be financed by the issuance of obligations, showing the proposed type or types of obligations, together with the period of probable usefulness for which they are proposed to be issued;
 - (c) an estimate of the effect, if any, upon operating costs of the municipal corporation within each of the three fiscal years following completion of the project.
4. The tentative budget shall include the amount proposed for the capital program to be financed by direct budgetary appropriation during the fiscal year to which such tentative budget pertains.
5. There shall be included in the budget message, if any, a general summary of the financial requirements for the capital program for the fiscal year to which the budget message relates. Additional comments and recommendations of any other board, officer or agency may also be included in the budget message.
6. The governing board shall annually adopt the capital program after review and revisions, if any. The provisions of any law relating to a public hearing on the tentative budget, and to the adoption of the budget, shall apply to the capital program.
7. At any time during the fiscal year for which the capital program was adopted, the governing board by the affirmative vote of two-thirds of its total membership, may amend the capital program by adding, modifying or abandoning the projects, or by modifying the methods of financing. No capital project shall be authorized or undertaken unless it is included in the capital program as adopted or amended.
8. The term "capital project" as used in this section shall mean:
 - (a) any physical betterment or improvement, including furnishings, machinery, apparatus or equipment for such physical betterment or improvement when first constructed or acquired, or
 - (b) any preliminary studies and surveys relating to any physical betterment or improvement, or
 - (c) land or rights in land, or

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- (d) any combination of (a), (b) and (c).
9. Nothing in this section shall be construed to authorize a municipal corporation to incur indebtedness for which obligations may be issued except as provided by the local finance law.
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§ 119-u. Intermunicipal cooperation in comprehensive planning and land use regulation.

1. Legislative intent. This section is intended to illustrate the statutory authority that any municipal corporation has under article five-G of this chapter and place within land use law express statutory authority for cities, towns, and villages to enter into agreements to undertake comprehensive planning and land use regulation with each other or one for the other, and to provide that any city, town, or village may contract with a county to carry out all or a portion of the ministerial functions related to the land use of such city, town or village as may be agreed upon. By the enactment of this section the legislature seeks to promote intergovernmental cooperation that could result in increased coordination and effectiveness of comprehensive planning and land use regulation, more efficient use of infrastructure and municipal revenues, as well as the enhanced protection of community resources, especially where such resources span municipal boundaries.
2. Authorization and effects.
 - (a) In addition to any other general or special powers vested in a city, town or village to prepare a comprehensive plan and enact and administer land use regulations, by local law or ordinance, rule or regulation, each city, town or village is hereby authorized to enter into, amend, cancel and terminate agreements with any other municipality or municipalities to undertake all or a portion of such powers, functions and duties.
 - (b) Any one or more municipalities located in a county which has established a county planning board, commission or other agency, hereinafter referred to as a county planning agency, are hereby authorized to enter into, amend, cancel and terminate agreements with such county in order to authorize the county planning agency to perform and carry out certain ministerial functions on behalf of such municipality or municipalities related to land use planning and zoning. Such functions may include, but are not limited to, acting in an advisory capacity, assisting in the preparation of comprehensive plans and land use regulations to be adopted and enforced by such municipality or municipalities and participating in the formation and functions of individual or joint administrative boards and bodies formed by one or more municipalities.
 - (c) Such agreements shall apply only to the performance or exercise of any function or power which each of the municipal corporations has the authority by any general or special law to prescribe, perform, or exercise separately.
3. Definitions. As used herein:
 - (a) "Municipality", means a city, town or village.
 - (b) "Land use regulation", means an ordinance or local law enacted by a municipality for the regulation of any aspect of land use and community resource protection and includes any zoning, subdivision, special use permit or site plan regulation or any other regulations which prescribe the appropriate use of property or the scale, location, and intensity of development.
 - (c) "Community resource", means a specific public facility, infrastructure system, or geographic area of special economic development, environmental, scenic, cultural, historic, recreational, parkland, open space, natural resource, or other unique significance, located wholly or partially within the boundaries of one or more given municipalities.
 - (d) "Intermunicipal overlay district", means a special land use district which encompasses all or a portion of one or more municipalities for the purpose of protecting, enhancing, or developing one or more community resources as provided herein.
4. Intermunicipal agreements. In addition to any other powers granted to municipalities to contract with each other to undertake joint, cooperative agreements any municipality may:

- (a) create a consolidated planning board which may replace individual planning boards, if any, which consolidated planning board shall have the powers and duties as shall be determined by such agreement;
 - (b) create a consolidated zoning board of appeals which may replace individual zoning boards of appeals, if any, which consolidated zoning board of appeals shall have the powers and duties as shall be determined by such agreement;
 - (c) create a comprehensive plan and/or land use regulations which may be adopted independently by each participating municipality;
 - (d) provide for a land use administration and enforcement program which may replace individual land use administration and enforcement programs, if any, the terms and conditions of which shall be set forth in such agreement; and
 - (e) create an intermunicipal overlay district for the purpose of protecting, enhancing, or developing community resources that encompass two or more municipalities.
5. Special considerations.
- (a) Making joint agreements. Any agreement made pursuant to the provisions of this section may contain provisions as the parties deem to be appropriate, and including provisions relative to the items designated in paragraphs a through m inclusive as set forth in subdivision two of section one hundred nineteen-o of this chapter.
 - (b) Establishing the duration of agreement. Any local law developed pursuant to the provisions of this section may contain procedures for periodic review of the terms and conditions, including those relating to the duration, extension or termination of the agreement.
 - (c) Amending local laws or ordinances. Local laws or ordinances shall be amended, as appropriate, to reflect the provisions contained in intermunicipal agreements established pursuant to the provisions of this section.
6. Appeal of action by aggrieved party or parties. Any officer, department, board or bureau of any municipality with the approval of the legislative body, or any person or persons jointly or severally aggrieved by any act or decision of a planning board, zoning board of appeals or agency created pursuant to the provisions of this section may bring a proceeding by article seventy-eight of the civil practice law and rules in a court of record on the ground that such decision is illegal, in whole or in part. Such proceeding must be commenced within thirty days after the filing of the decision in the office of the board. Commencement of the proceeding shall stay proceedings upon the decision from which the appeal is taken. All issues in any proceeding under this section shall have a preference over all other civil actions and proceedings.
7. Any agreements made between two or more municipalities pursuant to article five-G of this chapter or other law which provides for the undertaking of any land use regulation or activity on a joint, cooperative or contract basis, if valid when so made, shall not be invalidated by the provisions of this section.
8. The provisions of this section shall be in addition to existing authority and shall not be deemed or constructed as a limitation, diminution or derogation of any statutory authority authorizing municipal cooperation.

