

**RULES AND REGULATIONS OF THE SPECIAL PERMIT GRANTING  
AUTHORITIES**

**Chapter 1 - GENERAL RULES AND REGULATIONS FOR ALL PERMIT  
GRANTING AUTHORITIES**

**Section 1. - Introduction.**

*A. Purpose.* In accordance with the City of Somerville Code of Ordinances and the Massachusetts General Laws, certain bodies and/or administrators have been established and authorized to review, deliberate, make findings, determinations, and recommendations and grant or deny zoning appeals and petitions. These bodies shall be known as Special Permit Granting Authorities (SPGAs), and are synonymous with the same term used in Chapter 40A of the Massachusetts General Laws. This document herein establishes the Rules and Regulations for SPGAs serving the City of Somerville, as well as the Design Review Committee that makes recommendations to the SPGAs.

The Rules and Regulations of the Special Permit Granting Authorities are intended to serve as a guide for the actions of all permit granting authorities in the City of Somerville, with reference to zoning appeals and petitions, and other planning and zoning issues, including but not limited to the issuance of special permits. The Rules and Regulations are also designed to facilitate the orderly and efficient conduct of business by these permit granting authorities by the specifying standard procedures to be used in their business affairs with the public.

*B. Organization and the "Principal Body" of the Rules and Regulations.* The Rules and Regulations are organized in several Chapters. Each SPGA has adopted its own general Rules and Regulations dedicated as a separate chapter herein. In addition, certain Chapters establish Rules pertaining to a specific type of permitting process, over which only one (1) SPGA governs. These rules will also be set forth as discrete Chapters, and be adopted only by the appropriate administering SPGA. The Design Review Committee, as an advisory committee to the SPGAs, need only adopt their own separate chapter.

The following Chapters are the "principal body" of the Rules and Regulations and shall govern the actions of all SPGAs. These chapters are designed for adoption by all SPGAs, but need not be adopted by the Design Review Committee:

Chapter 1 - General Rules and Regulations for All Special Permit Granting Authorities.

Chapter 2 - Rules and Regulations for Zoning Petitions

Chapter 3 - Rules and Regulations for Inclusionary Housing.

*C. Adoption and Amendment.* As the Principal body of the Rules and Regulations, the Chapters listed immediately above shall take effect only upon the adoption by each and every SPGA duly authorized and appointed to serve within the City of Somerville. Adoption by the Zoning Board of Appeals (ZBA) shall be deemed to automatically include "adoption" of the same by any Zoning Administrator serving under the auspices of the of the ZBA as authorized by MGL Ch. 40A and the Somerville Zoning Ordinance (SZO). Approval of the above listed Chapters shall require an affirmative vote of four (4) members of each five (5) member SPGA, or two thirds (2/3) vote of any SPGA having other than five (5) members. The "principal body" of these Rules and Regulations shall take effect upon adoption by all SGAs.

Amendment(s) to the "principal body" Chapters of the Rules and Regulations may be proposed or sponsored by the Planning Director or any member of the SPGA. Amendment(s) shall be made under the same procedures specified immediately above for adoption, requiring affirmation by each and every SPGA before taking effect.

*D. Recordation and Inspection by the Public.* At the beginning of each Chapter, a cover sheet shall be provided specifying which SGAs adopted said Chapter, on what date(s), and attested to by the appropriate SPGA Chairperson, or by the senior administrative official if the SPGA is a zoning administrator or an agency or department of the City of Somerville.

Upon adoption, a true copy of the Rules and Regulations shall be filed in the office of the City Clerk, including any amendment(s). The Rules and Regulations shall be available for public inspection at the offices of the Planning Division, City Clerk, and Inspectional Services. A copy of the Rules and Regulations, or any individual Chapter thereof, may be purchased at the Office of the City Clerk for a nominal fee to cover publishing cost.

## **Section 2. - Definitions.**

**Zoning Board of Appeals (ZBA).** The City of Somerville Zoning Board of Appeals, established in accordance with MGL Ch40A, Sec. 12, and with the City Code of Ordinances.

