

# 15 ADMINISTRATION

<b>15.1 REVIEW PROCEDURES .....</b>	<b>455</b>
General	455
Pre-Submittal Meeting	455
Neighborhood Meeting	455
Design Review	456
Development Review Application	456
Application Review & Staff Report	457
Public Notice	457
Public Hearing	458
Decision	458
Appeal Period	459
Certification of Decision	459
Certificate of Zoning Compliance	459
<b>15.2 DISCRETIONARY PERMITS .....</b>	<b>460</b>
Special Permit	460
Coordinated Development Special Permit	461
Hardship Variance	462
Plan Revisions	463
<b>15.3 ADMINISTRATIVE PERMITS .....</b>	<b>464</b>
Building Permit	464
Construction Permit	464
Site Development Plan Approval	464
Subdivision Plan Approval	465
Neighborhood Development Plan Approval	466
<b>15.4 CERTIFICATES .....</b>	<b>468</b>
Certificate of Zoning Compliance	468
Certificate of Occupancy	468
Written Interpretation	469
<b>15.5 APPEALS.....</b>	<b>470</b>
Building Code Appeal	470
Administrative Appeal	470
Judicial Appeal	470
<b>15.6 LEGISLATIVE PROCEDURES.....</b>	<b>471</b>
Land Conveyance	471
Zoning Text Amendment	471
Zoning Map Amendment	472
<b>15.7 REVIEW BOARDS &amp; OFFICIALS.....</b>	<b>473</b>
Building Official	473
Zoning Board of Appeals	473
Planning Board	473
Urban Design Commission	474
Planning Director	475

**2ND DISCUSSION DRAFT**



## **15.1 REVIEW PROCEDURES**

### **1. General**

- a. All development requires the submittal of a development review application to the Building Official.
- b. Proposed development may or may not necessitate the need for a Discretionary or Administrative permit based on the nature of the proposal.
- c. This Section describes the various common procedures required for development review applications. See Section 15.2 Discretionary Permits and Section 15.3 Administrative Permits for the specific procedural steps required for each type of permit.

### **2. Pre-Submittal Meeting**

- a. Purpose
  - i. A pre-submittal meeting assists with informing an applicant of relevant development review application criteria, standards, and procedure; the examination of previous development review applications and permits for the property; and identification of potential concerns by the applicant and City staff at the earliest opportunity in the development process.
  - ii. Pre-submittal meetings are advisory and not intended as an exhaustive review of all potential issues.
  - iii. Participation in a pre-submittal meeting does not absolve an applicant of any responsibility for legal or technical due diligence investigation.
- b. Procedure
  - i. When a pre-submittal meeting is required by this Ordinance, development review applications are not considered complete until the pre-submittal meeting has been held with Planning Staff.
  - ii. Unless otherwise specified, a required pre-submittal meeting must occur at least fourteen (14) days prior to any required neighborhood meeting, at least fourteen (14) days prior to any required design review, and at least three (3) days prior to submittal of a development review application.
  - iii. Applicants or their representatives are required to attend a pre-submittal meeting.
  - iv. Applicants are required to bring all information and materials required by the Building Official and Planning Director to a pre-submittal meeting.

### **3. Neighborhood Meeting**

- a. Purpose
  - i. A neighborhood meeting facilitates community participation in the development review process, provides an applicant with an opportunity to present a development proposal to the public during the conceptual design phase, and allows the

public to identify and discuss issues and potential impacts of the development proposal with the applicant.

- ii. Neighborhood meetings are intended to promote the submittal of a development review applications that is more responsive to neighborhood concerns, expedite the review process, and to lessen the cost of development review by reducing continuances and appeals.
- b. Procedure
  - i. When a neighborhood meeting is required by this ordinance, development review applications are not considered complete until the neighborhood meeting has been held.
  - ii. Applications for development review must be submitted within one hundred and twenty (120) days of the neighborhood meeting. If an application is not submitted in this time frame, the Applicant is required to hold a new neighborhood meeting.
  - iii. Unless otherwise specified, a neighborhood meeting must occur at least fourteen (14) days prior to any required design review and at least fourteen (14) days prior to formal submittal of a development review application.
  - iv. Neighborhood meetings should be held at a location in close proximity to the subject property on a weekday evening after 6:00 p.m. or on weekends at any reasonable time.
  - v. Neighborhood meetings shall not occur on a local, state, or national holiday or election day.
  - vi. Applicants or their representatives are required to attend a neighborhood meeting.
  - vii. The Applicant is responsible for coordinating a neighborhood meeting in conjunction with the Ward representative from the Board of Aldermen and the Staff of the Mayor's Office of Strategic Planning and Community Development.
  - viii. The format and agenda of the neighborhood meeting is at the discretion of the applicant, in consultation with the Ward representative from the Board of Aldermen, and may consist of a formal presentation or a drop-in, open house style informational session.
  - ix. Opportunity must be provided for substantive engagement between attendees and the Applicant, including designers, regarding the design of the proposed development.
  - x. Applicants are required to bring all information and materials required by the Building Official to a neighborhood meeting.
  - xi. Both the Applicant and the Planning Director shall submit a report and minutes of the neighborhood meeting as required information for a development review application submittal that includes, at a

# 15. ADMINISTRATION

## Review Procedures

minimum, the following:

- a). a list of those persons and organizations contacted about the meeting, and manner and date of contact;
- b). the date, time, and location of the meeting;
- c). a roster or signature sheet of attendees at the meeting;
- d). a summary of issues discussed at the meeting;
- e). copies of all materials provided by the applicant at the meeting; and
- f). a description of any changes to the proposed development made as a result of the meeting.

### 4. Design Review

- a. Purpose
  - i. Design review provides an applicant with an opportunity to receive advice and recommendations from the professional design community to ensure that development protects and enhances the public realm and human scale of the City.
- b. Procedure
  - i. When design review is required by this Ordinance, development review applications are not considered complete until review by the Urban Design Commission (Urban Design Commission) has been completed.
  - ii. Unless otherwise specified, design review must occur at least fourteen (14) days prior to formal submittal of an application for development review.
  - iii. Applicants or their representatives are required to attend a design review meeting.
  - iv. The Urban Design Commission shall issue a written recommendation to the Planning Board and the Applicant within forty-five (45) days of the design review meeting. Subsequent development review steps are prohibited until the Urban Design Commission has issued its recommendation.
  - v. Applicants are required to bring all information and materials required by the Chairman of the Urban Design Commission.
  - vi. The Applicant shall submit an account of the design review meeting to the Building Official as required information for a development review application submittal that includes, at a minimum, the following:
    - a). the date, time, and location of the meeting;
    - b). a roster of members of the Urban Design Commission in attendance at the meeting;
    - c). a summary of issues discussed at the meeting;
    - d). copies of all materials provided by the applicant

at the meeting; and

- e). a description of any changes to the proposed development made as a result of the meeting.

### c. Review Criteria

- i. The Urban Design Commission's written recommendation to the review board shall include, at minimum, the following:
  - a). Identification of each applicable design guideline that has been achieved to the satisfaction of the Urban Design Commission, as voted by a majority of members present.
  - b). Any modifications necessary to remedy outstanding design issues related to applicable guidelines that have not been achieved to the satisfaction of the Urban Design Commission, as voted by a majority of members present.
- ii. In addition to addressing the design guidelines of this Ordinance, the Urban Design Commission shall provide recommendations as indicated elsewhere in this Ordinance.

