

# 15 ADMINISTRATION

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## **15.1 REVIEW PROCEDURES**

### **1. General**

- a. All DEVELOPMENT, excluding NORMAL MAINTENANCE, requires the submittal of a development review application to the BUILDING OFFICIAL and the issuance of a Certificate of Zoning Compliance prior to the issuance of a Building Permit or Certificate of Occupancy.
- 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. To inform APPLICANTS of relevant development review application criteria, standards, and procedures.
  - ii. To examine previous development review applications and permits for the subject property.
  - iii. To identify any potential concerns at the earliest opportunity in the DEVELOPMENT review process.
- 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 Director of Planning & Zoning to a pre-submittal meeting.

### **3. Neighborhood Meeting**

- a. Purpose
  - i. To provide the public with an opportunity to review a conceptual design proposal and identify and discuss issues and potential impacts with the APPLICANT prior to the DEVELOPMENT of more detailed schematic design proposals.
  - ii. To provide the public with an opportunity to review a chosen schematic design plan and identify and discuss issues and potential impacts with the

APPLICANT prior to the submittal of a development review application.

- iii. Neighborhood meetings are required during the schematic design process to promote the submittal of a development review application that is more responsive to community 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. Development review applications 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 must be open to the public.
  - v. 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.
  - vi. Neighborhood meetings may not occur on a local, state, or national holiday or election day.
  - vii. APPLICANTS or their representatives, along with the designers, are required to attend a neighborhood meeting.
  - viii. The APPLICANT is responsible for coordinating a neighborhood meeting in conjunction with the Ward representative from the City Council and the Staff of the Mayor's Office of Strategic Planning and Community DEVELOPMENT.
  - ix. The format and agenda of a neighborhood meeting is at the discretion of the APPLICANT, in consultation with the Ward representative from the, City Council subject to the following:
    - a). Only one (1) DEVELOPMENT proposal may be presented to the public at a neighborhood meeting.
    - b). Attendees must be able to hear and discuss each others feedback at the neighborhood meeting and opportunity must be provided for substantive engagement between attendees and the APPLICANT, including designers, regarding the proposed DEVELOPMENT.
    - c). APPLICANTS are required to bring all information

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and materials required by the BUILDING OFFICIAL to a neighborhood meeting.

- x. Multiple neighborhood meetings may be held on the same day, one after another, at the discretion of the Ward representative from the City Council.
- xi. The Director of Planning & Zoning shall keep a public record of the neighborhood meeting that includes, but may not be limited to, the following:
  - a). A list of those persons and organizations contacted about the meeting, and the 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). Copies of all materials provided by the APPLICANT at the meeting.
- xii. The Director of Planning & Zoning shall record minutes of the neighborhood meeting and provide a summary of the comments, questions, and concerns discussed at the meeting to the review boards.
- xiii. The BUILDING OFFICIAL and review boards shall require APPLICANTS to submit a detailed response to concerns raised at the neighborhood meeting and a description of any changes to the proposed DEVELOPMENT made as a result of the feedback.

### 4. Design Review

- a. Purpose
  - i. To inform the selection of a preferred schematic design from a number of options.
  - ii. To provide an APPLICANT with advice or recommendations from peers in the professional design community.
  - iii. To ensure that DEVELOPMENT protects and enhances the PUBLIC REALM and human scale of the City.
- b. Authority
  - i. Unless otherwise specified, the Urban Design Commission (UDC) is the review board for Design Review.
- c. Procedure
  - i. When design review is required by this Ordinance, development review applications are not considered complete until review by the Urban Design Commission (UDC) has been completed.
  - ii. Unless otherwise specified, design review must occur at least fourteen (14) days prior to formal submittal of a development review application.
  - iii. The Director of Planning & Zoning shall post any plan drawings, presentations, or other materials submitted to the UDC on the City website.
  - iv. Staff of the Planning & Zoning Division shall serve as staff to the UDC, as may be necessary to perform its duties.