**Housing Director.** The Director of the Housing Division of the Office of Housing Strategic Planning and Community Development. The Housing Director may delegate tasks identified in these Rules and Regulations to a designated staff member of the Housing Division.

**IH. Inclusionary Housing units** (see Chapter 3 of the Rules & Regulations)

**OSPCD.** The Office of Strategic Planning and Community Development

**Planning Board (PB).** The City of Somerville Planning Board, established in accordance with MGL Ch 41B, Secs. 81A-81J, and within the City Code of Ordinances

Planning Director (or "Director"). The Director of the Planning Division of OSPCD. The Planning Director may delegate tasks identified in these Rules and Regulations to a designated staff member of the Planning Division.

SPGA. Special Permit Granting Authority; a body and/or administrator established and authorized to review, deliberate, make findings, recommendations and determinations, and grant or deny zoning appeals and petitions including but not limited to special permits.

SZO. Zoning Ordinance of the City of Somerville

**Section 3. - Designation of the special permit granting authorities.**

As authorized under the Massachusetts General Laws, and in compliance with the Somerville City Code of Ordinances and Zoning Ordinance of the City of Somerville (SZO), appeals, petitions or applications related to the SZO or to decisions of its enforcing officers shall be presented to and heard before the relevant special permit granting authority (SPGA).

Within the City of Somerville, the Zoning Board of Appeals (ZBA) and Planning Board (PB) serve as Special Permit Granting Authorities, and are responsible for the appeals, petitions, applications and/or special permits shown below:

A. Board of Appeals (ZBA). The Board of Appeals (ZBA) hears cases for:

- 1) Variances - every petition for the relief by variance as provided by SZO Article 5 and MGL Chapter 40A, Section 10;
- 2) Special Permit Applications except where the Planning Board is designated in the SZO as the SPGA (see below) including special permit with design review and, special permit with site plan review;
- 3) Appeals by aggrieved parties of administrative or enforcement decisions;
- 4) Comprehensive Permit Petitions filed in accordance with MGL Chapter 40B, Secs. 2-23.

B. Planning Board (PB). The Planning Board (PB), in addition to its statutory role in approving the City's Comprehensive Master Plan and providing recommendations on Zoning Amendments to the Board of Aldermen also hears cases for:

- 1) Special Permit Applications in any Planned Unit Development (PUD) district, any Corridor Commercial (CCD) or Transit Oriented (TOD) district, Assembly Square Mixed Use District, Arts Overlay District and

any other district, use, dimensional requirement or other purpose for which the SZO specifically identifies the Planning Board as the SPGA including special permit with design review, and special permit with site plan review.

2) Site Plan Approval - any petition for site plan approval (SZO Article 5) and any appeal of a decision by an administrative official delegated to administer a minor site plan approval process established under SZO Article 5 and Chapter 6 of the Rules and Regulations.

**Section 4. - Reserved**

**Section 5. - Application form.**

The Planning Director shall prepare an Application Form for Planning Board and Zoning Board of Appeals Approval to be used in filing any appeal or petition to the SPGAs. The form should provide basic instructions to the Applicant and shall be designed to document the ownership of the property in question, the Assessor's map and parcel number(s) and the name, address and telephone number(s) of the Applicant(s) and their Agent(s), as applicable. The application form should provide space for the Applicant to clearly identify the nature of the appeal or petition (also refer to Section 7 herein). The application form shall be available to the public at the offices of the Planning Division, City Clerk, and Inspectional Services Division, and on the City of Somerville Web Site.

**Section 6. - Filing fees.**

A. Establishment of Filing Fees. Accompanying each application or petition to the SPGA shall be a filing fee reflective of processing expenses, as indicated by the schedule attached herein as "Appendix 1A. Schedule of Filing Fees." No petition will be processed with out the requisite fee.

Applicants should consult with the Planning Division to determine the applicable fee before officially filing the application with the City Clerk.