### 5. Development Review Application

- a. Applicability
  - i. As indicated elsewhere in this Ordinance, the subdivision and parcelization of land and all development on any lot requires the submittal of a development review application.
- b. Submittal
  - i. Applications for development review must include all necessary information and submittal materials required by the Building Official and Review Boards. All application requirements shall be made available to the public on the City website.
- c. Completeness
  - i. An application for development review is not considered complete until all necessary information has been supplied by the applicant and all fees have been paid, including fees for costs incurred by the City for public notice.
  - ii. Upon written request by an applicant, the designated review board may, in its discretion, waive any of the information required when applying for development review.
  - iii. Completed applications will be scheduled for a public hearing, publicly noticed, and/or administratively evaluated as indicated for each type of discretionary and administrative permit.
  - iv. Incomplete applications will not be reviewed, will not be publicly noticed, will not be scheduled for a public hearing.
  - v. If an application reaches a public hearing and the review board deems the submittal incomplete, the

board has the option to do one of the following:

- a). deny the application;
  - b). allow the applicant to withdraw the application without prejudice according to §15.1.5.d. Withdrawal; or
  - c). waive the procedural time requirements according to §15.1.8.d Continuance.
- d. Withdrawal
- i. An application may be withdrawn without prejudice at any time prior to the issuance of the public notice advertising the development review public hearing where the application will be reviewed.
  - ii. Once the public notice advertising a development review public hearing has been issued, a request to withdraw an application can only be granted by a four-fifths majority of the review board.
  - iii. Upon request to withdraw without prejudice, the review board has the option to do one of the following:
    - a). approve a request to withdraw without prejudice; or
    - b). deny the request and proceed to evaluate the application based on the merits of the information submitted.
  - iv. Applications withdrawn prior to public notice are not eligible for a refund of fees.
- e. Repetitive Applications
- i. A denied application will not be reconsidered for a minimum of two (2) years from the date final action was taken by the review board unless the review board determines, by a four-fifths majority vote, that specific and material changes in the conditions upon which the prior denial was based, including, but not limited to, substantial new evidence or a significant mistake of law or of fact, justifies reconsideration of the application.
  - ii. If the application is resubmitted earlier than two (2) years from the date of final action, the subsequent application must include a detailed statement of the evidence justifying its reconsideration.
  - iii. Re-submittal of applications withdrawn without prejudice shall not be considered a repetitive application.
- f. Failure to Act
- i. Failure by a review board or official to hold a public hearing or take final action on an application within the maximum time requirement or permitted extensions, as applicable, may, per M.G.L. 40A, result in the approval of the application at the expiration of said time periods, .

development review application and, if necessary, refer the development review application to appropriate City departments for feedback.

- b. For any proposed development that requires a discretionary or administrative permit by a review board, the Building Official shall forward the application to the Planning Director to prepare a staff report to the applicable Review Board.
- c. The staff report must include the following, based on the opinion of the Planning Director:
  - i. Confirmation that the proposed development complies with all applicable provisions of this Ordinance.
  - ii. A recommendation to approve, approve with conditions, or deny the application or an explanation why a recommendation is not being provided.
  - iii. Any recommended conditions necessary to eliminate any areas of noncompliance or mitigate any adverse effects of the development proposal.
- d. If a neighborhood meeting or design review meeting was required for the proposed development, the staff report must include an account and of the meeting from the Planning Director that includes, at a minimum, the following:
  - a). the date, time, and location of the meeting;
  - b). a roster of members of the Urban Design Commission in attendance at the meeting;
  - c). a summary of issues discussed at the meeting; and
  - d). a description of any changes to the proposed development that the Director feels are necessary as a result of the meeting.

### 7. Public Notice

- a. General
  - i. Mailed, published, and posted public notice of a development review or legislative procedure public hearing is provided to inform the general public of the public hearing or meeting and to inform neighboring land owners of any potential development impacts.
  - ii. Costs incurred by the City for public notice of a development review or legislative procedure public hearing must be prepaid by the applicant according to the rules of the designated review board.
- b. Mailed Notice
  - i. Applicants shall provide notice of a neighborhood meeting, at minimum, by:
    - a). Mailing notice to parties in interest
    - b). Mailing notice to the residents of addresses owned by parties in interest, as provided by the U.S. Postal Service.
    - c). Making best efforts to hand deliver notice to

### 6. Application Review & Staff Report

- a. Upon receipt of a complete development review application, the Building Official shall review the

# 15. ADMINISTRATION

## Review Procedures

- each direct abutter.
- d). Emailing individuals that have requested to be notified about development in the neighborhood.
- e). Requesting local businesses to post notice in their establishment.
- ii. Notice of a public hearing for a discretionary or administrative permit shall be mailed to the Applicant, direct abutters, property owners within three hundred (300) feet, and the Planning Board of any abutting City or Town sharing a municipal boundary the City of Somerville within three hundred (300) feet of the subject property.
- iii. Notice of a public hearing for a Land Conveyance shall be mailed to direct abutters.
- iv. Notice of a public hearing for an amendment to the Somerville Zoning Ordinance or Zoning Atlas shall be mailed to the Planning Board of City or Town sharing a municipal boundary with th City of Somerville, the Massachusetts Department of Housing & Community Development, and the Metropolitan Area Planning Council.
- c. Published Notice
  - i. Notice of a development review or legislative procedure public hearing shall be published in a newspaper of general circulation in the City of Somerville no less than fourteen (14) days in advance of the scheduled hearing date, with a second notice the following week.
- d. Posted Notice
  - i. Notice of a design review or neighborhood meeting shall be posted in a conspicuous place in City Hall no less than seven (7) days in advance of the scheduled meeting date.
  - ii. Notice of a development review or legislative procedure public hearing shall be posted in a conspicuous place in City Hall no less than fourteen (14) days in advance of the scheduled hearing date.
  - iii. Notice of a development review public hearing shall be posted in a conspicuous place at the subject property no less than seven (7) days in advance of the scheduled meeting date.
- e. Appeal for Improper Notice
  - i. Any aggrieved party may appeal the decision of any review board or official when claiming improper notice of a development review public hearing or meeting according to the procedures of §15.5.3 Judicial Appeal.
  - ii. Judicial appeals claiming improper notice of a development review public hearing or meeting must be filed per MGL 40A.

## 8. Public Hearing

- a. Procedure
  - i. A public hearing must be held within sixty-five (65) days after receiving a completed application for development review that requires a Special Permit, Coordinated Development Special Permit, Hardship Variance, Site Development Plan Approval, or Subdivision Plan Approval.
  - ii. A public hearing must be held within ninety (90) days after receiving a completed application for development review that requires a Neighborhood Development Plan Approval.
- b. Hearing Administration
  - i. Public hearings are conducted in accordance with the procedures set forth in M.G.L. Chapter 40A, as amended; any and all requirements of The Code of Ordinances, City of Somerville, Massachusetts; and the rules of the applicable review board.
- c. Access to Documents
  - i. Relevant documentation submitted with an application for development review shall be posted on the City website prior to the notice of a public hearing.
  - ii. Physical copies of application information, development plan documentation, and other related correspondence are available to inspect or copy by any party upon reasonable request and payment of a fee to cover the cost of such copies.
- d. Continuance
  - i. Upon mutual agreement by the applicant and a four-fifths majority of the review board, the following procedural requirements may be extended:
    - a). the time limit required for commencement of a public hearing;
    - b). the time limit required to make a decision.
  - ii. Mutual agreement of extended time limits will be recorded in writing.

## 9. Decision

- a. Action by a Review Board
  - i. Within ninety (90) days of the closing of a public hearing, the review board must
    - a). make a decision to approve, approve with conditions, deny, or grant withdrawal the application for a special permit; and
    - b). file that decision with the Office of the City Clerk.
- b. Written Information
  - i. Decisions must include a detailed record of the proceedings of the public hearing, indicate the vote of each board member, the reason for the board's decision, and identify any official actions taken by

- the board and conditions attached to the approval.
- c. Notice of the Decision
  - i. Notification of the decision shall be mailed to the petitioner, applicant, and appellant, as applicable.
- d. Filing of the Decision
  - i. Decisions must be filed with the Office of the City Clerk within fourteen (14) days of the review board making the decision. The City Clerk will date stamp the decision, beginning the time period for which an appeal may be filed.