- v. The UDC 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 UDC has issued its recommendation.
- vi. The UDC shall keep a public record of the design review meeting that includes, but may not be limited to, the following:
  - a). A list of those persons and organizations contacted about the meeting, and the 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). Copies of all materials provided by the APPLICANT at the meeting.
- vii. The UDC shall record minutes of the design review meeting and provide a summary of the comments, questions, and concerns discussed at the meeting to the review boards.
- viii. The BUILDING OFFICIAL and review boards shall require APPLICANTS to submit a detailed response to concerns raised at the design review meeting and a description of any changes to the proposed DEVELOPMENT made as a result of the feedback.

### d. Review Criteria

- i. The Urban Design Commission's written recommendation to the review board must include, but may not be limited to, the following:
  - a). Identification the preferred scematic design supported by the UDC.
  - b). Identification of each design guideline that has been achieved to the satisfaction of the UDC, as voted by a majority of members present.
  - c). Any MODIFICATIONS necessary to remedy outstanding design issues for guidelines that have not been achieved to the satisfaction of the UDC, as voted by a majority of members present.
- ii. In addition to addressing the design guidelines of this Ordinance, the UDC shall provide recommendations for any design guidelines adopted by the review boards.

### 5. Development Review Application

- a. Purpose
  - i. To provide the BUILDING OFFICIAL with all of the information necessary to determine if a DEVELOPMENT proposal is permitted or necessitates the need for additional DEVELOPMENT review in accordance with this Ordinance.
- b. Submittal
  - i. Development review applications must include

all necessary information and submittal materials required by the BUILDING OFFICIAL and Review Boards. The BUILDING OFFICIAL shall make all application submittal requirements available to the public on the City website.

- a). APPLICANTS must demonstrate ownership or SITE CONTROL of a DEVELOPMENT SITE through one or more of the following:
  - i). Fee ownership or consent of the fee owner of a PARCEL;
  - ii). Leasehold interest;
  - iii). An EASEMENT agreement;
  - iv). An option to purchase or lease; or
  - v). A Land Disposition Agreement with the Somerville ReDEVELOPMENT Authority pursuant to a Revitalization Plan and the provisions of 760 CMR 12.05.
- c. Completeness
  - i. A development review application 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 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, or administratively evaluated as indicated for each type of discretionary or 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 shall do one (1) of the following:
    - a). deny the application;
    - b). allow the APPLICANT to withdraw the application without prejudice according to §15.1.5.e. Withdrawal; or
    - c). allow the APPLICANT 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 be granted only 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 development review 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, in accordance with M.G.L. Chapter 40A Section 16, 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 development review application is resubmitted earlier than two (2) years from the date of final action, the development review application must include a detailed statement of the evidence justifying its reconsideration.
    - iii. The review boards shall not regard the re-submittal of development review applications withdrawn without prejudice as a repetitive application.

### 6. Application Review & Staff Report

- a. Upon receipt of a complete development review application, the BUILDING OFFICIAL shall review the development review application and, if necessary, refer the application to appropriate City Departments for feedback.
- b. For any proposed DEVELOPMENT that requires a discretionary or administrative permit, the BUILDING OFFICIAL shall forward the application to the Director of Planning & Zoning to administer the required review process with the review board(s).
- c. The Director of Planning & Zoning shall post on the City website and transmit to the review board(s) a staff report that includes, but may not be limited to, the following:
  - i. A summary overview of the proposed development;
  - ii. identification of all required discretionary and administrative permits; and
  - iii. a zoning compliance review.
- d. If a neighborhood meeting or design review meeting was required for the proposed DEVELOPMENT, the staff report must include also an account of the meeting that includes, but may not be limited to, the following:
  - a). the date, time, and location of the meeting;

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- 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 of Planning & Zoning deems necessary as a result of the meeting.

### 7. Public Notice

#### a. General

- i. Public notice of a neighborhood meeting, public meeting, or DEVELOPMENT review or legislative procedure public hearing is provided to inform the general public of the meeting or hearing and to direct interested parties to any available information concerning the DEVELOPMENT proposal.
- ii. Costs incurred by the City for public notice must be prepaid by the APPLICANT according to the review boards rules of procedure.