B. Advertising and Notification Fee. In addition to the filing fee, Applicants must also pay the cost to publish legal notice of the hearing in the newspaper, and to cover mailing costs to notify abutters to the subject property and neighboring cities and towns. The calculation of the advertising and notification fee shall be as follows:

Newspaper: Fees for newspaper advertising should reflect the actual cost of the advertisement or shall be established by the Planning Division to reflect a pro-rated portion of the total cost of all application advertisements over the period of one year.

Mailed Notices: Fees for mailed notice shall be \$2 for all required to receive notice, including:

§ Each abutter on certified abutter list;

- § Applicant, Agents, and Owner listed on Application; and
- § The Town of Arlington, Boston Redevelopment Authority, City of Cambridge, City of Everett, City of Medford, Metropolitan Area Planning Council, and Commonwealth of Massachusetts Department of Housing and Community Development as they are required to receive notice under Chapter 40A of MGL.

*C. Reserved.*

**D. Project Review Fees.**

1. In accordance with M.G.L. c.44 §53G, the SPGA may require that Applicants pay the reasonable cost for the SPGA to employ outside consultants with respect to the review of a proposed project.
2. The SPGA may use the Project Review Fee to engage experts, other than attorneys, as outside consultants to assist the SPGA in its work.
3. The Project Review Fee shall be deposited with the City Treasurer who shall establish a special account in accordance with M.G.L. Ch. 44 §53G. Expenditures from this special account may be made at the direction of the SPGA without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a Project Review Fee has been or will be collected from the Applicant. Accrued interest may also be spent for this purpose. Failure of an Applicant to pay a required Project Review Fee shall be grounds for denial of the application.
4. At the completion of the SPGA's review of a project, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the Applicant or the Applicant's successor in interest. The SPGA shall provide the Applicant or the Applicant's successor in interest with a final report of said account. An Applicant's successor in interest shall provide the SPGA with documentation establishing such succession in interest.
5. Any Applicant may make a written administrative appeal from the selection of the outside consultant to the Board of Aldermen within twenty (20) days after the SPGA has mailed or hand delivered notice of the selection to the Applicant. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three (3) or more years of practice in the field at issue or a related field. The required time limit for action upon an application by the SPGA shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Aldermen within one (1) month following the filing of the appeal, the selection made by the SPGA shall stand.

**Section 7. - Basic procedure for filing an application with the SPGA.**

A. Completing Application form and Minimum Submission Requirement. At minimum, any application to the SPGA shall consist of:

- § An application Form for Planning Board and Zoning Board of Appeals Approval" (as established under Section 5 herein), completed to the satisfaction of the Planning Division;
- § the requisite review fee as stipulated under these Rules and Regulations, and
- § information as required under the SZO and these Rules and Regulations for the specific type petition, including:
  - A boundary survey plat or bank mortgage plan, and
  - a copy of the deed for the property.
  - For special permits, the minimum information identified in the application form.
  - For appeals of administrative decisions, a petitioner should clearly state the nature of the decision being appealed and present a, brief, written summary of the rationale or basis for the appeal.

B. *Official Filing of Application with City Clerk.* The Applicant shall present his/her application (as noted above) at the Planning Division, then to the offices of the City Clerk. Copies of the application shall be submitted, as required on the application form. The City Clerk will affix an official stamp on the application (including copies) stating the date received, and this stamp shall designate the official filing date.

Only one (1) copy of specialized, project-specific items such as architectural material samples shall be required.

Notwithstanding the above, the SPGA or its designees may request extra copies of application materials at any point during the official review period.

**Section 8. - Application involving traffic of parking review.**

Additional copies of the application may be required in the official filing in certain cases where review by the Director of Traffic and Parking is required. At minimum, this will apply in the following cases:

- 1) An application or a special permit to modify parking requirements, pursuant to SZO Section 9.13;
- 2) A petition involving development where a new curb cut is proposed, or where an existing curb cut onto a public street is relocated;
- 3) A petition for a parking variance of three (3) or more parking spaces; or,
- 4) When there is a request by the SPGA or its designee for a traffic study.