**10. Appeal Period**

- a. Appeals of a decision by the Building Official, Planning Director, Zoning Board of Appeals, or Planning Board must be carried out in accordance with Section 15.2 Discretionary Permits, Section 15.3 Administrative Permits, and Section 15.5 Appeals of this Article.

**11. Certification of Decision**

- a. After the time period for an appeal has expired (see Section 15.5 Appeals), the Applicant must take a copy of the decision provided by the Planning Division to the Office of the City Clerk for certification that no appeals have been filed.
- b. Once the Office of the City Clerk has certified that the decision has not been appealed, the Applicant must archive the decision with the property authority as follows:
  - i. For unregistered land, the Applicant must submit the certified copy of the decision to the Middlesex South Registry of Deeds.
  - ii. For registered land, the Applicant must submit the certified copy of the decision to the Land Court.

**12. Certificate of Zoning Compliance**

- a. The Building Official shall grant a Certificate of Zoning Compliance for development that conforms to the provisions and procedures of this Ordinance.
- b. No certificate of zoning compliance will be issued without physical evidence that the certified copy of the decision has been properly filed with the Middlesex South Registry of Deeds or Land Court.

# 15. ADMINISTRATION

## Discretionary Permits

### 15.2 DISCRETIONARY PERMITS

#### 1. Special Permit

- a. Purpose
  - i. A special permit authorizes development that is not otherwise permitted, provided that it meets certain conditions set out in this Ordinance.
- b. Applicability
  - i. Special permits are required for development as indicated elsewhere in this Ordinance.
  - ii. The granting of a special permit authorizes the Building Official to issue a certificate of zoning compliance for development that is otherwise compliant with the provisions and procedures of this Ordinance.
  - iii. The Building Official may not issue a certificate of zoning compliance for development that requires a special permit until a special permit has been granted by the review board in accordance with the provisions of this Article.
- c. Authority
  - i. The review board serving as the decision making authority for a Special Permit is determined by zoning district.
- d. Procedure
  - i. The following review procedures are required:
    - a). Step 1: Development Review Application
    - b). Step 2: Application Review & Staff Report
    - c). Step 3: Public Notice
    - d). Step 4: Public Hearing
    - e). Step 5: Decision
    - f). Step 6: Appeal Period
    - g). Step 7: Certification of Decision
    - h). Step 8: Certificate of Zoning Compliance
  - ii. The following additional review procedures are required prior to Step 1: Development Review Application for all use special permits, changes to nonconforming uses, development seeking modification to the minimum or maximum parking standards, and all modifications to nonconforming structures:
    - a). Pre-Submittal Meeting
    - b). Neighborhood Meeting
  - iii. The review procedures required for a Special Permit may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits.
- e. Review Criteria
  - i. In its discretion to approve or deny a special permit required by this Ordinance, the review board shall consider the following:
    - a). conformance to the adopted master plan and other existing policy plans of the City of Somerville;
    - b). consistency with the purpose of this Ordinance in general;
    - c). consistency with the purpose of the district where the property is located;
    - d). conformance with all applicable provisions of this Ordinance; and
    - e). considerations indicated elsewhere in this Ordinance specifically for the required special permit.
  - ii. When considering a revision to a previously approved development review application that required a special permit, the review board shall limit their review to the proposed changes to the previously approved application.
- f. Conditions
  - i. The review board may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a specific special permit
  - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
- g. Compliance
  - i. The Review Board may require the posting of a bond or other performance guarantee to ensure compliance with the DEVELOPMENT REVIEW APPLICATION and conditions, as approved.
- h. Permit Duration and Extension
  - i. Special permits remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal.
  - ii. The review board may reduce the time period that a special permit remains valid to a shorter time period as a condition attached to the special permit.
  - iii. The review board may extend the duration of validity for a special permit upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the special permit.
  - iv. Requests for extension of the duration of validity must be submitted to the Office of the City Clerk on the appropriate forms provided by the Planning Division.
- i. Appeals
  - i. An aggrieved party may appeal the decision of the Building Official in accordance with §15.5.2. Administrative Appeal.
  - ii. An aggrieved party may appeal the decision of the Zoning Board of Appeals or Planning Board in accordance with §15.5.3 Judicial Appeal.



**2. Coordinated Development Special Permit**

- a. Purpose
  - i. To allow for the review of a multi-lot development proposal that:
    - a). establishes general development phasing parameters;
    - b). provides analysis of impacts related to the build out of all phases; and
    - c). identifies subsequent development review necessary as multi-phased development proceeds across the various lots.
  - ii. To allow for the submittal of a plan illustrating a vision for future development across multiple sites, without requiring detailed site plans or architectural and engineering drawings for thoroughfares, civic spaces, and buildings that can be approved separately, at a later date, in subsequent Design & Site Plan Review applications as project phases and individual lots are built out.
  - iii. To authorize applicants subject to an approved CDSP to move forward with subsequent development review required elsewhere in this Ordinance.
- b. Applicability
  - i. A coordinated development special permit is required for development as indicated elsewhere in the Ordinance.
  - ii. Approval of a coordinated development special Permit authorizes the Building Official to accept applications for subsequent development review required by this Ordinance only and does not establish any vested right to develop property in accordance with the plan.
- c. Authority
  - i. The Planning Board is the decision making authority for a coordinated development special permit.
- d. Procedure
  - i. The following review procedures are required:
    - a). Step 1: Pre-Submittal Meeting
    - b). Step 2: Neighborhood Meeting
    - c). Step 3: Development Review Application
    - d). Step 4: Application Review & Staff Report
    - e). Step 5: Public Notice
    - f). Step 6: Public Hearing
    - g). Step 7: Decision
    - h). Step 8: Appeal Period
    - i). Step 9: Certification of Decision
    - j). Step 10: Certificate of Zoning Compliance
  - ii. The review procedures required for a coordinated development special permit may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits, as indicated elsewhere in this Ordinance.
- e. Review Criteria
  - i. In its discretion to approve or deny an application for a coordinated development special permit, the Planning Board shall consider the following:
    - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City.
    - b). the purpose of this Ordinance in general;
    - c). the purpose of the base district or overlay district where the property is located;
    - d). conformance with all applicable provisions of this Ordinance; and
    - e). considerations indicated elsewhere in this Ordinance for coordinated development special permit approval.
  - ii. When considering a revision to a previously approved development review application that required a coordinated development special permit, the review board shall limit their review to the proposed changes to the previously approved application.
- f. Conditions
  - i. The review board may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a special permit.
  - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
- g. Compliance
  - i. The Review Board may require the posting of a bond or other performance guarantee to ensure compliance with the DEVELOPMENT REVIEW APPLICATION and conditions, as approved.
- h. Permit Duration and Extension
  - i. Coordinated development special permits remain valid for three (3) years from the date the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal, and remain valid so long as progress is being made in accordance with the approved phasing of development.
  - ii. The review board may reduce the time period that a coordinated development special permit remains valid to a shorter time period as a condition attached to the permit.
  - iii. The review board may extend the duration of validity for a coordinated development special permit upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the special permit.
  - iv. Requests for extension of the duration of validity

# 15. ADMINISTRATION

## Discretionary Permits

must be submitted to the Office of the City Clerk on the appropriate forms provided by the Planning Division.

### i. Appeals

- i. An aggrieved party may appeal the decision of the Building Official in accordance with §15.5.2. Administrative Appeal.
- ii. An aggrieved party may appeal the decision of the Zoning Board of Appeals or Planning Board in accordance with §15.5.3. Judicial Appeal.

### 3. Hardship Variance

#### a. Purpose

- i. A variance authorizes development that would otherwise be prohibited by the provisions of this Ordinance, due to hardship.