#### b. Mailed Notice

- i. APPLICANTS shall provide notice of a neighborhood meeting as follows:
  - a). a). mailing notice to parties in interest.
  - b). mailing notice to direct ABUTTERS;
  - c). mailing notice to PROPERTY OWNERS within three hundred (300) feet;
  - d). making best efforts to mail notice to the residents of addresses owned by parties in interest, as provided by the U.S. Postal Service;
  - e). making best efforts to hand deliver notice to each direct ABUTTER;
  - f). contacting individuals that have requested to be notified about DEVELOPMENT in the neighborhood via email or telephone; and
  - g). requesting local businesses to post notice in their establishment.
- ii. The Director of Planning & Zoning shall provide notice of a public hearing or a design review public meeting or as follows:
  - a). mailing notice to direct ABUTTERS;
  - b). mailing notice to PROPERTY OWNERS within three hundred (300) feet or five hundred (500) feet for DEVELOPMENT in the HIGH-RISE district; and
  - c). mailing notice to 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. The Director of Planning & Zoning shall mail notice of a public hearing for a LAND CONVEYANCE to direct ABUTTERS.
- iv. The Director of Planning & Zoning shall mail notice of a public hearing for an amendment to the Somerville Zoning Ordinance or Zoning Atlas

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. The Director of Planning & Zoning shall publish notice of a public meeting or public hearing in a newspaper of general circulation in the City of Somerville and the City of Somerville website no less than fourteen (14) days in advance of the scheduled hearing date, with a second notice the following week.

#### d. Posted Notice

- i. The Director of Planning & Zoning shall post notice of a design review or neighborhood meeting in a conspicuous place in City Hall no less than seven (7) days in advance of the scheduled meeting date.
- ii. The Director of Planning & Zoning shall post notice of a DEVELOPMENT review or legislative procedure public hearing in a conspicuous place in City Hall no less than fourteen (14) days in advance of the scheduled hearing date.
- iii. The Director of Planning & Zoning shall post notice of a DEVELOPMENT review public hearing in a conspicuous place at the subject property no less than fourteen (14) 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 development review application that requires a Special Permit, Master plan Special Permit, HARDSHIP Variance, Site Plan Approval, or SUBDIVISION Plan Approval.
- ii. A public hearing must be held within ninety (90) days after receiving a completed development review application 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. The Director of Planning & Zoning shall post all relevant development review application materials 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 must 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. The Director of Planning & Zoning shall mail notification of the decision to the petitioner, APPLICANT, or 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**

- a. Appeals of a decision by the BUILDING OFFICIAL, Director of Planning & Zoning, 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, or certified that the decision was appealed and the APPLICANT decides to proceed at risk, 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.



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## 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 criteria 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.
  - iv. The procedures required for Special Permits that are necessitated by phases of DEVELOPMENT subject to a Master Plan Special Permit may be conducted concurrently with the procedures required for a Master Plan Special Permit at the discretion of the review board.
- e. Review Criteria
  - i. In its discretion to approve or deny a Special Permit required by this Ordinance, the review board shall make findings considering, at least, each of the following:
    - a). The COMPREHENSIVE PLAN and existing policy plans and standards established by the City.
    - b). The intent of the zoning district where the property is located.
    - c). Considerations indicated elsewhere in this Ordinance 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. Master Plan Special Permit