**Section 9. - Additional rules pertaining to applicants and petitioners.**

*A. Failure of Applicant to Appear.* Should an Applicant of Petitioner, or his/her representative(s) or agent(s), fail to appear at a scheduled public hearing before the designated SPGA, then the SPGA may consider his/her failure to appear as a withdrawal of his/her application. Such failure to appear will not entitle the Applicant to a refund of the filing fees paid hereunder. An Applicant who fails to appear shall be entitled to file a new application upon compliance with the requirements herein.

*B. Incomplete Applications.* Failure to file all information required by the Somerville Zoning Ordinance and these Rules and Regulations, in the office of the City Clerk or subsequently with the Planning Division within ten (10) days after the initial application, means the application will be deemed incomplete, and will not be processed further. Applications must be complete to the satisfaction of Planning Staff twenty (20) days before the hearing for which the application was submitted, or the incomplete application will not be scheduled for that hearing. If applications are still not complete to the satisfaction of the Planning Staff twenty (20) days before the following hearing, the Planning Staff will request that the Applicant submit a written request to waive the timeframe requirements of MGL Chapter 40, Section 9, and request that the hearing be scheduled at a time when the application is complete.

To meet the statutory timeframes of MGL Chapter 40A, Section 9, incomplete applications that have not received an extension of time will automatically be scheduled for the last meeting of the SPGA that will still meet the required application timeframe, and will be forwarded with a staff report that indicates that the Planning Staff is unable to recommend approval of a the project because the application is incomplete.

Additional application materials submitted within 19 days of the first scheduled hearing will not be incorporated into the Planning Division's recommendation to the SPGA except at the discretion of the Planning Staff.

If an application reaches the SPGA and the SPGA deems it incomplete, the SPGA shall have full authority to deny the petition or relief sought due to an insufficient level of information in which to conduct a fair, complete analysis, but shall specify the incomplete components of the application in accordance with the requirements of the SZO.

Notwithstanding their right to disapprove an incomplete application, the SPGA may allow the Applicant to choose one of the following options:

- 1) Withdrawal of the application, and re-filing when sufficient information is available and application materials are complete; a second filing fee will be required and the withdrawal and re-filing shall be subject to the provisions of "C" below; or
- 2) Mutual Agreement between the Applicant and the SPGA to waive the time requirements for public hearing and SPGA action, and to extend these to allow the

Applicant to complete his/her application and allow the SPGA sufficient time to review the application and reschedule the meeting and/or public hearing.

*C. Application Withdrawal.* An Applicant may withdraw his/her application without prejudice prior to the publication of the notice of a public hearing thereon, but thereafter it may be withdrawn without prejudice only in writing and with the approval of four (4) members of the SPGA. Withdrawal will not entitle an Applicant to a refund of the filing fees paid hereunder. An Applicant who withdraws his/her application shall be entitled to file a new application upon compliance with the requirements herein, including the payment of fees in accordance with the fee schedule then in effect.

*D. Mutual Agreement for Extension of Time.* In accordance with MGL Chapter 40A, Sections 9 and 15, and SZO Sections 3.2.7 and 5.3.4, the required time limits for a public hearing and SPGA action on a given application, petition, or appeal may be extended by mutual agreement of the SPGA and the Applicant. The mutual agreement shall be in writing and must be executed on the document form provided by the SPGA for such purpose. The mutual agreement for extension of the time shall apply concurrently to both the time limit for public hearing and time limit for decision of action by the SPGA, and shall specify definitively the deadlines mutually agreed upon. At least four (4) members of the SPGA must consent to this extension of time. The SPGAs hereby grant authority to establish the document form to accept a mutual agreement for extension of time and upon a vote of the relevant SPGA grant the Planning Director the authority to sign and certify that the SPGA has agreed to the time extension.