#### b. Applicability

- i. A variance is required for development that is not compliant with the provisions of this Ordinance.
- ii. The granting of a variance authorizes the Building Official to issue a certificate of zoning compliance for development that is otherwise compliant with the provisions and procedures of this Ordinance.
- iii. The Building Official may not issue a certificate of zoning compliance for development that requires a variance until a variance has been granted by the review board in accordance with the provisions of this Article.
- iv. Use variances are not permitted.

#### c. Authority

- i. The Zoning Board of Appeals is the review board for all Variances.

#### d. Procedure

- i. The following review procedures are required:
  - a). Step 1: Pre-Submittal Meeting
  - b). Step 2: Development Review Application
  - c). Step 3: Application Review & Staff Report
  - d). Step 4: Public Notice
  - e). Step 5: Public Hearing
  - f). Step 6: Decision
  - g). Step 7: Appeal Period
  - h). Step 8: Certification of Decision
  - i). Step 9: Certificate of zoning compliance
- ii. The following steps may be required prior to Step 2 Development Review Application submittal at the discretion of the Planning Director or Review Boards:
  - a). Neighborhood Meeting
  - b). Design Review
- iii. The review procedures required for a variance may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or

administrative permits.

#### e. Review Criteria

- i. The Zoning Board of Appeals may only grant a variance upon finding all of the following:
  - a). Special circumstances exist relating to the soil conditions, shape, or topography of a parcel of land or the unusual character of an existing structure but not affecting generally the zoning district in which the land or structure is located;
  - b). Literal enforcement of the provision of this Ordinance for the district where the subject land or structure is located would involve substantial hardship, financial or otherwise, to the petitioner or appellant due to said special circumstances; and
  - c). Desirable relief could be granted without causing substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of a specific district in this Ordinance or the Ordinance in general.
- ii. When considering a revision to a previously approved development review application that required a variance, the review board shall limit their review to the proposed changes to the previously approved application.

#### f. Conditions

- i. The Zoning Board of Appeals may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a variance.
- ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.

#### g. Compliance

- i. The Zoning Board may require the posting of a bond or other performance guarantee to ensure compliance with the development review application and conditions, as approved.

#### h. Duration and Extension

- i. Variances remain valid for one (1) year from the date the decision is made by the Zoning Board of Appeals, not the date that the decision is filed with the Office of the City Clerk, excluding any time required awaiting the decision of an appeal.
- ii. Upon written request by an applicant, the Zoning Board of Appeals may, in its discretion, extend the time period that a variance remains valid for up to six (6) months.
- iii. Requests for extension of a variance must be submitted to the Office of the City Clerk on the

- appropriate forms provided by the Building Official.
- i. Appeals
  - i. An aggrieved party may appeal the decision of the Building Official in accordance with §15.5.2. Administrative Appeal.
  - ii. An aggrieved party may appeal the decision of the Zoning Board of Appeals according to the procedures of §15.5.3. Judicial Appeal.

**4. Plan Revisions**

- a. Applicability
  - i. Revisions to a previously approved development review application may be submitted by an Applicant in accordance with the provisions of this section.
- b. Authority
  - i. The Planning Director is the decision making authority for a plan revision.
- c. Procedure
  - i. The following review procedures are required:
    - a). Step 1: Pre-Submittal Meeting
    - b). Step 2: Development Review Application
  - ii. Within fourteen (14) days after revision to a previously approved development review application, the Planning Director must review the application and determine if the proposed revision is de minimus or significant enough to be considered a major amendment to the original proposal.
  - iii. The Planning Director may determine the proposed revision is de minimus upon finding that the revised plan:
    - a). does not contravene the previously punished public notice, any finding, or attached condition made by the review board for the original development review application;
    - b). does not detrimentally impact matters of substance identified in the meeting minutes of the original public meetings or public hearings;
    - c). features changes that are insignificant to the degree that persons familiar with the original application would not notice a substantial change in operational or built outcome.
  - iv. Upon a determination that the proposed revision is de minimus, the Planning Director will approve or deny the proposed revisions in writing.
  - iv. Upon a determination that the proposed revision is not de minimus, the Planning Director shall notify the applicant, in writing, and forward the revised application to the designated review board as a revision to a previously approved development review application.
  - v. When considering a revision to a previously approved development review application, review

- must be limited to the changes to the previously approved application.
- d. Conditions
  - i. The Planning Director may attach conditions and limitations that are deemed necessary in order to ensure compliance to the revised development review application.
  - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
- e. Appeals
  - i. An aggrieved party may appeal the decision of the Planning Director according to the procedures of §15.5.2. Administrative Appeal.

# 15. ADMINISTRATION

## Administrative Permits

### 15.3 ADMINISTRATIVE PERMITS

#### 1. Building Permit

- a. Purpose
  - i. A building permit certifies that the construction documents for a proposed structure conforms with the Massachusetts Building Code and all applicable City Ordinances.
- b. Applicability
  - i. Development of any lot is prohibited until a building permit has been issued by the Building Official.
  - ii. The Building Official may not issue a building permit prior to the issuance of a certificate of zoning compliance.
  - iii. No building permit shall be issued for development if construction documents do not accurately reflect the following:
    - a). any development plan documentation submitted as part of a development review application.
    - b). conditions attached to any administrative or discretionary development review approval.
- c. Authority
  - i. The Building Official is the decision making authority for a building permit.
- d. Procedure
  - i. Within thirty (30) days after receiving a completed application for a building permit, the Building Official shall issue such permit, or transmit, in writing, the reasons for failure to issue such permit to the applicant.
- e. Validity
  - i. Construction must begin within six (6) months following the issuance of a Building Permit and continue towards completion in a continuous and expeditious manner for the permit to remain valid.
- f. Inspections
  - i. Submittal of a building permit application provides consent, by the applicant, for the Building Official to enter upon private real property to conduct routine inspections as needed.
- g. Appeals
  - i. Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official according to the procedures of §15.5.2. Administrative Appeal.
  - ii. Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official according to the procedures of §15.5.1. Building Code Appeal.

#### 2. Construction Permit

- a. Purpose
  - i. A construction permit certifies that the

construction documents for a proposed thoroughfare or civic space conforms with all departmental standards and City Ordinances.

- b. Applicability
  - i. Development of any thoroughfare or civic space is prohibited until a construction permit has been issued by the Building Official.
  - ii. The Building Official may not issue a construction permit prior to the issuance of a certificate of zoning compliance.
  - iii. No construction permit shall be issued for development if construction documents do not accurately reflect the following:
    - a). any development plan documentation submitted as part of a development review application.
    - b). conditions attached to any administrative or discretionary development review approval.
- c. Authority
  - i. The Building Official is the decision making authority for a construction permit.
- d. Procedure
  - i. Within thirty (30) days after receiving a completed application for a construction permit, the Building Official shall issue such permit, or transmit, in writing, the reasons for failure to issue such permit to the applicant.
- e. Validity
  - i. Construction must begin within six (6) months following the issuance of a Construction Permit and continue towards completion in a continuous and expeditious manner for the permit to remain valid.
- f. Inspections
  - i. Submittal of a construction permit application provides consent, by the applicant, for the Building Official to enter upon private real property to conduct routine inspections as needed.
- g. Appeals
  - i. Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official according to the procedures of §15.5.2. Administrative Appeal.
  - ii. Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official according to the procedures of §15.5.1. Building Code Appeal.