§ 119-dd. Local historic preservation programs

In addition to existing powers and authorities for local historic preservation programs including existing powers and authorities to regulate by planning or zoning laws and regulations or by local laws and regulations for preservation of historic landmarks and districts and use of techniques including transfer of development rights, the legislative body of any county, city, town or village is hereby empowered to:

1. Provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art and other objects having a special character or special historical, cultural or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within the public view, or both.

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2. Establish a landmark or historical preservation board or commission with such powers as are necessary to carry out all or any of the authority possessed by the municipality for a historic preservation program, as the local legislative body deems appropriate.
3. After due notice and public hearing, by purchase, gift, grant, bequest, devise, lease or otherwise, acquire the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve the purposes of this article, to historical or cultural property within its jurisdiction. After acquisition of any such interest pursuant to this subdivision, the effect of the acquisition on the valuation placed on any remaining private interest in such property for purposes of real estate taxation shall be taken into account.
4. Designate, purchase, restore, operate, lease and sell historic buildings or structures. Sales of such buildings and structures shall be upon such terms and conditions as the local legislative body deems appropriate to insure the maintenance of the historic quality of the buildings and structures, after public notice is appropriately given at least thirty days prior to the anticipated date of availability and shall be for fair and adequate consideration of such buildings and structures which in no event shall be less than the expenses incurred by the municipality with respect to such buildings and structures for acquisition, restoration, improvement and interest charges.
5. Provide for transfer of development rights for purposes consistent with the purposes of this article.

Note:

- For additional provisions relating to local historic preservation programs, see General Municipal Law §§119-aa, 119-bb, and 119-cc.
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§ 136. Regulation of automobile junk yards.

1. Legislative intent. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants and the safeguarding of their material rights against unwarrantable invasion and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the state and the general welfare of its citizens. It is further declared that the unrestrained accumulation of junk motor vehicles is a hazard to such health, safety and welfare of citizens of the state necessitating the regulation, restraint and elimination thereof. At the same time, it is recognized that the maintenance of junk yards as hereinafter defined, is a useful and necessary business and ought to be encouraged when not in conflict with the express purposes of this section.

2. Definitions.

For the purposes of this section, "junk yard" shall mean any place of storage or deposit, whether in connection with another business or not, where two or more unregistered, old, or secondhand motor vehicles, no longer intended or in condition for legal use on the public highways, are held, whether for the purpose of resale of used parts therefrom, for the purpose of reclaiming for use some or all of the materials therein, whether metal, glass, fabric or otherwise, for the purpose of disposing of the same or for any other purpose; such term shall include any place of storage or deposit for any such purposes of used parts or waste materials from motor vehicles which, taken together, equal in bulk two or more such vehicles provided, however, the term junk yard shall not be construed to mean an establishment having facilities for processing iron, steel or nonferrous scrap and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting purposes only.

"Municipality" as used in this section shall mean a city of less than one million in population, town or village.

"Motor vehicle" shall mean all vehicles propelled or drawn by power other than muscular power originally intended for use on public highways.

3. Requirement for operation or maintenance. No person shall operate, establish or maintain a junk yard until he
 - (1) has obtained a license to operate a junk yard business and
 - (2) has obtained a certificate of approval for the location of such junk yard.

4. Application for license and certificate of approval. Application for the license and the certificate of approved location shall be made in writing to the governing board of the municipality where it is proposed to locate the junk yard, and, in municipalities having a zoning ordinance or local law and a zoning board, the application shall be accompanied by a certificate from the zoning board that the proposed location is not within an established district restricted against such uses or otherwise contrary to the prohibitions of such zoning ordinance or local law. The application shall contain a description of the land to be included within the junk yard.
5. Hearing. A hearing on the application shall be held within the municipality not less than two nor more than four weeks from the date of the receipt of the application by the legislative body. Notice of the hearing shall be given to the applicant by mail, postage prepaid, to the address given in the application and shall be published once in a newspaper having a circulation within the municipality, which publication shall be not less than seven days before the date of the hearing.
6. License requirements. At the time and place set for hearing, the governing board shall hear the applicant and all other persons wishing to be heard on the application for a license to operate, establish or maintain the junk yard. In considering such application, it shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard, to any record of convictions for any type of larceny or receiving of stolen goods, and to any other matter within the purposes of this section.
7. Location requirements. At the time and place set for hearing, the governing board shall hear the applicant and all other persons wishing to be heard on the application for certificate of approval for the location of the junk yard. In passing upon same, it shall take into account, after proof of legal ownership or right to such use of the property for the license period by the applicant, the nature and development of surrounding property, such as the proximity of churches, schools, hospitals, public buildings or other places of public gathering; and whether or not the proposed location can be reasonably protected from affecting the public health and safety by reason of offensive or unhealthy odors or smoke, or of other causes.
8. Aesthetic considerations. At the hearing regarding location of the junk yard, the governing board may also take into account the clean, wholesome and attractive environment which has been declared to be of vital importance to the continued general welfare of its citizens by considering whether or not the proposed location can be reasonably protected from having an unfavorable effect thereon. In this connection the governing board may consider collectively the type of road servicing the junk yard or from which the junk yard may be seen, the natural or artificial barriers protecting the junk yard from view, the proximity of the proposed junk yard to established residential and recreational areas or main access routes thereto, as well as the reasonable availability of other suitable sites for the junk yard.
9. Grant or denial of application; appeal. After hearing the governing board shall, within two weeks, make a finding as to whether or not the application should be granted, giving notice of their finding to the applicant by mail, postage prepaid, to the address given on the application. If approved, the license, including the certificate of approved location, shall be forthwith issued to remain in effect until the following April first. Approval shall be personal to the applicant and not assignable. Licenses shall be renewed thereafter upon payment of the annual license fee without hearing, provided all provisions of this chapter are complied with during the license period, the junk yard does not become a public nuisance under the common law and the applicant is not convicted of any type of larceny or the receiving of stolen goods. The determination of the governing board may be reviewed under article seventy-eight of the civil practice law and rules.
10. License fees. The annual license fee shall be twenty-five dollars to be paid at the time the application is made and annually thereafter in the event of renewal. In event the application is not granted, the fee shall be returned to the applicant. A municipality, in addition to the license fee, may assess the applicant with the costs of advertising such application and such other reasonable costs incident to the hearing as are clearly attributable thereto and may make the license conditional upon payment of same.
11. Fencing. Before use, a new junk yard shall be completely surrounded with a fence at least eight feet in height which substantially screens and with a suitable gate which shall be closed and locked except during the working hours of such junk yard or when the applicant or his agent shall be within. Such fence shall be erected not nearer than fifty feet from a public highway. All motor vehicles and parts thereof stored or deposited by the applicant shall be kept within the enclosure of the junk yard except as removal shall be necessary for the transportation of same in the reasonable course of the business. All wrecking or other work on such motor vehicles and parts and all burning of same within the vicinity of the junk yard shall be accomplished within the enclosure. Where the topography, natural growth of timber or other considerations accomplish the purposes of this chapter in whole or in part, the fencing requirements hereunder may be

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reduced by the legislative body, upon granting the license, provided, however, that such natural barrier conforms with the purposes of this chapter.