The mutual agreement may include a provision that there be notification of a rescheduled public hearing in accordance with MGL Ch 40A and the SZO, and that reasonable costs of the re-notification of abutters, parties in interest, etc. relative to a delayed public hearing shall be borne by the Applicant.

Upon execution of the written mutual agreement for the extension of time, a copy of the document shall be filed in the Office of the City Clerk as well as with the Planning Division.

*E. Continuance.* Applicants and Petitioners may request continuance of a public hearing or other meeting relative to their application so long as the continued hearing or meeting may be conducted within the prescribed statutory time limits. The Applicant or Petitioner should demonstrate good cause for the continuance, and this form of continuance is purely at the discretion of the SPGA, requiring a vote of consent of at least four (4) members. The SPGA shall determine an appropriate date and time for rescheduling the continued hearing or meeting, and is under no obligation to give future priority to an Applicant that requests continuance.

If there is a need for the re-notification of a rescheduled public hearing in accordance with MGL Ch40A and the SZO, reasonable costs of the re-notification of abutters, parties-in-interest, etc. relative to a delayed public hearing shall be borne by the Applicant.



At the discretion of the Planning Director, the Applicant may be assessed additional costs related to delays in public hearings caused by the Applicant's incomplete application, multiple amended applications, and/or other acts or omissions by the Applicant which create extensive additional work for the Planning Director and the Board that is far in excess of the value of the initial application fee.

At the discretion of the Planning Director the City may bear the cost of re-notification for a public hearing when an error in notice occurs that is not the fault of the Applicant.

**Section 10. - Payment in lieu of parking.**

In accordance with SZO Section 6.1.22.G, the Rules and Regulations of the SPGAs shall designate the in-lieu fee for parking. The fee per parking space is \$18,500. The monies collected through this provision will be held in a stabilization fund. Payment options are specified in the applicable section of the zoning ordinance.

**Section 11. – Effective Date.**

These amended Rules and Regulations shall take effect on April 8, 2011, and shall be valid for all cases for which legal advertisements have not been published on or before April 1, 2011.

**Appendix 1A-Schedule of Fees**

No amendments will be made to this appendix.

**Chapter 2 –  
RULES AND REGULATIONS PERTAINING TO ZONING PETITIONS**

**Section 1. - Zoning petition.**

Unless specifically stated otherwise, as used hereinafter the terms "petition" or "application" shall be deemed to include any petition or application for any kind of special permit, including a special permit related to a nonconforming use or structure, special permit with design review, and special permit with site plan review, as well as any permit for a site plan review, variance, comprehensive permit, planned unit development or administrative appeal from a decision of the Superintendent of Inspectional Services.

**Section 2. - Planning director—Designation of administrative authorities and responsibilities.**

The SPGA designates the Planning Director with the following authorities and responsibilities relevant to zoning petitions.

1. Review and prepare a staff report and recommendations to the SPGA;
2. *Reserved;*
3. *Reserved;*
4. Serve as the SPGA's designee regarding Sections 5.1.2 and 5.2.3. of the SZO in determining information and submittal requirements of an application, and determining if an application is complete, per Section 9 of Chapter 1 of these Rules and Regulations (the Planning Director's determinations may be overruled by the SPGA);
5. Ensure and document compliance with the procedures of SZO Section 5.3 and with relevant provisions of these Rules and Regulations, particularly those related to public notice, keeping record of Planning Board proceedings, and filing of Planning Board decisions;
6. Serve as the SPGA liaison with other relevant agencies and designated entities referred to in the SZO or elsewhere in these Rules and Regulations;
7. Provide technical analysis and advice, as requested or where appropriate, to the SPGA.

The Director may assign a person of his/her staff to coordinate review of any given petition.

**Section 3. - General provisions for all applications.**

*A. Meeting with Director.* Although not mandatory, Applicants are encouraged to meet with the Director (or his/her staff designee) prior to submitting an application to determine specific information that should be included in the application. As a matter of policy, the SPGA authorizes the Planning Director to determine adequacy of the information submitted with a petition to allow proper professional review and to schedule the complete application on the SPGA agenda.