#### 3. Site Development Plan Approval

- a. Purpose
  - i. Site development plan approval is the administrative review and approval of a development review application to certify that the proposal conforms to the provisions of this

- Ordinance.
  - ii. The site development plan approval process provides an applicant with the opportunity to submit architectural, site, landscape, and engineering plans so that compliance to the provisions of this Ordinance can be determined prior to preparation of construction documents.
  - iii. The site development plan approval process provides the City with the opportunity to establish conditions to address on-site or off-site impacts of development.
  - b. Applicability
    - i. Site Development Plan Approval is required as indicated elsewhere in this Ordinance.
    - ii. Approval of a site development plan authorizes the Building Official to issue a certificate of zoning compliance for development that is otherwise compliant with the provisions of this Ordinance.
    - iii. The Building Official may not issue a certificate of zoning compliance for development that requires site development plan approval until the site development plan approval process has been completed in accordance with the provisions of this Article.
  - c. Authority
    - i. The review board serving as the decision making authority for a Site Development Plan Approval is determined by zoning district.
  - d. Procedure
    - i. Unless otherwise specified, the following review procedures are required:
      - a). Step 1: Pre-Submittal Meeting
      - b). Step 2: Neighborhood Meeting
      - c). Step 3: Design Review Meeting
      - d). Step 4: Neighborhood Meeting
      - e). Step 5: Development Review Application
      - f). Step 6: Application Review & Staff Report
      - g). Step 7: Public Notice
      - h). Step 8: Public Hearing
      - i). Step 9: Decision
      - j). Step 10: Appeal Period
      - k). Step 11: Certification of Decision
      - l). Step 12: Certificate of Zoning Compliance
    - ii. The review procedures required for a site development plan approval may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits.
  - e. Review Criteria
    - i. The review board shall approve an application for site development plan approval upon verifying that the submitted plan conforms with the provisions of this ordinance and demonstrates consistency to the following:
      - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City.
      - b). the purpose of this Ordinance in general;
      - c). the purpose of the district where the property is located; and
      - d). considerations indicated elsewhere in this Ordinance for the required site development plan approval.
    - ii. The review board may reject a application for site DEVELOPMENT PLAN approval only when:
      - a). the submittal fails to furnish adequate information required for approval;
      - b). the imposition of reasonable conditions would not ensure compliance to standards, as applicable; and/or
      - c). the submittal, although proper in form, includes or creates an intractable problem so intrusive on the needs of the public in one regulated aspect or another and cannot be adequately mitigated.
    - iii. When considering a revision to a previously approved development review application that required a site development plan approval, the review board shall limit their review to the proposed changes to the previously approved application.
  - f. Conditions
    - i. The review board may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a site development plan approval.
    - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
  - g. Compliance
    - i. The Review Board may require the posting of a bond or other performance guarantee to ensure compliance with the development review application and conditions, as approved.
  - h. Appeals
    - i. An aggrieved party may appeal the decision of the Planning Board according to the procedures of §15.5.3. Judicial Appeal.
- 4. Subdivision Plan Approval**
- a. Purpose
    - i. Subdivision plan approval certifies that a final plat plan showing the division(s) of a parcel of land into new lots and the thoroughfares that provide access to them conforms to the provisions of this

# 15. ADMINISTRATION

## Administrative Permits

- Ordinance.
    - ii. The subdivision plan approval process provides applicants with the opportunity to submit a preliminary plat plan to identify potential issues and the need for waivers prior to the submittal of a more detailed final plat plan.
  - b. Applicability
    - i. No person shall subdivide any land within the City of Somerville, proceed with the improvement or sale of lots, construct thoroughfares, install utility services, or undertake preliminary site preparation, such as clearing of land or excavation, in a development site requiring subdivision plan approval until a final plat plan has been submitted to, approved, and endorsed by the designated review board and recorded in the Registry of Deeds or Land Court in accordance with the provisions of this Article.
    - ii. Granting of a subdivision plan approval authorizes a property owner to file legal documents related to the subdivision of real estate within the city of Somerville with the Registry of Deeds or Land Court.
    - iii. Subdivision plan approval does not apply to lot splits, lot mergers, and lot line adjustments.
  - c. Authority
    - i. The Planning Board is the decision making authority for a subdivision plan approval.
  - d. Procedure
    - i. Subdivision plan approval requires a two (2) stage permitting process that requires the submittal of a preliminary plat plan as a prerequisite to submittal of a final plat plan.
    - ii. The following review procedures are required for preliminary plat approval:
      - a). Step 1: Pre-Submittal Meeting
      - b). Step 2: Development Review Application
      - c). Step 3: Application Review & Staff Report
      - d). Step 4: Public Notice
      - e). Step 5: Public Hearing
      - f). Step 6: Decision
      - g). Step 7: Appeal Period
    - iii. The following review procedures are required for final plat approval:
      - a). Step 1: Draft & Submit Final Plat
      - b). Step 2: Planning Board Approval
      - c). Step 3: Certification of Decision
    - iv. The review procedures required for a subdivision plan approval may, at the discretion of the Review Board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits.
  - e. Review Criteria
    - i. The Planning Board shall approve an application for subdivision plan approval upon verifying that the submitted plan conforms with the provisions of this Ordinance and demonstrates consistency to the following:
      - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City.
      - b). the purpose of this Ordinance in general;
      - c). the purpose of the district where the property is located; and
      - d). considerations indicated elsewhere in this Ordinance for the required subdivision plan approval.
    - ii. When considering a revision to a previously approved development review application that required a subdivision plan approval, the review board shall limit their review to the proposed changes to the previously approved application.
  - f. Conditions
    - i. The review board may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a subdivision plan approval.
    - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
  - g. Compliance
    - i. The Review Board may require the posting of a bond or other performance guarantee to ensure compliance with the development review application and conditions, as approved.
  - h. Appeals
    - i. An aggrieved party may appeal the decision of the Planning Board according to the procedures of §15.5.3. Judicial Appeal.
- ### 5. Neighborhood Development Plan Approval
- a. Purpose
    - i. Neighborhood development plan approval is the administrative review and approval of a plan coordinating the development of an entire new neighborhood, necessary infrastructure improvements, and regulatory & permitting decisions as development proceeds within a subject area.
    - ii. The neighborhood development plan approval process provides an applicant with the opportunity to submit a plan illustrating a framework for future development without preparing detailed site plans or architectural and engineering drawings for thoroughfares, civic spaces, and/or buildings that can be approved separately at a later date as

- b. project phases and individual lots are built out.
  - b. Applicability
    - i. Neighborhood development plan approval is required as indicated elsewhere in this Ordinance.
    - ii. Approval of a neighborhood development plan authorizes the Building Official to accept applications for subsequent development review required by this Ordinance.
    - iii. The Building Official may not issue a certificate of zoning compliance for development that requires neighborhood development plan approval until the neighborhood development plan approval process has been completed in accordance with the provisions of this Article.
  - c. Authority
    - i. The Planning Board is the decision making authority for a neighborhood development plan approval.
  - d. Procedure
    - i. Unless otherwise specified, the following review procedures are required:
      - a). Step 1: Pre-Submittal Meeting
      - b). Step 2: Development Review Application
      - c). Step 3: Application Review & Staff Report
      - d). Step 4: Public Notice
      - e). Step 5: Public Hearing
      - f). Step 6: Decision
      - g). Step 7: Appeal Period
      - h). Step 8: Certification of Decision
      - i). Step 9: Certificate of zoning compliance
    - ii. The review procedures required for a Neighborhood Development Plan Approval may, at the discretion of the designated review board, be conducted simultaneously with the review procedures required for other discretionary or administrative permits, as indicated elsewhere in this Ordinance.
  - e. Review Criteria
    - i. The Planning Board shall approve an application for neighborhood development plan approval upon verifying that the submitted plan conforms with the provisions of this ordinance and demonstrates consistency to the following:
      - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City.
      - b). the purpose of this Ordinance in general;
      - c). the purpose of the district where the property is located; and
      - d). considerations indicated elsewhere in this Ordinance for the required large development plan approval.
    - ii. The Planning Board may reject an application for
- NEIGHBORHOOD DEVELOPMENT PLAN approval only when:
- a). the submittal fails to furnish adequate information required for approval;
  - b). the imposition of reasonable conditions would not ensure compliance to standards, as applicable; and/or
  - c). the submittal, although proper in form, includes or creates an intractable problem so intrusive on the needs of the public in one regulated aspect or another and cannot be adequately mitigated.
- iii. When considering a revision to a previously approved development review application that required a neighborhood development plan approval, the review board shall limit their review to the proposed changes to the previously approved application.
- f. Conditions
  - i. The review board may attach conditions and limitations that it deems necessary in order to ensure compliance to the Board's findings and the standards for granting of a neighborhood development plan approval.
  - ii. Conditions must have a rational nexus to potential impacts of the proposed development, and be roughly proportional, both in nature and extent, to the impacts of the proposed development.
- g. Compliance
  - i. The Planning Board may require the posting of a bond or other performance guarantee to ensure compliance with the development review application and conditions, as approved.
- h. Appeals
  - i. An aggrieved party may appeal the decision of the Planning Board according to the procedures of §15.5.3. Judicial Appeal.