12. Effect of local ordinances or local laws. This section shall not be construed to affect or supersede zoning ordinances or local laws or any other ordinances or local laws for the control of junk yards now in effect or hereafter enacted in any municipality within the proper exercise of the police power of such a municipality and shall not be deemed to apply to any municipality which has any ordinance or local law or regulation to license or regulate junk yards.
 13. Established junk yards. For the purposes of this section the location of junk yards already established shall be considered approved by the governing board of the municipality where located and the owner thereof deemed suitable for the issuance of a license. Within sixty days from the passage of this section, however, the owner shall furnish the governing board the information as to location which is required in an application, together with the license fee, and the governing board shall issue him a license valid until the next April first, at which time such owner may apply for renewal as herein provided. Such owner shall comply with all other provisions of this section including the fencing requirements set forth in subdivision eleven of this section.
 14. Notwithstanding any of the foregoing provisions of this section, no junk yard, hereafter established, shall be licensed to operate of such yard or any part thereof shall be within five hundred feet of a church, school, hospital, public building or place of public assembly.
 15. Violators of any of the portions of this section shall be guilty of an offense punishable by a fine not exceeding one hundred dollars and each week that such violation is carried on or continues shall constitute a separate violation.
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Article 12-A CITY AND VILLAGE PLANNING COMMISSIONS

§ 234. Creation, appointment and qualifications.

Each city and incorporated village is hereby authorized and empowered to create a commission to be known as the city or village planning commission. Such commission shall be so created in incorporated villages by resolution of the trustees, in cities by ordinance of the common council, except that in cities of the first class, having more than a million inhabitants, it shall be by resolution of the board of estimate and apportionment or other similar local authority. In cities of the first class such commission shall consist of not more than eleven, in cities of the second class of not more than nine, in cities of the third class and incorporated villages of not more than seven members. Such ordinance or resolution shall specify the public officer or body of said municipality that shall appoint such commissioners, and shall provide that the appointment of as nearly as possible one-third of them shall be for a term of one year; one-third for a term of two years, and one-third for a term of three years; and that at the expiration of such terms, the terms of office of their successors shall be three years; so that the term of office of one-third of such commissioners, as nearly as possible, shall expire each year. All appointments to fill vacancies shall be for the unexpired term. Not more than one-third of the members of said commission shall hold any other public office in said city or village. In a county containing a population of over three hundred thousand one of the members of any such commission may reside outside of such village or city as the case may be.

§ 235. Officers, expenses and assistance.

The commission shall elect annually, a chairman from its own members. It shall have the power and authority to employ experts, clerks, and a secretary, and to pay for their services and such other expenses as may be necessary and proper, not exceeding, in all, the annual appropriation that may be made by said city or village for said commission. The body creating the commission shall by ordinance or resolution provide what compensation if any, each of such commissioners shall receive for his services as such commissioner. Each city and incorporated village is hereby authorized and empowered to make such appropriation as it may see fit for such expenses and compensation, such appropriations to be made by those officers or bodies in such city or village having charge of the appropriation of the public funds.

§ 236. General powers.

The body creating such planning commission may, at any time, by ordinance or local law or resolution, provide that the following matters, or anyone or more of them, shall be referred for report thereon, to such commission by the board, commission, commissioner or other public officer or officers of said city or village which is the final authority thereon before final action thereon by such authority: the adoption of any map or plan of said city or incorporated village, or part thereof, including drainage and sewer or water system plans or maps, and plans or maps for any public water front, or marginal street, or public structure upon, in or in connection with such front or street, or for any dredging, filling or fixing of lines with relation to said front; any change of any such maps or plans; the location of any public structure upon, in or in connection with, or fixing lines with relation to said front; the location of any public building, bridge, statue or monument, highway, park, parkway, square, playground or recreation ground, or public open place of said city or village. In default of any such ordinance, local law or resolution all of said matters shall be so referred to said planning commission.

The body creating such planning commission may, at any time, by ordinance, local law or resolution, fix the time within which such planning commission shall report upon any matter or class of matters to be referred to it, with or without the further provision that in default of report within the time so fixed, the planning commission shall forfeit the right further to suspend action, as aforesaid with regard to the particular matter upon which it has so defaulted. In default of any such ordinance, local law or resolution, no such action shall be taken until such report is so received, and no adoption, change, fixing or location as aforesaid by said final authority, prior thereto, shall be valid. No ordinance, local law or resolution shall deprive said planning commission of its right or relieve it of its duty, to report, at such time as it deems proper upon any matter at anytime referred to it.

This section shall not be construed as intended to limit or impair the power of any art commission, park commission or commissioner, now or hereafter existing by virtue of any provision of law, to refuse consent to the acceptance by any municipality of the gift of any work of art to said municipality, without reference of the matter, by reason of its proposed location or otherwise, to said planning commission. Nor shall this section be construed as intended to limit or impair any other power of any such art commission or affect the same, except in so far as it provides for reference or report, or both, on any matter before final action thereon by said art commission.

§ 237. Maps and recommendations.

Such planning commission may cause to be made a map or maps of said city or village or any portion thereof, or of any land outside the limits of said city or village so near or so related thereto that in the opinion of said planning commission it should be so mapped. Such plans may show not only such matters as by law have been or may be referred to the planning commission, but also any and all matters and things with relation to the plan of said city or village which to said planning commission seem necessary and proper, including recommendations and changes suggested by it; and any report at any time made, may include any of the above. Such planning commission may obtain expert assistance in the making of any such maps or reports, or in the investigations necessary and proper with relation thereto.

§ 238. Private streets.

The body creating such planning commission may at any time, by ordinance or resolution provide that no plan, plot or description, showing the layout of any highway or street upon private property, or of building lots in connection with or in relation to such highway or street shall, within the limits of any municipality having a planning commission, as aforesaid, be received for record in the office of the clerk of the county where such real property is situated, until a copy of said plan, plot or description has been filed with said commission and it has certified, with relation thereto, its approval thereof. Such certificate shall be recorded as a part of the record of said original instrument containing said plan, plot, or description. No such street or highway which has not received the approval of the planning commission shall be accepted by said city or village until the matter has been referred to such commission under the provision of section two hundred and thirty-six of this article. But if any such street is plotted or laid out in accordance with the map of said municipality, adopted according to law, then it shall not be necessary to file such copy, or obtain or record such certificate.

§ 239. Rules.

Such commission may make rules not contrary to law, to govern its action in carrying out the provisions of this article.

§ 239-a. Construction of article.

This article shall be construed as the grant of additional power and authority to cities and incorporated villages, and not as intended to limit or impair any existing power or authority of any city or village. Any city or incorporated village in order to appoint a planning commission under this article shall recite, in the ordinance or resolution so creating the commission, the fact that it is created under this article.

