Series

## **Model Local Resolution:**

# Notice of Public Hearing to Adjacent Municipality When Certain Proposed Land Use Actions Are Within 500 Feet of Such Municipality

Prepared by the NYS Legislative Commission on Rural Resources Legislative Office Building Albany, New York 12247

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## **NYS Legislative Commission on Rural Resources**

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#### A Note to Local Officials:

Section 239-nn was added to the General Municipal Law by chapter 658 of the laws of 2005 and became effective on July 1, 2006. The law was a part of the program of the Legislative Commission on Rural Resources, in consultation with the state Land Use Advisory Committee, to provide an opportunity to adjacent municipalities to be aware of, and formally comment on, certain land use actions of their neighboring local governments. The statute states in part: "It is the intent and purpose of this section to encourage the coordination of land use development and regulation among adjacent municipalities in order that each adjacent municipality may recognize the goals and objectives of neighboring municipalities, and as a result development occurs in a manner which is supportive of the goals and objectives of the general area".

The law requires that a city, town or village give notice to an adjoining city, town or village in the event it plans to conduct a public hearing relating to:

(a) the issuance of a proposed special permit or the granting of a use variance on property that is within 500 feet of an adjacent municipality;

(b) site plan review and approval on property that is within 500 feet of an adjacent municipality; or

(c) a subdivision review and approval on property that is within 500 feet of an adjacent municipality.

The notice to the neighboring city, town or village should be sent to the clerk thereof at least ten days prior to such public hearing and may be by mail or electronic transmission. Representatives of the adjacent municipality may appear at the hearing and shall have the right to be heard.

This bulletin establishes a notification procedure that may be followed by a zoning board of appeals and a planning board and which would be in compliance with the terms of the new law.

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The first step to be taken by the legislative body of a city, town or village is to establish the procedure to be followed in the event a land use action under consideration affects land located within 500 feet of the boundaries of an adjacent municipality. The legislative body should designate the person or persons responsible for notifying the adjacent municipality. The statute states that the legislative body <u>or other</u> <u>authorized body</u> having jurisdiction shall give the notice. In the event the legislative body does not want the responsibility of giving notice, a resolution similar to the one shown below may be adopted designating the planning board or the zoning board of appeals as the appropriate bodies in those instances when the matter is before such bodies. A sample notice to adjacent municipalities form is also provided.

For further information or comments on the content or application of this model local resolution, please contact the Commission at (518) 455-2544; (518) 426-6960(fax); ruralres@senate.state.ny.us

#### Sample Resolution:

A resolution relating to the designation of the planning board or the zoning board of appeals in notifying adjacent municipalities, as required by section 239-nn of the General Municipal Law, in the event a land use action under consideration by such body affects land located within 500 feet of such adjacent municipality.

At a meeting of the (City C	council, Town Board, Board of	Trustees) of the (city, town,	, village) of
	held at the	Hall on the	day of
in the year 20 the following resolution was offered by			
and seconded by			

Whereas section 239-nn of the General Municipal Law which relates to the giving of notice to the clerk of the adjacent municipality in the event the land uses designated in such section are to be considered and are within 500 feet of such designated municipality, requires that this legislative body give notice to the clerk of the adjacent municipality unless others are so designated;

And whereas this legislative body designates the clerk of the planning board, on behalf of the planning board and the clerk of the zoning board of appeals, on behalf of the zoning board of appeals to give such required notice of those matters which will be the subject of a public hearing before their respective boards:

#### NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

Section 1. In the event a matter is to be the subject of a public hearing before the zoning board of appeals relating to the granting of a use variance, and the subject property is within 500 feet of an adjacent municipality, the clerk of the zoning board of appeals shall, by regular mail or by electronic transmission, give notice of such public hearing at least ten days prior to such public hearing to the clerk of the adjacent municipality. A copy of such notice, with a certified statement of the clerk of the zoning board of appeals that such notice was properly and timely sent, shall be placed in the appropriate file and shall be a part of the record of the public hearing.

Section 2. In the event a matter relates to a site plan review or a subdivision review and approval, and the subject property is located within 500 feet of an adjacent municipality, the clerk of the planning board, by regular or by electronic transmission, shall give notice to the clerk of such adjacent municipality of such public hearing **at least ten days prior to such public hearing**. A copy of such notice, with a certified statement of the clerk of the planning board that such notice was properly and timely sent, shall be placed in the appropriate file and shall be a part of the record of the public hearing.

Section 3. This resolution shall take effect immediately.

A vote having been taken on the resolution was as follows:

Approval

Disapproval

I, clerk of the (city, town, village) of \_\_\_\_\_\_ do hereby certify that the above is a true record of the action on the above resolution.

### Sample Notice to Adjacent Municpality:

Notice given by (clerk of planning board or clerk of zoning board of appeals) to adjacent municipality **at least ten days prior to public hearing**.

NOTICE FROM THE (city, town, village) of \_\_\_\_\_\_ (zoning board of appeals or planning board).

To the clerk of the \_\_\_\_\_\_: The provisions of section 239-nn of the General Municipal Law require that notice be given to the clerk of an adjacent municipality in the event certain land use acts are proposed which are located within 500 feet of the boundaries of an adjacent municipality.

Please be advised that the following described action is pending before the (zoning board of appeals or planning board):

(describe proposed action)

Such matter will be heard by the (zoning board of appeals or planning board)

 $at \underbrace{on}_{(location)} \underbrace{on}_{(date)} at \underbrace{ctime}_{(time)}.$ 

A representative of your municipality shall have the right to appear at such public hearing and to present views upon such proposed action.

Signed :\_\_\_\_\_

(clerk)