*B. Reserved.*

*C. Reserved.*

*D. Director to Review Information Submitted in Application.* The Director shall review each zoning petition for its informational content and determine adequacy of that information for his/her report to the SPGA.

The Director should endeavor to identify missing or incomplete information as soon as possible after the application is officially filed, and to notify the Applicant expeditiously. Depending on the nature of the proposed development project, additional information may be requested by the Planning Director in keeping with SZO Sections 5.1.2 and 5.2.3.

Requests for additional information and information required for a complete application shall be provided to an Applicant within five (5) business days after the initial application submission deadline date in the application information sheet; however, the Director reserves the right to ask for additional information after this date. Applications must be complete twenty (20) days before the hearing date to be scheduled.

The Director may also waive any and all of the information outlined under SZO Sections 5.1.2 or 5.2.3, as applicable, using his/her professional judgment as to the applicability to a given petition.

*E. Applicant Request for Waiver of Information Submittal Requirements.* An Applicant may submit a written request for waiver of certain information submittal items, provided the request is included in the official filing or, preferably, addressed to the Planning Director prior to the official filing. Within ten (10) business days of receipt of the waiver request, the Planning Director should notify the Applicant in writing of his/her decision regarding the request.

If an Applicant is dissatisfied with response of the Planning Director, he/she may file a written statement in the offices of the SPGA, specifying the nature of disagreement on submission of information, and requesting that the application be reviewed based on the information that is submitted, even if such information is deemed incomplete by the Director. In submitting such a request, an Applicant acknowledges that he/she is proceeding at risk of the SPGA denying the special permit on the basis of an incomplete application (SZO Sections 5.1.4 and 5.2.5). The SPGA alone shall determine the merits

of an information waiver request and/or an application deemed incomplete by the Director and submitted by the Applicant under the above terms.

*F. Reserved.*

*G. Additional Requirements for SPD and SPSR Applications.* The following additional requirements shall apply:

For SPSR applications, it will be considered normal procedure that there be a meeting between the Applicant and Director (or his/her designee) prior to official filing. The Director should be available upon reasonable notice for such a meeting, or designate one of his/her staff members to arrange a meeting when requested by an Applicant. An Applicant for SPSR should meet with the Director and provide one (1) copy of his/her application for the purpose of reviewing its completeness in form and minimum submission requirements, and determine any further information that will be necessary for proper review.

For all SPSR and SPD applications for new construction, the project shall be required to undergo a minimum of one (1) review by the Design Review Committee either prior to the opening of the public hearing or before the public hearing process is concluded.

**Section 4. – Reserved.**

**Section 5. - Review of special permit petitions.**

*A. Review and recommendations of Planning Director.* Upon receipt of an official copy of an application from the City Clerk's Office, the Planning Director shall conduct a formal review of the application and prepare a report and recommendations on its disposition. The Director is granted discretion as to the most desirable formats and methods of communication.

The Planning Director should always communicate with other relevant City Departments, which may wish to comment on a given application (in particular, Inspectional Services, Fire Prevention, Traffic and Parking, and the Engineering departments. The Planning Director should seek to establish a regular project review meeting with these departments. The Director's report should incorporate these comments to the maximum extent practical.

The Planning Director may also document in his/her report the comments or Position of the Ward Alderman (for the area the development site is located within) and any other record of support or opposition received during the review.

The Planning Director may submit a preliminary recommendation and update the report to the SPGA, to incorporate comments and suggest conditions that would address concerns raised during the public hearing process.

*B. Scheduling Hearings and/or Review.* The SPGA shall schedule review of petitions consistent with the requirements of MGL Chapter 40A and all relevant state and local statutes. The SPGA shall make best efforts to schedule all submitted petitions for the meeting for which they were submitted. But, in rare cases where an agenda cannot accommodate additional cases, petitions shall be scheduled in the order received, on a first-come, first-served basis unless the application qualifies for fast-tracking under the SZO section 13.6.2 (see Section 6 below for rules pertaining to fast-tracking of special permit applications).