**Article 12-B
COUNTY PLANNING BOARDS AND
REGIONAL PLANNING COUNCILS**

§ 239-b. Definitions. As used in this article and unless otherwise provided:

1. "Municipal legislative body" means the town board of a town, the board of trustees of a village; the board of aldermen, common council, council or commission of a city; and other elective governing board or body now or hereafter vested by state statute, charter or other law with jurisdiction to initiate and adopt local laws or ordinances.
2. "County legislative body" means the board of supervisors of a county, the county legislature, the county board of representatives, or other body vested by its charter or other law with jurisdiction to enact local laws or resolutions.
3. "Municipality" means a city, village, or that portion of a town located outside the limits of any city or village.
4. "County planning board" means a county planning board established pursuant to section two hundred thirty-nine-c of this article.
5. "Special board" means a board consisting of one or more members of the county planning board and such other members as are appointed by the county legislative body to prepare a proposed county comprehensive plan or an amendment thereto.
6. "County comprehensive plan" means the materials, written and/or graphic,

including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the county, as may be prepared pursuant to section two hundred thirty-nine-d of this article.
7. "Region" means an area which encompasses a regional planning council.
8. "Regional planning council" means a council established pursuant to section 239-h of this article.
9. "Regional comprehensive plan" means the materials, written and/or graphic, including but not limited to maps, charts, studies, resolutions, reports and other descriptive material that identify the goals, objectives, principles, guidelines, policies, standards, devices and instruments for the immediate and long-range protection, enhancement, growth and development of the region, as may be prepared pursuant to §239-i of this article.

§ 239-c. County planning boards.

1. Legislative findings and intent. The legislature hereby finds and determines that:
 - (a) significant decisions and actions affecting the immediate and long-range protection, enhancement, growth and development of the state and its communities are made by county planning boards.

- (b) county planning boards serve as an important resource to the state and its localities, helping to establish productive linkages between communities as well as with state and federal agencies.
- (c) through comprehensive planning and special studies, county planning boards focus on opportunities and issues best handled at a county-wide scale.
- (d) the development of a county comprehensive plan can foster cooperation among governmental agencies in the planning and implementation of capital projects. Similarly, county comprehensive plans can promote intermunicipal cooperation in the provision of public services.
- (e) citizen participation is essential to the design and implementation of a county comprehensive plan.
- (f) the great diversity of resources and conditions that exist within and among counties requires consideration of such factors by county planning boards.
- (g) it is the intent of the legislature therefore, to provide a permissive and flexible framework within which county planning boards can perform their power and duties.

1-a. Alternate members of county planning boards.

- (a) A county legislative body may, by local law or as a part of the local law creating the county planning board, establish alternate planning board member positions for purposes of substituting for a member in the event such member is unable to participate because of a conflict of interest. Alternate members of the county planning board shall be appointed by resolution of the county legislative body, for terms established by such legislative body.
- (b) The chairperson of the planning board may designate an alternate member to substitute for a member when such member is unable to participate because of a conflict of interest on an application or matter before the board. When so designated, the alternate member shall possess all the powers and responsibilities of such member of the board. Such designation shall be entered into the minutes of the initial planning board meeting at which the substitution is made.
- (c) All provisions of this section relating to county planning board member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal, and service on other boards, shall also apply to alternate members.

2. Establishment of county planning board.

- (a) Creation. In the absence of a county administrative code or county charter which may otherwise provide for the creation of a county planning board, the county legislative body alone, or in collaboration with the legislative bodies of the municipalities in such county may establish a county planning board.
- (b) Membership. Members and officers of such board shall be selected in a number and manner determined by the county legislative body. In making such appointments, the county legislative body shall include members from a broad cross section of interests within the county. Consideration should also be given to securing representation by population size, geographic location and type of municipality. The terms of membership as well as the filling of vacancies on such board shall be determined by the county legislative body. The county legislative body may provide for the appointment of individuals to serve as ex-officio members of the county planning board. Said ex-officio members or their designees may participate in the deliberations of the county planning board, but shall not have voting privileges.
- (c) Membership of elected or appointed officials. No person shall be precluded from serving as a member of a county planning board, as appointed by the county legislative body pursuant to this section, because such member is an elected or appointed official of the county or a municipality, except that no member of a county planning board shall vote on any matter before such board which has been the subject of a proposal, application or vote before the county or municipality where he or she serves in such elected or appointed capacity.
- (d) Training and attendance requirements. As a condition of appointment to the planning board, the county legislative body may establish training, continuing education and meeting attendance requirements for such members.

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- (e) Member reimbursement. The members of such county planning board shall receive no salary or compensation for their services as members of such board but may be reimbursed for authorized, actual and necessary travel and expenditures.
- (f) Removal of members. The county legislative body may remove any member of such planning board for cause, and may provide by resolution for removal of any planning board member for non-compliance with minimum requirements relating to meeting attendance and training as established by the county legislative body by resolution.
- (g) By-laws. The county planning board shall adopt by-laws governing its operation which shall be approved by the county legislative body and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.
- (h) Appropriation; expenses. The county legislative body and municipal legislative bodies may, in their discretion, appropriate and raise by taxation, money for the expenses of such county planning board. Such bodies shall not be charged for any expense incurred by such board except pursuant to such appropriation. The county planning board shall have the power and authority to employ staff, consultants and other experts and to pay for their services, and to provide for such other expenses as may be necessary and proper, not to exceed the appropriation that may be made therefor by the county legislative body for such county planning board.
- (i) Authority to receive and expend funds. In furtherance of the purposes of this article, the county planning board may receive and expend public funds and grants from private foundations or agencies and may apply for and accept grants from the federal government or the state government and enter into contracts for and agree to accept such grants, donations or subsidies in accordance with such reasonable conditions and requirements as may be imposed thereon.

3. County planning board powers and duties.

- (a) Review of certain municipal planning and zoning actions. The county legislative body may, by resolution, authorize the county planning board to conduct reviews of certain classes of planning and zoning actions by a city, town or village within such county pursuant to sections two hundred thirty-nine-l and two hundred thirty-nine-m of this article, and to review certain subdivision plats pursuant to section two hundred thirty-nine-n of this article.
- (b) County comprehensive plan. The county legislative body may request the county planning board to assist in the preparation of a county comprehensive plan and amendments thereto pursuant to section two hundred thirty-nine-d of this article.
- (c) County official map. The county legislative body may request the county planning board to prepare a county official map and amendments thereto pursuant to section two hundred thirty-nine-e of this article.
- (d) County studies. The county planning board may undertake studies relevant to the future growth, development, and protection of the county and municipalities therein, including studies in support of a county comprehensive plan.
- (e) Local studies. The county planning board may assist a city, town, or village in the study of ways to obtain economy, efficiency and quality in the planning and provision of municipal services.
- (f) Collection and distribution of information. The county planning board may collect and distribute information relative to county or municipal planning and zoning in such county. Upon request from the county or a municipality, the planning board may recommend to the legislative body of the county or such municipalities whose jurisdictions are served by the county planning board a comprehensive plan which shall designate suitable areas to be zoned for land uses, taking into consideration, but not limited to, such factors as existing and projected highways, parks, open spaces, parkways, public works, public utilities, public transportation terminals and facilities, population trends, topography and geologic structure.
- (g) Local technical assistance. The county planning board may furnish such technical services as a municipality within the county may request. Such services may include, but not be limited to assistance with planning and land use functions, use of geographic information systems, infrastructure development, as well as inter-municipal services

delivery, and may be provided directly by the county planning board or in coordination with other county departments or agencies. The charges, if any, to be made for such services shall be established by the county legislative body.