# 15. ADMINISTRATION

## Certificates

### 15.4 CERTIFICATES

#### 1. Certificate of Zoning Compliance

- a. Purpose
  - i. A certificate of zoning compliance certifies that development plans conform to the provisions of this Ordinance and that any additional type of development review required by this Ordinance has been completed in accordance with the provisions of this Article.
- b. Authority
  - i. The Building Official issues all Certificates of Zoning Compliance.
- c. Applicability
  - i. All development requires a certificate of zoning compliance.
  - ii. The Building Official may not accept a development review application that requires a pre-submittal meeting, a neighborhood meeting, or design review until those review procedures have been completed in accordance with the provisions of this Article.
  - iii. The Building Official may not issue a certificate of zoning compliance for development that requires a discretionary or administrative permit until that permit has been granted by the appropriate review board in accordance with the provisions of this Article.
  - iv. The Building Official may not issue a building permit, certificate of occupancy, or construction permit prior to the issuance of a certificate of zoning compliance.
  - v. In cases where both a building permit and a certificate of occupancy are required, a certificate of zoning compliance is only required prior to the issuance of the building permit.
- d. Procedure
  - i. The Building Official shall forward development review applications that require a discretionary or administrative permit to the appropriate review board, subject to the applicable procedural requirements of this Article.
  - ii. Within ten (10) days after receiving a completed application for development review that does not require a discretionary or administrative permit, the Building Official shall issue a certificate of zoning compliance, or transmit, in writing, the reasons for failure to issue such permit to the applicant.
  - iii. When considering a revision to a previously approved development review application, the Building Official shall limit their review to the proposed changes to the previously approved

- application.
- e. Validity
  - i. A certificate of zoning compliance remains valid for ninety (90) days.
- f. Review Criteria
  - i. The Building Official shall approve an application for certificate of zoning compliance upon verifying the following:
    - a). that the submitted plan conforms with the provisions of this Ordinance;
    - b). the application is consistent with all prior approvals for the subject property; and
    - c). any additional type of administrative or discretionary development review required by this Ordinance has been completed in accordance with the provisions of this Article.
- g. Inspections
  - i. Submittal of an application for a certificate of zoning compliance provides consent, by the applicant, for the Building Official to enter upon private real property to conduct routine inspections as needed.
- h. Appeals
  - i. Administrative Appeal
    - a). An aggrieved party may appeal the decision of the Building Official according to the procedures of §10.5.2. Administrative Appeal.

#### 2. Certificate of Occupancy

- a. Purpose
  - i. A certificate of occupancy certifies that a building or structure is safe for occupation and/or use according to all applicable Ordinances and that proper inspections have been carried out by the Building Official during any construction, reconstruction, alteration, repair, or demolition activities permitted pursuant to a building permit.
- b. Applicability
  - i. No real property may be occupied or used and no existing use of real property may be changed until a certificate of occupancy has been issued by the Building Official.
  - ii. The Building Official may not issue a certificate of occupancy prior to the issuance of a certificate of zoning compliance.
  - iii. No final certificate of occupancy shall be issued for development that does not comply to the following:
    - a). any development plan documentation submitted as part of a development review application.
    - b). conditions attached to any administrative or discretionary development review approval.
  - iv. Development is not considered complete until a



- final Certificate of Occupancy is issued.
- c. Authority
  - i. The Building Official reviews and approves all applications for a certificate of occupancy.
- d. Procedure
  - i. The approval or denial of a certificate of occupancy application is conducted administratively.
  - ii. Within ten (10) days after final inspection for a certificate of occupancy, the Building Official shall issue such certificate, or transmit, in writing, the reasons for failure to issue such certificate to the applicant.
- e. Inspections
  - i. Submittal of a certificate of occupancy application provides consent, by the applicant, for the Building Official to enter upon private real property to conduct inspections, as needed, until such certificate is issued.
- f. Appeals
  - i. Administrative Appeal
    - a). Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official in accordance with the procedures of §10.5.2. Administrative Appeal.
  - ii. Building Code Appeal
    - a). Any aggrieved party may appeal an interpretation, order, requirement, direction, or failure to act by the Building Official according to the procedures of §10.5.1. Building Code Appeal.

**3. Written Interpretation**

- a. Purpose
  - i. A written interpretation is a formal explanation or clarification of the regulations of this ordinance as applied to specific cases.
- b. Applicability
  - i. A written interpretation may be requested by the public only for a pending application for development review.
  - ii. The Building Official may issue, update, or amend a written interpretation at their own initiative, without petition from the public.
  - iii. A written interpretation does not require the Building Official or any review board to reach a particular decision for any application for development review if the facts of the application, property, location, or character of the development proposal differ from those stated or assumed in a previously issued written interpretation.
  - iv. Written interpretations shall be consistent with the intent and purpose of this Ordinance and cannot contradict or override any provision of this or any

- other Ordinance.
- v. The Building Official shall update or amend any written interpretation substantive to the findings of any administrative and judicial appeal.
- c. Authority
  - i. The Building Official issues written interpretations.
- d. Procedure
  - i. The issuance of a written interpretation is conducted administratively.
  - ii. Within thirty (30) days after receiving a petition for a written interpretation, the Building Official must
    - a). review the specific provision or provisions to be interpreted and the facts of the specific situation concerning the request for an interpretation;
    - b). issue, in writing, meaningful explanation or clarification of the provision in question;
    - c). file the written interpretation with the Office of the City Clerk; and
    - d). post the written interpretation on the City website.
  - iii. The Building Official may require further facts and information as are, in their judgment, necessary to provide a meaningful interpretation of the provision in question.
- e. Appeals
  - i. Administrative Appeal
    - a). An aggrieved party may appeal the decision of the Building Official in accordance with the procedures of §15.5.2. Administrative Appeal.

# 15. ADMINISTRATION

## Appeals

### 15.5 APPEALS

#### 1. Building Code Appeal

- a. Purpose
  - i. A building code appeal is a petition to rectify an interpretation, order, requirement, direction, or failure to act by the Building Official when an alleged error or misinterpretation has been made in the enforcement or application of the State Building Code (780 CMR).
- b. Procedure
  - i. Building code appeals must be filed with the State Building Code Appeal Board in accordance with the procedures set forth in M.G.L. Title XX, Chapter 143, Section 100, as amended.

#### 2. Administrative Appeal

- a. Purpose
  - i. An administrative appeal is a petition to rectify a failure to act, denial of a permit, decision made, or enforcement action taken by the Building Official or Planning Director in an administrative development review case when an alleged error or misinterpretation has been made in the enforcement or application of the provisions of this Ordinance.
- b. Authority
  - i. The Zoning Board of Appeals reviews and decides all administrative appeals.
- c. Procedure
  - i. Administrative appeals must be filed with the Office of the City Clerk within twenty (20) days after notice is served of an interpretation, order, requirement, direction, or failure to act by the Building Official or the filing of the decision of a review board.
  - ii. The following review procedures are required:
    - a). Step 1: Development Review Application
    - b). Step 2: Application Review & Staff Report
    - c). Step 3: Public Notice
    - d). Step 4: Public Hearing
    - e). Step 5: Decision
    - f). Step 6: Appeal Period
    - g). Step 7: Certification of Decision
- d. Judicial Appeal
  - i. An aggrieved party may appeal the decision of the Zoning Board of Appeals according to the procedures of §15.3. Judicial Appeal.