*C. Reserved.*

*D. Reserved.*

*E. Public Hearing.* All hearings shall be open to the public and shall comply with the relevant sections of the Open Meeting Law. No person shall be excluded unless he/she is considered by the Chair to be a “serious hindrance” to the workings of the Board.

The Chair may limit the length of comments at public hearings, by imposing a reasonable per person time limit for comments when a large number of persons desire to comment on a particular hearing. The Chair may also encourage participants to provide written comments to ensure that more extensive information is reviewed by the Board in a hearing where speaking time is limited.

Minutes shall be taken at all meetings of the SPGAs. Additionally, audio and/or video recordings shall be made of all public hearings, unless it is technically not practical to do so. Citizens may listen to such recordings by appointment at the Office of the Planning Division. These recordings will also be available to allow members that missed meetings to remain qualified to participate in hearings per MGL Chapter 39 Section 23D.

The Planning Staff shall be responsible for the preparation of the minutes of public meetings. The minutes shall include all votes of the SPGA, names of individuals who spoke at the meetings, and a brief summary of important points and public testimony.

A record will be made of all persons offering testimony. To the degree practical, a record should also be made of all other persons in attendance.

*F. Findings and Determinations.* The SPGA shall make appropriate findings and determinations under each applicable item of the application it reviews.

*G. Written Record of Determination and Decision.* The Planning Division staff shall, for the SPGAs, prepare a written record of each finding and determination made by the SPGA, and of the decision as to the granting of the requested zoning relief.

*H. Filing of Decision.* The written decision of the SPGA regarding a zoning petition shall be filed with the City Clerk within fourteen (14) days of the decision. Copies of the decision shall be sent to the parties specified under SZO Section 5.3.5. Planning Division

staff shall advise Applicants whether decisions must be filed at the Southern Middlesex County Registry of Deeds and/or with the Land Court.

**Section 6. - Fast-tracking procedures for special petitions including affordable housing.**

A. Purpose and Eligibility. While all cases are to be handled expeditiously, the SZO establishes two classes of special permit petitions eligible for fast-tracking:

- 1) Under SZO Section 5.3.1, any special permit application including at least 25% affordable housing units; and
- 2) Under SZO Section 13.6.2, any inclusionary housing project (requiring special permit with site plan review) that exceeds the minimum requirements for affordable ("inclusionary") housing units as set forth therein.

B. Identify Eligibility. The Applicant shall identify his/her application as eligible for fast-tracking at the time of the official filing of his/her application or, preferably, in advance by confirmation from the Planning Director. The Planning Director is delegated the authority to determine eligibility and state such ruling in his/her reports.

It is desirable that the Applicant identifies the project as potentially eligible for fast-tracking in early meetings with the Director. This will expedite the determination of eligibility.

C. Notice of Fast-tracking. The Applicant shall submit, in his/her official filing with the City Clerk a notice of intent to fast track the application. The Planning Director shall confirm eligibility and forward a copy of the notice to appropriate reviewing boards and departments, the Ward Alderman in whose ward the development is being planned and to the Housing Director.

D. Expedited Review of Request for Eligibility. The Planning Director shall take special care to expeditiously rule on any Applicant's request for fast-tracking eligibility. Upon certification of eligibility for fast-tracking, the Planning Director shall immediately notify the Housing Director of the receipt of a fast-tracking application, and the two Directors shall expeditiously review the preliminary filing to determine what information is missing and necessary for review, with the goal of providing feedback to the Applicant within two (2) business days of receipt of the filing.

E. Scheduling Planning Board and SPGA Review. The Planning Director shall schedule that Board's review of the application within thirty-one (31) days of the official filing deadline date, provided the submitted application is complete. The Planning Director shall undertake all normal and proper legal advertising of the of the SPGA public hearing on the application as specified elsewhere in these Rules and Regulations.