- (h) Highway construction. Before the final approval of any plan involving the construction or reconstruction of any state or county highway, with or without federal aid, the county planning board shall be given an opportunity to examine such plans and offer suggestions with respect thereto. This paragraph shall in no manner be construed as nullifying or contravening the final approval of the commissioner of transportation.
4. Annual report. The county planning board shall submit an annual report to the county legislative body and include in such report topics that are required in the by-laws of the county planning board.

§ 239-d. County comprehensive plan.

1. Content. The county comprehensive plan may include but shall not be limited to the following topics at the level of detail adapted to the special requirements of the county:
- (a) General statements of goals, objectives, principles, policies, and standards upon which proposals for the immediate and long-range protection, enhancement, growth and development of the county are based;
 - (b) Consideration of regional needs and the official plans of other governmental units and agencies within the county;
 - (c) The existing and proposed location and intensity of land uses;
 - (d) Consideration of agricultural uses, historic and cultural resources, coastal and natural and scenic resources and sensitive environmental areas;
 - (e) Consideration of population, demographic and socio-economic trends and future projections;
 - (f) The location and types of transportation facilities, including the reuse of abandoned transportation facilities;
 - (g) Existing and proposed general location of public and private utilities and infrastructure;
 - (h) Existing housing resources and future housing needs, including affordable housing;
 - (i) The present and future general location of educational and cultural facilities, historic sites, health facilities, and facilities for emergency services
 - (j) Existing and proposed recreation facilities and parkland;
 - (k) The present and potential future general location of commercial and industrial facilities;
 - (l) Specific policies and strategies for improving the county economy in coordination with other plan topics;
 - (m) Proposed measures, programs, devices, and instruments to implement the goals and objectives of the various topics within the county comprehensive plan;
 - (n) All or part of the plan of another public agency;
 - (o) Any and all other items which are consistent with the protection, enhancement, orderly growth and development of the county; and
 - (p) Consideration of cumulative impacts of development, and other issues which promote compliance with the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations.

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2. Preparation. The county legislative body, or by resolution of such body the planning board or a special board, may prepare a proposed county comprehensive plan and amendments thereto. In the event the planning board or special board is directed to prepare a proposed comprehensive plan or amendment thereto, such board shall, by resolution, recommend such proposed plan or amendment to the county legislative body.
 3. Environmental review. A county comprehensive plan and any amendments thereto shall be subject to the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. A county comprehensive plan may be designed to also serve as, or be accompanied by, a generic environmental impact statement pursuant to the state environmental quality review act statute and regulations. No further compliance with such law is required for subsequent site specific county actions that are in conformance with the thresholds established for such county actions in the generic environmental impact statements and its findings.
 4. Agricultural review and coordination. A county comprehensive plan and any amendments thereto for a county containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended county comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law.
 5. Referrals. The county legislative body shall, prior to adoption, refer the proposed county comprehensive plan or any amendment thereto to the county and regional planning boards as well as to the legislative bodies and to the planning boards of each municipality within the county for review and recommendation.
 6. Public hearings; notice.
 - (a) Prior to adopting or amending a county comprehensive plan, the county legislative body shall hold one or more hearings on such proposed plan or amendments thereto.
 - (b) Where a special board prepares the proposed county comprehensive plan the county legislative body shall, within ninety days of receiving the special board's recommendations on such proposed plan or amendment, and prior to the adoption of the plan or amendment, hold a public hearing on such proposed plan or amendment.
 - (c) Notice of a public hearing shall be published in a newspaper of general circulation in the county at least ten calendar days in advance of the hearing. Notice shall also be mailed to the chief executive officer and the chairperson of the planning board of each municipality at least ten days before such hearing. Representatives of the regional or county planning board, the commissioner of transportation or his or her representative, county departments, municipalities, citizens and other interested parties shall be given the opportunity to be heard.
 7. Adoption. The county legislative body may adopt by resolution a county comprehensive plan or any amendment thereto.
 8. Filing of adopted county comprehensive plan. The adopted county comprehensive plan and any amendments thereto shall be filed in the office of the county clerk or register and a copy thereof filed in the office of the county planning board, with the secretary of state, as well as with the clerk of each municipality within the county.
 9. Effect of adoption.
 - (a) All county land acquisitions and public improvements, including those identified in the county official map adopted or amended pursuant to this article, shall be in accordance with a county comprehensive plan, if one exists.
 - (b) All plans for capital projects of a municipality or state governmental agency on land included in the county comprehensive plan adopted pursuant to this section shall take such plan into consideration.
 10. Periodic review. The county legislative body shall provide, as a component of such proposed county comprehensive plan, the maximum intervals at which the adopted plan shall be reviewed.
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§ 239-e. County official map.