- a. Purpose
  - i. A Master Plan Special Permit authorizes a long term plan for future DEVELOPMENT and for an APPLICANT to move forward with subsequent DEVELOPMENT review required elsewhere in this Ordinance.
- b. Applicability
  - i. A Master Plan Special Permit is required for DEVELOPMENT as indicated elsewhere in the Ordinance.
  - ii. Approval of a Master Plan 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 Master Plan 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 Master Plan 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 a development review application requiring a Master Plan Special Permit, the Planning Board shall make findings considering, at least, each of the following:
    - a). The COMPREHENSIVE PLAN and existing policy plans and standards established by the City.
    - b). The intent of the zoning district where the property is located.
    - c). The proposed alignment and connectivity of the THOROUGHFARE network.
    - d). The GROSS FLOOR AREA allocated to different USE categories.
- e). Mitigation proposed to alleviate any adverse impacts on utility infrastructure.
- f). Proposed DEVELOPMENT phasing.
- g). Proposed on-STREET parking to address demand by customers of Retail Sales, Food & Beverage, or Commercial Services PRINCIPAL USES.
- h). Considerations indicated elsewhere in this Ordinance for the required Master Plan Special Permit.
- ii. When considering a revision to a previously approved development review application that required a Master Plan 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.
  - iii. The Planning Board shall require APPLICANTS to provide for infrastructure mitigation, transportation mitigation, and community impact mitigation as a condition of an any Master Plan Special Permit.
  - iv. The Planning Board shall establish construction permitting requirements for the phasing of DEVELOPMENT, if applicable, as a condition of any Master Plan Special Permit.
- 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. Master Plan 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 Master Plan 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 Master Plan Special Permit upon making a finding that a demonstrated hardship has prevented utilization of the rights authorized by the

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## Discretionary Permits

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.

### 3. Hardship Variance

- a. Purpose

- i. A HardSHIP Variance authorizes DEVELOPMENT that would otherwise be prohibited by the provisions of this Ordinance, due to hardSHIP.

- b. Applicability

- i. A HardSHIP Variance is required for DEVELOPMENT that is not compliant with the provisions of this Ordinance.
- ii. The granting of a HardSHIP 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 HardSHIP Variance until a HardSHIP Variance has been granted by the review board in accordance with the provisions of this Article.
- iv. USE HardSHIP Variances are not permitted.

- c. Authority

- i. The Zoning Board of Appeals is the review board for all HardSHIP 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 Director of Planning & Zoning or Review Boards:
  - a). Neighborhood Meeting
  - b). Design Review
- iii. The review procedures required for a HardSHIP

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 HardSHIP 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 HardSHIP 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 HardSHIP 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. HardSHIP 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 HardSHIP Variance remains valid for up to six (6) months.
- iii. Requests for extension of a HardSHIP 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 Revision

a. Purpose

- i. Plan revision allows an APPLICANT to revise the nature of a development review application that is subject to a previously approved Discretionary or administrative permit.

b. Applicability

- i. Revisions to a previously approved development review application may be submitted by an APPLICANT in accordance with the provisions of this section.

c. Authority

- i. The Director of Planning & Zoning is the decision making authority for a Plan Revision.

d. 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 Director of Planning & Zoning 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. Upon a determination that the proposed revision is de minimus, the Director of Planning & Zoning will approve or deny the proposed revisions in writing.
- iv. Upon a determination that the proposed revision is a major amendment, the Director of Planning & Zoning 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.

e. Review Criteria

- i. The Director of Planning & Zoning may determine the proposed revision is de minimus upon finding that the revised application:
  - a). Does not contravene the previously published 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.
  - ii. When considering a revision to a previously approved development review application, the Review Boards shall limit their review to only the changes to the previously approved application.
- f. Conditions
- i. The Director of Planning & Zoning may attach conditions and limitations that are deemed necessary in order to ensure compliance to a de minimus 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.
- g. Appeals
- i. An aggrieved party may appeal the decision of the Director of Planning & Zoning according to the procedures of §15.5.2. Administrative Appeal.