#### 3. Judicial Appeal

- a. Purpose
  - i. A judicial appeal is a petition to rectify the failure to act, denial of a permit, decision made, or enforcement action taken by a review board in a

discretionary development review case when an alleged error or misinterpretation has been made in the enforcement or application of the provisions of this Ordinance.

- b. Jurisdiction
  - i. Judicial appeals can be filed per MGL 40A, Sec. 17.
- c. Procedure
  - i. Judicial appeals must be filed within twenty (20) days after the filing of a decision with the Office of the City Clerk.

## **15.6 LEGISLATIVE PROCEDURES**

### **1. Land Conveyance**

- a. Purpose
  - i. A land conveyance petition is a request for the City to accept a voluntary offering of land for public dedication.
- b. Applicability
  - i. The approval or denial of a land conveyance petition is a discretionary legislative act, subject to the procedures of M.G.L 30B and other Massachusetts law.
- c. Authority
  - i. The Board of Aldermen reviews and decides all land conveyance petitions.
- d. Procedure
  - i. Within fourteen (14) days of receiving a land conveyance petition, the Board of Aldermen must submit the petition and accompanying plan documentation to the Planning Board for review.
  - ii. Within sixty-five (65) days after submittal to the Planning Board, the Board of Aldermen must review the petition and hold a public hearing.
  - iii. Within ninety (90) days of the closing of the public hearing, the Board of Aldermen must vote to accept or reject the petition to convey the voluntary offering of land for public dedication.
  - iv. If no vote is taken within ninety (90) days, the review procedure must be started de novo.
  - v. The Board of Aldermen shall abstain from taking a vote until:
    - a). the Planning Board has submitted a report with recommendations concerning the petition; or
    - b). twenty-one (21) days after the closing of the public hearing without the Planning Board submitting its report.
  - vi. A two-thirds vote by all of the members of the Board of Aldermen is required to accept a voluntary offering of land for public dedication.
- e. Recommendation
  - i. In developing its recommendation to the Board of Aldermen, the Planning Board shall consider the following:
    - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy, plans, and standards established by the City, including the Open Space & Recreation Plan.
    - b). the purpose of the district where the property is located and of this Ordinance in general.
    - c). any demonstrated public interest in ownership and the assumption of maintenance responsibility for the land in question.
- f. Conditions
  - i. The Planning Board may make recommendations

to the Board of Aldermen for conditions that it deems within the public interest in accepting a petition to convey land to the City of Somerville.

### **2. Zoning Text Amendment**

- a. Purpose
  - i. A text amendment petition is a request to change the provisions of the Somerville Zoning Ordinance in response to changes in City policy or real world conditions.
- b. Applicability
  - i. The approval or denial of a zoning text amendment is a discretionary legislative act.
- c. Authority
  - i. The Board of Aldermen reviews and decides petitions to amend this Ordinance.
- d. Procedure
  - i. Petitions for a text amendment may be submitted by:
    - a). any member(s) of the Board of Aldermen;
    - b). the Mayor;
    - c). the Zoning Board of Appeals;
    - d). the Planning Board;
    - e). a property owner seeking to change the entitlement of his/her own property; and
    - f). ten (10) registered voters in the City of Somerville.
  - ii. Within fourteen (14) days of receiving a petition to amend the text of this Ordinance, the Board of Aldermen must submit the petition and the proposed changes, additions, or repeal of language to the Planning Board for review.
  - iii. Within sixty-five (65) days after submittal to the Planning Board, the Board of Aldermen must review the petition and hold a public hearing.
  - iv. Within ninety (90) days of the closing of the public hearing, the Board of Aldermen must vote to adopt, reject, or amend and adopt the text amendment petition.
  - v. If no vote is taken within ninety (90) days, the review procedure must be started de novo.
  - vi. The Board of Aldermen shall abstain from taking a vote until:
    - a). the Planning Board has submitted a report with recommendations concerning the petition; or
    - b). twenty-one (21) days after the closing of the public hearing without the Planning Board submitting their report.
  - vii. A two-thirds vote by all of the members of the Board of Aldermen is required to amend the text of this Ordinance.
  - viii. A three-fourths vote by all of the members of the Board of Aldermen is required upon written

# 15. ADMINISTRATION

## Legislative Procedures

request by:

- a). twenty (20) percent or more of the property owners of the land area affected by the proposed amendment; or
  - b). twenty (20) percent or more of the property owners within three hundred (300) feet of the land area affected by the proposed amendment.
- ix. Proposed amendments that are denied by the Board of Aldermen will not be reconsidered for a minimum of two (2) years from the date final action was taken by the Board, unless the proposed amendment is supported by a positive recommendation from the Planning Board.
- e. Recommendation
- i. In developing its recommendation to the Board of Aldermen, the Planning Board shall consider the following:
    - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City, including the Open Space & Recreation Plan.
    - b). the purpose of the district where the property is located and of this Ordinance in general.
    - c). any demonstrated public interest in ownership and the assumption of maintenance responsibility for the land in question.

### 3. Zoning Map Amendment

- a. Purpose
  - i. A map amendment petition is a request to change how zoning districts are mapped over real property in response to changes in City policy or real world conditions.
- b. Applicability
  - i. The approval or denial of a zoning map amendment is a discretionary legislative act.
- c. Authority
  - i. The Board of Aldermen reviews and decides petitions to amend the Official Zoning Map.
- d. Procedure
  - i. Petitions may be submitted by:
    - a). any member(s) of the Board of Aldermen;
    - b). the Mayor;
    - c). the Zoning Board of Appeals;
    - d). the Planning Board;
    - e). a property owner seeking to change the entitlement of his/her own property; and
    - f). ten (10) registered voters in the City of Somerville.
  - ii. Within fourteen (14) days of receiving a petition to amend the Official Zoning Map, the Board of Aldermen must submit the petition and the proposed changes, additions, or repeal of language

to the Planning Board for review.

- iii. Within sixty-five (65) days after submittal to the Planning Board, the Board of Aldermen must review the petition and hold a public hearing.
  - iv. Within ninety (90) days of the closing of the public hearing, the Board of Aldermen must vote to adopt, reject, or amend and adopt the map amendment petition.
  - v. If no vote is taken within ninety (90) days, the review procedure must be started de novo.
  - vi. The Board of Aldermen shall abstain from taking a vote until:
    - a). the Planning Board has submitted a report with recommendations concerning the petition; or
    - b). twenty-one (21) days after the closing of the public hearing without the Planning Board submitting its report.
  - vii. A two-thirds vote by all of the members of the Board of Aldermen is required to amend the Official Zoning Map.
  - viii. A three-fourths vote by all of the members of the Board of Aldermen is required upon written request by:
    - a). twenty (20) percent or more of the property owners of the land area included in the proposed map change; or
    - b). twenty (20) percent or more of the property owners within three hundred (300) feet of the land area included in the proposed map change.
  - ix. Proposed amendments that are denied by the Board of Aldermen will not be reconsidered for a minimum of two (2) years from the date final action was taken by the Board, unless the proposed amendment is supported by a positive recommendation from the Planning Board.
- e. Recommendation
- i. In developing its recommendation to the Board of Aldermen, the Planning Board shall consider the following:
    - a). the adopted comprehensive Master Plan of the City of Somerville and existing policy plans and standards established by the City;
    - b). the purpose of this Ordinance in general; and
    - c). the intent and purpose of the district(s) that would be applied to the properties in question.