1. Legislative intent. It is the general intent of this section and section two hundred nine-f of this chapter to enable counties to utilize certain regulatory powers which are essential for providing for orderly growth and development, for affording adequate facilities for the safe, convenient, and efficient means for traffic circulation including the vehicular movement of goods, for protecting the public against flood damage, and for providing needed space for public development. Such purposes are declared to be in promotion of the safety, convenience, and general welfare of the community.
2. Purpose. The county legislative body may adopt an official map in order to facilitate the planning and development of roads and drainage systems and sites for public development. County official maps shall be designed to assist in the protection of rights-of-way that will be needed for widened, realigned or new roads; protect drainage systems; and protect sites for public development. Such county official map shall serve as a basis for the adoption and administration of regulations for the control of development along or otherwise related to roads, drainage channels and sites for public development.
3. Content. The county official map shall show existing and proposed rights-of-way for drainage systems and for county roads as established pursuant to article six of the highway law. Such map shall be consistent with any county comprehensive plan adopted or amended pursuant to this article. In counties where the county legislative body has adopted such county comprehensive plan, the official map may also include: rights-of-way required for any proposed transportation network; and sites for any proposed county, state or federal development facilities, including parks, drainage courses, water courses, and public buildings. No state or federal development facility shall be included, changed or deleted in the official map until approved by the appropriate state or federal agency.
4. Adoption, amendment. After the conduct of a public hearing, as hereinafter provided, the county legislative body may adopt an official map covering the entire county, or portions thereof, and amend such map whenever it may deem it to be in the public interest.
 - (a) Notice, hearing. A public hearing shall be held on any proposed adoption of, or amendment to, the official county map. Notice of such hearing shall be published at least ten days prior to such hearing in a newspaper of general circulation in the county. Written notice shall be given to the appropriate state or federal agency for the development facilities affected.
 - (b) Referral to county planning board. Prior to adopting or amending a county official map, the county legislative body shall refer such proposed change to the county planning board, if any, and the county superintendent of highways or commissioner of public works for report thereon within thirty days of such reference.
 - (c) Referral to municipalities. The county legislative body shall refer such proposed amendment to the legislative body and planning board of each municipality within the county, which may report thereon to the county legislative body and to the county planning board. If the municipal legislative body of a disapproves by resolution such proposed amendment, the county legislative body may not so amend the official map except by a two-thirds vote of said body. In counties where the county legislative body has adopted a county comprehensive plan, the county legislative body may change the official map by a majority vote notwithstanding such municipal disapproval so long as the change is in accordance with the county comprehensive plan.
5. Effect.
 - (a) The official county map shall be final and conclusive with respect to the location, width and dimensions of all rights-of-way and sites as shown thereon. The county official map shall be deemed to be in addition to, or an amendment of, the official map of any municipality. If a municipality does not have an official map, the county official map as it affects such municipality shall be considered to be the official map of such municipality, and all provisions of law applying to municipal official maps shall be applicable in the case of county official maps where they affect municipalities. The adoption of a county official map shall in no way supersede or otherwise substitute for highway maps or procedures adopted pursuant to the state highway law. No permit shall be issued for any building in any right-of-way or site, shown or laid out on a county official map, except in accord with the appeal procedures herein.
 - (b) All county land acquisitions and public improvements shall be in accordance with the county map and any comprehensive plan adopted or amended pursuant to this article.

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6. Filing. Certified copies of such county official map and all amendments thereto shall be sent to each municipality, the secretary of state, and appropriate state and federal agencies affected, within ten days of the date of adoption.
 7. Appeals. If the land within a right-of-way or site shown or laid out on the county official map is not yielding a fair return on its value to the owner, the owner may appeal to the zoning board of appeals, if any, or other board established by the municipality in which the land is situated to issue variances or make exceptions in zoning regulations.
 - (a) Notice, hearing. Notice of a public hearing on such appeal shall be published in a newspaper of general circulation in the municipality at least ten days prior to such hearing. Notice of such hearing shall also be given at least ten days in advance by a registered letter to the superintendent of highways or commissioner of public works, to the clerk of the county legislative body, and to the county planning board and those state and federal agencies affected.
 - (b) Conditions. The zoning board of appeals or other board authorized by the municipal legislative body to issue building permits shall, by the vote of two-thirds of its members in accordance with the provisions of section two hundred thirty-nine-f of this article, have the power to grant a permit for a building in such right-of-way or site which will as little as practicable increase the cost of acquiring such right-of-way or site or tend to cause a change of the county official map. Such board may impose reasonable requirements as a condition of granting such permit, which requirements shall inure to the benefit of the county and of the municipality in which such building is located.
 - (c) Court review. Any person or persons, jointly or severally aggrieved by any decision of the board of appeals or other board authorized by the municipal legislative body to issue building permits may apply to the supreme court for review by a proceeding under article seventy-eight of the civil practice law and rules. Such appeal shall be taken in the same manner and pursuant to the same provisions as appeals from the decisions of such zoning board of appeals or other authorized board.
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§ 239-f. Approval of building permits, curb cuts and subdivision plats.

1. Rules and regulations. The county superintendent of highways or the commissioner of public works in cooperation with the county planning board as well as the county building inspector, if any, shall promulgate rules and regulations governing the approval of building permits and curb cuts relating to elements contained in the county official map, including provision for direct application to him or her by prospective builders or by persons desiring to secure access to existing or proposed rights-of-way to alter existing means of access. Any approval of such application shall be subject to all the provisions of law pertaining to the municipality affected.
2. Procedure. No subdivision plat or building permit shall be issued or approved by any municipality when there are proposed structures, proposed new streets, or proposed buildings which shall have frontage on, access to, or be otherwise directly related to any existing or proposed right-of-way or site shown on the county official map, except in accord with the following procedures.
 - (a) Notification.
 - (i) Upon receipt of an application for approval of a subdivision plat, the clerk of the municipal planning board shall notify the county planning board and the county superintendent of highways or commissioner of public works.
 - (ii) Upon receipt of an application for a building permit the municipal building inspector or other authorized municipal official shall notify county officials. The county superintendent of highways or commissioner of public works shall notify appropriate state or federal agencies affected. Such state and federal agencies shall have ten working days in which to file their objections to an application for a building permit.
 - (b) Report.
 - (i) The county planning board shall review a subdivision application insofar as proposed structures or new streets may be related to any existing or proposed right-of-way or site shown on the county official map. Within ten working days of receipt of notification of a subdivision plat application, the county planning board shall report to the municipality on its approval, disapproval, or approval subject to stated conditions.

(ii) The county superintendent of highways or commissioner of public works shall review an application for a building permit insofar as proposed building, including curb cuts or other means of access, may be related to any existing or proposed right-of-way or site shown on the county official map. Within ten working days of receipt of building permit application the county superintendent of highways or commissioner of public works may consult with the county planning board and shall report to the municipality on his or her approval disapproval, or approval subject to stated conditions. If such superintendent or commissioner fails to make a report within ten working days of such reference, the county shall forfeit the right to suspend action.

(c) Considerations. In making such report the county planning board and the county superintendent of highways or commissioner of public works shall take into consideration the following:

- (i) the prospective character of the development;
- (ii) any appropriate access standards or non-access or limited access provisions of state and federal agencies;
- (iii) the design and frequency of access;
- (iv) the traffic which the development will generate and the effect of said traffic upon existing or proposed rights-of-way or sites shown on the county official map;
- (v) the effect of this development upon drainage as related to drainage systems; and
- (vi) the extent to which such development may impair the safety and traffic carrying capacity of existing and proposed rights-of-way affected.

(d) Approval.

(i) A subdivision plat may be approved by the municipality subject to stated conditions, notwithstanding such county planning board report, by a two-thirds vote of all the members.

(ii) A building permit shall be issued in accord with and consistent with such report, provided that the board of appeals of other authorized board may vary the requirements of the report of the county superintendent of highways of the commissioner of public works by a two-thirds vote of all the members. Before issuing such building permit, a notice of public hearing on such permit shall be published in a newspaper of general circulation in the municipality at least ten working days prior to such hearing. Such notice shall be forwarded at least ten working days in advance by a registered letter to the superintendent of highways or commissioner of public works, to the clerk of the county legislative body, and to the county planning board, if any, and appropriate state and federal agencies affected.