# 15. ADMINISTRATION

## Administrative Permits

### 15.3 ADMINISTRATIVE PERMITS

#### 1. 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 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. Per Chapter 288 of the Acts of 1993, the provisions of M.G.L. 41, 81K through 81GG, inclusive, do not apply to the City of Somerville.
    - ii. 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.
    - iii. 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.
    - iv. 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 COMPREHENSIVE PLAN and existing policy plans and standards established by the City.
      - b). The intent of the zoning district where the property is located.
      - c). 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.
- #### 2. Site Plan Approval
- a. Purpose
    - i. Site Plan Approval is the administrative review and approval of a development review application that is conforming to the provisions of this Ordinance to address any potential DEVELOPMENT impacts.
    - ii. The Site 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 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 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 Plan Approval until the Site 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 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 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 development review application requiring Site Plan Approval upon verifying that the submitted plan conforms with the provisions of this Ordinance and demonstrates consistency to the following:
      - a). The COMPREHENSIVE PLAN and existing policy plans and standards established by the City.
      - b). The intent of the zoning district where the property is located.
      - c). Mitigation proposed to alleviate any impacts attributable to the proposed DEVELOPMENT.
      - d). Considerations indicated elsewhere in this Ordinance for the required Site Plan Approval.
    - ii. The review board may reject a application for Site 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 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 with the Board's findings and the standards for granting of a Site 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.
- 3. Thoroughfare Permit**
- a. Purpose
    - i. A THOROUGHFARE Permit certifies that the construction documents for a proposed THOROUGHFARE conforms with all departmental standards and City Ordinances.
  - b. Applicability
    - i. DEVELOPMENT of any THOROUGHFARE is prohibited until a THOROUGHFARE Permit has been issued by the City Engineer.
    - ii. The City Engineer may not issue a THOROUGHFARE Permit prior to the issuance of a certificate of zoning compliance.
    - iii. The City Engineer may not issue a THOROUGHFARE



# 15. ADMINISTRATION

## Administrative Permits

Permit if construction documents do not accurately reflect the following:

- a). plans submitted for a development review application;
  - b). plans submitted for an approved discretionary or administrative permit; and
  - c). conditions attached to any discretionary or administrative permit.
- c. Authority
- i. The City Engineer issues all THOROUGHFARE Permits.
- d. Procedure
- i. Within thirty (30) days after receiving a completed application for a THOROUGHFARE Permit, the City Engineer 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 THOROUGHFARE 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 City Engineer, or their designee, 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 City Engineer according to the procedures of §15.5.2. Administrative Appeal.

### 4. Civic Space Permit

- a. Purpose
- i. A Civic Space Permit certifies that the construction documents for a proposed CIVIC SPACE conforms with all departmental standards and City Ordinances.
- b. Applicability
- i. DEVELOPMENT of any CIVIC SPACE is prohibited until a Civic Space Permit has been issued by the Director of Public Space & Urban Forestry.
  - ii. The Director of Public Space & Urban Forestry may not issue a Civic Space Permit prior to the issuance of a certificate of zoning compliance.
  - iii. The Director of Public Space & Urban Forestry may not issue a Civic Space Permit if construction documents do not accurately reflect the following:
    - a). plans submitted for a development review application;
    - b). plans submitted for an approved discretionary or administrative permit; and
    - c). conditions attached to any discretionary or

administrative permit.

- c. Authority
- i. The Director of Public Space & Urban Forestry issues all Civic Space Permits.
- d. Procedure
- i. Within thirty (30) days after receiving a completed application for a Civic Space Permit, the Director of Public Space & Urban Forestry 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 Civic Space Permit and continue towards completion in a continuous and expeditious manner for the permit to remain valid.
- f. Inspections
- i. Submittal of a Civic Space Permit application provides consent, by the APPLICANT, for the Director of Public Space & Urban Forestry, or their designee, 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 Director of Public Space & Urban Forestry according to the procedures of §15.5.2. Administrative Appeal.

### 5. Building Permit

- a. Purpose
- i. A Building Permit certifies that the construction documents for a proposed structure conforms with the Massachusetts State Building Code 780 CMR 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. The BUILDING OFFICIAL may not issue a Building Permit 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, or their designee, 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.



# 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 development review application 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 §15.5.2. 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. The BUILDING OFFICIAL may not issue a final certificate of occupancy DEVELOPMENT that does not comply to the following:
    - a). plans submitted for a development review application;
    - b). plans submitted for an approved discretionary or administrative permit; and
    - c). conditions attached to any discretionary or administrative permit.