## **15.7 REVIEW BOARDS & OFFICIALS**

### **1. Building Official**

- a. Responsibilities
  - i. The Building Official is the enforcement authority for this Ordinance.
  - ii. The Building Official may issue any enforcement order, violation notice, request for compliance, or other correspondence as necessary and institute any appropriate inspection, action, or proceeding in the name of the City of Somerville to:
    - a). prevent the unlawful erection, relocation, extension, enlargement, or alteration of any structure or sign;
    - b). prevent the unlawful use or occupancy of real property;
    - c). prevent any illegal act, business, or use in or about any premises; and
    - d). prevent, correct, restrain, or abate violations of this Ordinance.
  - iii. The Building Official establishes application forms, fees, and requirements for development review in collaboration with the Planning Director.
- b. Enforcement Actions
  - i. The Building Official shall not issue any written interpretation, certificate of zoning compliance, building permit, or certificate of occupancy in violation of this Ordinance.
  - ii. Any written interpretation, certificate of zoning compliance, building permit, or certificate of occupancy may be revoked upon finding any material misstatement of fact or misrepresentation in plans or specifications by the applicant.
  - iii. The Building Official, upon finding evidence of violation of this Ordinance shall give written notice to the property owner and/or occupant of said property demanding such violation be corrected or abated within such time as the Building Official deems appropriate.
  - iv. The Building Official shall revoke any existing certificate of occupancy or building permit already in effect for any property that is in violation of this Ordinance if that violation is not corrected or abated within the required time period.
  - v. Nothing in this Ordinance shall restrict the City from seeking immediate equitable relief for a violation of this Ordinance from a court of competent jurisdiction without prior notice.

### **2. Zoning Board of Appeals**

- a. Establishment
  - i. This section establishes the Zoning Board of Appeals, in accordance with M.G.L. Chapter 40A,

Section 12, as amended.

- b. Membership
  - i. The Mayor shall appoint five (5) members and two (2) alternate members, subject to confirmation of the Board of Aldermen.
  - ii. Members of the Zoning Board of Appeals are appointed for five (5) year terms and alternate members for two (2) year terms.
  - iii. When first established, terms of the initial appointees shall be shortened in a manner where the terms of one (1) member and one (1) associate member expire annually.
- c. Responsibilities
  - i. The Zoning Board of Appeals is the decision making authority for discretionary and administrative permitting as indicated elsewhere in this Ordinance.
  - ii. The Zoning Board of Appeals is the decision making authority for administrative appeals.
- d. Board Rules
  - i. The Zoning Board of Appeals shall elect a chair and a clerk on an annual basis from among its own number.
  - ii. The chair of the Zoning Board of Appeals shall designate an associate member to sit in the place of any member incapacitated by personal interest, inability to act, or absence when necessary.
  - iii. The Zoning Board of Appeals, or its designee, shall keep minutes of its proceedings.
  - iv. The Zoning Board of Appeals may adopt rules of procedure and policy as it may deem necessary to conduct its affairs, including but not limited to the following subjects:
    - a). rules and procedures governing applications and fees, including required written and graphical information;
    - b). rules and procedures pertaining to the development review process;
    - c). rules and procedures governing the administrative compliance of the provisions of this Ordinance;
  - v. The adoption or amendment of rules of procedure and policy is conducted administratively at a public meeting.

### **3. Planning Board**

- a. Establishment
  - i. The Planning board is established by Chapter 2, Article 5, Division 5 of the City of Somerville Code of Ordinances, as authorized by M.G.L. Chapter 41, Section 81A-81J, as amended.
- b. Membership
  - i. The Mayor shall appoint five (5) members and two (2) associate members, subject to confirmation by

# 15. ADMINISTRATION

## Review Boards & Officials

- the Board of Aldermen.
- ii. Members of the Planning Board are appointed for five (5) year terms and associate members for two (2) year terms.
- iii. When first established, terms of the initial appointees shall be shortened in a manner where the terms of one (1) member and one (1) associate member expire annually.
- iv. The Planning Board, subject to appropriation and subject to the approval of the Mayor, may employ such technical and other assistants as may be necessary to perform its duties.
- c. Responsibilities
  - i. The Planning Board is the decision making authority for discretionary or administrative permits as indicated elsewhere in this Ordinance.
  - ii. The Planning Board, or its designee, is responsible for the authoring, adoption, and periodic updating of the master plan for the City of Somerville per M.G.L. 41, 81D.
  - iii. The Planning Board, or its designee, drafts the official map of the City of Somerville per M.G.L. 41, 81E-J.
  - iv. The Planning Board provides advice and recommendations to the Board of Aldermen concerning the following:
    - a). proposed amendments to the text or maps of the Somerville Zoning Ordinance;
    - b). proposed changes to the official map of the City of Somerville; and
    - c). the laying out, alteration, relocation, or discontinuance of public ways and statutory private ways; and
    - d). the proposed conveyance of land to the City.
- d. Board Rules
  - i. The board shall elect a chair and a clerk on an annual basis from among its own number.
  - ii. The chair of the Planning Board shall designate an associate member to sit in the place of any member incapacitated by personal interest, inability to act, or absence when necessary.
  - iii. The Planning Board, or its designee, shall keep minutes of its proceedings.
  - iv. The Planning Board may adopt rules of procedure and policy as it may deem necessary to conduct its affairs, including but not limited to the following subjects:
    - a). rules and procedures governing applications and fees, including required written and graphical information;
    - b). rules and procedures pertaining to the development review process;
    - c). rules and procedures governing the administrative compliance of the provisions of

- this Ordinance;
- d). rules and procedures for subdivision, lot splits, lot mergers, and lot line adjustments.
- v. The adoption or amendment of rules of procedure and policy is conducted administratively at a public meeting.

### 4. Urban Design Commission

- a. Establishment
  - i. This section establishes the Urban Design Commission.
- b. Membership
  - i. The Mayor shall appoint seven (7) members and two (2) alternate members, subject to confirmation by the Board of Aldermen.
  - ii. One (1) Staff person from the Planning & Zoning Division and one (1) Staff person from the Transportation & Infrastructure Division shall be appointed as non-voting members of the Urban Design Commission.
  - iii. Members and alternate members of the Urban Design Commission must have professional degrees or experience in architecture, urban design, transportation engineering, landscape architecture, or urban planning.
- c. Responsibilities
  - i. The Urban Design Commission provides advice and recommendations to the Zoning Board of Appeals and Planning Board concerning how the design of development projects affects the quality of Somerville's public realm.
  - ii. The Urban Design Commission provides advice and recommendations to Staff when required by a condition of a discretionary or administrative development review decision.
- d. Board Rules
  - i. The staff person from the Planning & Zoning Division shall serve as the chair of the Urban Design Commission.
  - ii. The chair of the Urban Design Commission shall designate an associate member to sit in the place of any member incapacitated by personal interest, inability to act, or absence when necessary.
  - iii. The Urban Design Commission, or its designee, shall keep minutes of its proceedings.
  - iv. The Urban Design Commission may adopt rules of procedure and policy as it may deem necessary to conduct its affairs, including but not limited to the following subjects:
    - a). rules and procedures pertaining to the design review process, including information and materials provided by applicants and requirements for presentations made to the

commission.

- v. The adoption or amendment of rules of procedure and policy is conducted administratively at a public meeting.

**5. Planning Director**

- a. Responsibilities
  - i. The Planning Director provides administrative services as authorized through the rules of the Review Boards.
  - ii. The Planning Director coordinates public notice for any development review application that requires a discretionary or administrative permit by a review board as required by the provisions of this Ordinance.
  - iii. The Planning Director, in collaboration with the Building Official, provides means for the submittal of development review applications, collects application fees, and enforces submittal requirements in accordance with the rules of the Review Boards.
  - iv. The Planning Director completes a staff report for any development review application that requires a discretionary or administrative permit by a review board or legislative procedure petitions submitted to the Board of Aldermen.
  - v. The Planning Director ensures that development review is completed by review boards in accordance with the provisions of this Ordinance.
  - vi. The Planning Director is the decision making authority for plan revisions.

# 15. ADMINISTRATION

Review Boards & Officials