§ 239-g. Planning associations or federations.

1. Establishment. In any county or counties, the municipalities may form a federation or association to promote community or inter-community planning within or by such municipalities, to provide for the collection and distribution of information on planning, subdivision and zoning matters and kindred subjects and to cooperate with appropriate state and county authorities in matters affecting the county comprehensive plan and county official map.
2. Appropriation, expenses. A municipal legislative body or a county legislative body, is hereby authorized to include annually in the budget and raise by taxation in such municipality or county a sum to meet the actual and necessary expenses of establishing, maintaining and continuing such association or federation. Such expenses may include activities in this state for the purpose of devising practical ways and means for obtaining greater economy and efficiency in the design, layout and development of a municipality or county; for promoting the public health, safety and general welfare by means of local and inter-community planning, subdivision and zoning activities; or for establishing and maintaining information services for the benefit of its members.

§ 239-h. Regional planning councils.

1. Legislative findings and intent. The legislature hereby finds and determines that:
 - (a) Significant decisions and actions affecting the immediate and long-range protection, enhancement, growth and development of the state and its communities are made by regional planning councils.

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- (b) Regional planning councils serve as an increasingly important resource to the state and its localities, helping to establish productive linkages between communities as well as with state and federal agencies.
 - (c) Through comprehensive planning and special studies, regional planning councils provide focus on opportunities and issues best handled on a broad geographic scale.
 - (d) The development of a regional comprehensive plan can foster cooperation among governmental agencies in the planning and implementation cooperation in the provision of public services. Similarly, regional comprehensive plans can promote intermunicipal cooperation in the provision of public services.
 - (e) Citizen participation is essential to the design and implementation of a regional comprehensive plan.
 - (f) The great diversity of resources and conditions that exist within and among regions requires consideration of such factors by regional planning councils.
 - (g) It is the intent of the legislature therefore, to provide a permissive and flexible framework within which regional planning councils can perform their powers and duties.
2. Definitions. For the purposes of this section and section 239-i of this article, the term "municipality" shall mean any city, town, village or county.
3. Establishment of regional planning council.
- (a) Creation. Any municipal legislative body may collaborate with the legislative body of a contiguous municipal legislative body to create a regional planning council under this article. The legislative body of the municipalities participating in the regional planning council shall adopt by resolution an agreement setting forth the terms and conditions of such collaboration. The regional planning council shall be considered an agency of a political subdivision or municipality for purposes of sections 103, 104 and article 18 of the general municipal law and articles 6 and 7 of the public officers law.
 - (b) Membership. Membership and officers on such council shall be selected in a manner to be determined by the collaborating legislative bodies. In making such appointments, the collaborating legislative bodies shall include members from a broad cross section of interests within the region. Consideration should also be given to securing representation by population size, geographic location and type of municipality. The terms of membership as well as the filling of vacancies on such council shall be determined by collaborating legislative bodies. The collaborating legislative bodies may also jointly provide for the appointment of individuals to serve as ex-officio members of the regional planning council. Said ex-officio members or their designees may participate in the deliberations of the council, but shall not have voting privileges.
 - (c) Membership of elected or appointed officials. No persons shall be precluded from serving as a member of a regional planning council as appointed by municipal legislative body pursuant to this section, because such member is an elected or appointed official of a county or municipality, except that no member of a regional planning council shall vote on any matter before such council which has been the subject of a proposal, application or vote before the county or municipality where he or she serves in such elected or appointed capacity.
 - (d) Training and attendance requirements. As a condition of appointment to the regional planning council, the collaborating legislative bodies may establish training, continuing education and meeting attendance requirements for such members.
 - (e) Member reimbursement. The members of such regional planning council shall receive no salary or compensation for their services as members of such council, but may be reimbursed for authorized, actual and necessary travel and expenditures.
 - (f) Removal of members. The legislative body of each collaborating county and the legislative body of each collaborating municipality may remove any regional planning council member which said county or municipal legislative body has appointed for cause and may provide by resolution for removal of any such regional planning council member for non-

compliance with minimum requirements relating to meeting attendance and training as established by the collaborating legislative bodies by resolution.

- (g) By-laws. The regional planning council shall adopt by-laws governing its operation which shall be approved by the collaborating legislative bodies and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record.
- (h) Appropriation; expenses. Collaborating legislative bodies may, in their discretion, appropriate and raise by taxation, money for the expenses of the regional planning council; such bodies shall not be covered with any expense incurred by the regional planning council except pursuant to such appropriation. The legislative body of each collaborating municipality is authorized to provide for the payment of the moneys so appropriated for the expenses of such council to an officer of the council designated in the council by laws to receive such moneys, provided that before any such money shall be paid to such officer, such officer shall have executed an official undertaking conditioned for the faithful performance of duties in the manner provided in section four hundred three of the county law and provided that such undertaking shall have been approved by the legislative body of each municipality. The regional planning council shall the power and authority to employ staff, consultants and other experts and to pay for their services, and to provide for such other expenses as may be necessary and proper.
- (i) Authority to receive and expend funds. In furtherance of the purposes of this section, the regional planning council may receive and expend public and private funds and grants from non-public foundations, agencies, corporations and private entities and may apply for and accept grants from the federal government or the state government and enter into contracts for and agree to accept such grants, donations or subsidies in accordance with such reasonable conditions and requirements as may be imposed thereon.

4. Regional planning council powers and duties.

- (a) The regional planning council shall have such of the following powers as shall be provided in the agreement among the collaborating municipalities.
 - (i) conduct surveys, studies and research programs which address regional needs and improve community services
 - (ii) distribute information resulting from such surveys, studies, and programs:
 - (iii) prepare a regional comprehensive plan and any amendments thereto pursuant to section two hundred thirty-nine-j of this article;
 - (iv) consult and cooperate with appropriate state, municipal and public or private agencies in matters affecting the region, including, but not limited to the general protection, enhancement, quality of life, growth and development of the region;
 - (v) assist with transportation planning in areas of the region not served by metropolitan planning organizations created pursuant to section fifteen-a of the transportation law; and
 - (vi) conduct review of certain classes of planning and zoning actions by a city, town or village pursuant to sections two hundred thirty-nine-l and two-hundred thirty-nine-m of this article, and review certain subdivision plats pursuant to section two hundred thirty-nine-n of this article.
- (b) A regional planning council shall not undertake any capital construction project, including but not limited to the design, acquisition, construction, improvement, reconstruction or rehabilitation of any capital asset, whether in the nature of real or personal property.
- (5) Annual report and audit. Every regional planning council shall submit an annual report to the collaborating legislative bodies and to the department of audit and control which report shall include a summary of council activities, including planning and technical services and grant and loan programs, a summary of the financial status of the council, including the annual budget as well as any federal, state and local funding and private sector financial assistance, and a summary of planned future activities as well as the topics that are required in the by-laws of the regional

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planning council. Every regional planning council shall engage a certified public accountant to complete an annual financial audit and audit of the internal control structure of the regional planning council, a copy of which shall be included in the annual report.