- 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 §15.5.2. 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 §15.5.1. 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 must be consistent with the intent and purpose of this Ordinance and may

- not contradict or override any provision of this Ordinance or any other City Ordinances.
- 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 Director of Planning & Zoning 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 City Council reviews and decides all LAND CONVEYANCE petitions.
- d. Procedure
  - i. Within fourteen (14) days of receiving a LAND CONVEYANCE petition, the City Council 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 City Council must review the petition and hold a public hearing.
  - iii. Within ninety (90) days of the closing of the public hearing, the City Council 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 City Council 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 City Council is required to accept a voluntary offering of land for public dedication.
- e. Recommendation
  - i. In developing its recommendation to the City Council, the Planning Board shall make findings considering, at least, each of the following:
    - a). the adopted COMPREHENSIVE 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 City Council 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 City Council reviews and decides petitions to amend this Ordinance.
  - ii. The Director of Planning & Zoning may update figures and photos; correct scrivener's errors, table and figure numbers, capitalization of defined words, and cross references; and add or correct street names or districts labels for maps without City Council approval.
- d. Procedure
  - i. Petitions for a text amendment may be submitted by:
    - a). any member(s) of the City Council;
    - 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; or
    - 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 City Council 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 City Council must review the petition and hold a public hearing.
  - iv. Within ninety (90) days of the closing of the public hearing, the City Council 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 City Council 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

# 15. ADMINISTRATION

## Legislative Procedures

public hearing without the Planning Board submitting their report.

- vii. Proposed amendments that are denied by the City Council 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 City Council, the Planning Board shall make findings considering, at least, each of the following:
    - a). the adopted COMPREHENSIVE 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 City Council reviews and decides petitions to amend the Official Zoning Map.
- d. Procedure
  - i. Petitions may be submitted by:
    - a). any member(s) of the City Council;
    - 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 City Council 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 City Council must review the petition and hold a public hearing.
  - iv. Within ninety (90) days of the closing of the public hearing, the City Council 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 City Council 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. Proposed amendments that are denied by the City Council 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 City Council, the Planning Board shall make findings considering, at least, each of the following:
    - a). the adopted COMPREHENSIVE 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 Director of Planning & Zoning and the review boards.
  - iv. The BUILDING OFFICIAL may classify certain home improvements intended to keep an existing structure in good physical condition to be NORMAL MAINTENANCE, as defined in this Ordinance
- 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 an APPLICANT.
  - iii. Upon finding evidence of a violation of this Ordinance, the BUILDING OFFICIAL shall give written notice to the PROPERTY OWNER demanding that the violation be corrected or abated within a time period deemed appropriate by the BUILDING OFFICIAL.
  - 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.

**2. Zoning Board of Appeals**

- a. Establishment
  - i. The Zoning Board of Appeals is established, 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 City Council.
  - ii. Members of the Zoning Board of Appeals are appointed for five (5) year terms.
- 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, at least, a chair and a vice chair on an annual basis from among its own number.
  - ii. The chair of the Zoning Board of Appeals shall designate an alternate 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 deems 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 of a minor a Site Plan Approval process for DEVELOPMENT activities that do not require the procedural steps for Site Plan Approval, but that are still deserving of plan review.
  - 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) alternate members, subject to confirmation by the City Council.
  - ii. Members of the Planning Board are appointed for three (3) year terms.
  - iii. The Planning Board, subject to appropriation and



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## Review Boards & Officials

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 COMPREHENSIVE 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 City Council 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 THOROUGHFARES; and
    - d). the proposed conveyance of land to the City.
  - v. The Planning Board adopts an urban design framework each for sub area within the Master Planned DEVELOPMENT overlay district.
- d. Board Rules
  - i. The Planning Board shall elect, at least, a chair and a vice-chair on an annual basis from among its own number.
  - ii. The chair of the Planning Board shall designate an alternate 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 deems 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 for a minor a Site Plan Approval process for DEVELOPMENT activities that do not require the procedural steps for Site Plan Approval, but that are still deserving of plan review.
    - 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 five (5) members and two (2) alternate members, subject to confirmation by the City Council.
  - ii. Members of the Urban Design Commission are appointed for five (5) year terms.
  - 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 Director of Planning & Zoning and the Director of PUBLIC REALM & Urban Forestry, or their designee(s), shall serve as non-voting, administrative co-chairs.
  - ii. The co-chairs of the Urban Design Commission shall designate an alternate 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 deems 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.