§ 239-i. Regional comprehensive plans.

1. Content of a regional comprehensive plan. The regional comprehensive plan may include the following topics of significance at the level of detail adapted to the special requirements of the region:
 - (a) general statements of goals, objectives, principles, policies, and standards upon which proposals for the immediate and long-range protection, enhancement, growth and development of the region are based;
 - (b) consideration of regional needs and the official plans of other government units and agencies within the region;
 - (c) the existing and proposed location and intensity of land uses;
 - (d) consideration of agricultural uses, historic and cultural resources, coastal and natural resources and sensitive environmental areas;
 - (e) consideration of population, demographic and socio-economic trends and future projections;
 - (f) the location and types of transportation facilities, including the reuse of abandoned transportation facilities;
 - (g) existing and proposed general location of public and private utilities and infrastructure;
 - (h) existing housing resources and future housing needs, including affordable housing;
 - (i) the present and future general location of educational and cultural facilities, historic sites, health facilities, and facilities for emergency services;
 - (j) existing and proposed recreation facilities and parkland;
 - (k) the present and potential future general location of commercial and industrial facilities;
 - (l) specific policies and strategies for improving the regional economy in coordination with other plan topics;
 - (m) proposed measures, programs, devices, and instruments to implement the goals and objectives of the various topics within the regional comprehensive plan;
 - (n) all or part of the plan of another public agency;
 - (o) any and all other items which are consistent with the protection, enhancement, orderly growth and development of the region; and
 - (p) consideration of cumulative impacts of development and other issues which promote compliance with the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations;
2. Preparation. The regional planning council may prepare a proposed regional comprehensive plan and amendments thereto.
3. Environmental review. A regional comprehensive plan, and any amendment thereto, is subject to the provisions of the state environmental quality review act under article eight of the environmental conservation law and its implementing regulations. A regional comprehensive plan may be designed to also serve as, or be accompanied by, a generic environmental impact statement pursuant to the state environmental quality review act statute and regulations. No further compliance with such law is required for subsequent site specific actions that are in

conformance with the conditions and thresholds established for such actions in the generic environmental impact statement and its findings.

4. Agricultural review and coordination. A regional comprehensive plan and any amendments thereto, for a region containing all or part of an agricultural district or lands receiving agricultural assessments within its jurisdiction, shall continue to be subject to the provisions of article twenty-five-AA of the agriculture and markets law relating to the enactment and administration of local laws, ordinances, rules or regulations. A newly adopted or amended regional comprehensive plan shall take into consideration applicable county agricultural and farmland protection plans as created under article twenty-five-AAA of the agriculture and markets law.
5. Referrals. The regional planning council shall, prior to adoption, refer the proposed regional comprehensive plan or any amendment thereto to the collaborating municipal legislative bodies and planning boards for review and recommendation.
6. Public hearings; notice.
 - (a) In the event the regional planning council prepares a proposed regional comprehensive plan or amendment thereto, the regional planning council shall hold one or more public hearings in each collaborating municipality and such other meetings as it deems necessary to assure full opportunity for citizen participation in the preparation of such proposed plan or amendment, and in addition, the regional planning council shall hold one or more public hearings in each collaborating municipality prior to adoption of such proposed plan or amendment.
 - (b) Notice of a public hearing shall be published in a newspaper of general circulation in each collaborating municipality at least ten calendar days in advance of the hearing. Notice shall also be mailed to the chief executive officer and the chairperson of the planning board of each municipality at least ten days before such hearing. The proposed regional planning comprehensive plan or amendment thereto shall be made available for public review during said period at the office of the county clerk of each collaborating municipality, and may be made available at any other place, including a public library.
7. Adoption. The regional planning council may adopt by resolution a regional comprehensive plan or any amendment thereto.
8. Filing of regional comprehensive plan. The adopted regional comprehensive plan and any amendments thereto shall be filed in the office of the clerk of each collaborating municipality.
9. Effect of adoption of the regional comprehensive plan. All plans for capital projects of another governmental agency on land included in the regional comprehensive plan adopted pursuant to this section shall take such plan into consideration.
10. Periodic review. The regional planning council shall provide, as a component of such proposed regional comprehensive plan, the maximum intervals at which the adopted plan shall be reviewed.

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

1. Definitions. For the purposes of this section and sections 239-m and 239-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 239-m, and 239-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 239-m and 239-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

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municipalities and agencies having jurisdiction. Such review may include intercommunity 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 239-m and 239-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 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 board or 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 planning agency or 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.
 - (a) 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

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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.

§ 247. Acquisition of open spaces and areas.

- 1. Definitions. For the purposes of this chapter an "open space" or "open area" is any space or area characterized by
 - (1) natural scenic beauty or,
 - (2) whose existing openness, natural condition, or present state of use, if retained, would enhance the present or potential value of abutting or surrounding urban development, or would maintain or enhance the conservation of natural or scenic resources.

For purposes of this section natural resources shall include but not be limited to agricultural lands defined as open lands actually used in bona fide agricultural production.

- 2. The acquisition of interests or rights in real property for the preservation of open spaces and areas shall constitute a public purpose for which public funds may be expended or advanced, and any county, city, town or village after due notice and a public hearing may acquire, by purchase, gift, grant, bequest, devise, lease or otherwise, the fee or any lesser interest, development right, easement, covenant, or other contractual right necessary to achieve the purposes of this chapter, to land within such municipality. In the case of a village the cost of such acquisition of interests or rights may be incurred wholly at the expense of the village, at the expense of the owners of the lands benefitted thereby, or partly at the expense of such owners and partly at the expense of the village at large as a local improvement in the manner provided by article twenty-two in the village law entitled local improvements.
- 3. After acquisition of any such interest pursuant to this act the valuation placed on such an open space or area for purposes of real estate taxation shall take into account and be limited by the limitation on future use of the land.

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4. For purposes of this section, any interest acquired pursuant to this section is hereby enforceable by and against the original parties and the successors in interest, heirs and assigns of the original parties, provided that a record of such acquisition is filed in the manner provided by section two hundred ninety-one of the real property law. Such enforceability shall not be defeated because of any subsequent adverse possession, laches, estoppel, waiver, change in character of the surrounding neighborhood or any rule of common law. No general law of the state which operates to defeat the enforcement of any interest in real property shall operate to defeat the enforcement of any acquisition pursuant to this section, unless such general law expressly states the intent to defeat the enforcement of any acquisition pursuant to this section.
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