The SPGA shall make every effort to make its findings and determinations and act on the fast-track application at the public hearing or as soon thereafter as possible.

**Chapter 3 –  
RULES AND REGULATIONS PERTAINING TO INCLUSIONARY HOUSING**

**Section 1. - Designation of planning and housing directors' authorities.**

A. General. The SPGA hereby designates the Planning Director and the Director for Housing (hereafter referred to as the "Housing Director"), or their respective staff designees, with the charge of administrative and procedural review of all Inclusionary Housing Applications submitted under the terms of Article 5 and 13 of the Zoning Ordinance (SZO), and reporting of recommendations of such plans to the SPGA.

An inclusionary housing application requires special permit with site plan review (SPSR). In keeping with standard procedures for SPSR review, the Planning Director shall be responsible for ensuring compliance with the provisions of SZO Article 5. The Planning and Housing Directors shall together be responsible for administering and documenting compliance with the provisions of SZO Article 5. The Planning and Housing Directors shall together be responsible of Article 13 up to the point of SPGA review of the Inclusionary Housing Application, and they shall have the authority to determine the most efficient means of dividing the review workload amongst their respective departments. The Planning and Housing Directors shall ensure compliance with the application/review procedures of these rules and regulations as well. The Housing Director shall have the specific responsibility of administering the provisions of Chapter 3, Section 5 of these Rules and Regulations.

B. Recommendations and Technical Advice to SPGA. The Planning and Housing Directors shall make a report to the SPGA on conformance of an inclusionary housing proposal with all applicable sections of the SZO. They shall make every effort to coordinate their respective reviews so that the recommendations on both the SPSR application elements and the more specific Inclusionary Housing application elements are completed and presented together to the SPGA. In order to streamline the review process for Applicants, the Planning and Housing Directors shall serve as the SPGA liaison with other relevant agencies and designated entities referred to in the SZO or elsewhere in these Rules and Regulations, including the Somerville Housing Authority and the Affordable Housing Trust Fund Directors. The Planning and Housing Directors shall provide technical advice to the SPGA on planning, development, and housing issues (including relevant state or federal programs) on an as-needed basis.

C. Administration/Enforcement Related to the Implementing Inclusionary Housing Units in an Approved Development. Upon approval of inclusionary housing development, the Housing Director shall oversee compliance of the inclusionary housing component of the project, including compliance of the project with all relevant terms of Article 13 and any conditions of the special permit related to the affordable housing units.

**Section 2. - Procedure for filing an inclusionary housing petition.**

A. Preliminary Meeting with Planning and Housing Directors. The SPGA strongly encourages Applicants to meet with the Planning and Housing Directors, or their designees, at least three (3) weeks prior to submitting an application. This meeting will be considered standard procedure.

Inclusionary housing projects undergo a very specific and sometimes complicated review process. Early communication on the part of an Applicant will prove highly worthwhile to his/her understanding of both procedural and substantive requirements. The Planning and Housing Directors or members of their respective staffs shall be available to any Applicant upon reasonable notice to coordinate review with the Applicant.

B. Special Permit with Site Plan Review (SPSR) Application. As established in the SZO, an inclusionary housing project by its nature requires SPSR review under Article 5 of the SZO. Therefore, an inclusionary housing Applicant shall submit all applicable information required in Article 5 for SPSR and follow the procedures outlined in Chapter 2 of these Rules and Regulations for SPSR applications.

C. Inclusionary Housing Application. Applicants should complete and file the "Inclusionary Housing Application" application included in the "Inclusionary Housing Developer's Kit," available at the Planning Department and at the Office of Housing and Community Development. Applicants will find it worthwhile to meet with the Planning and Housing Directors for assistance in completing the application.

D. Official Filing. Chapter 2 of these Rules and Regulations shall govern the procedures to follow in officially filing the petition with the City Clerk, except that five (5) copies of the application shall be filed instead of the normal four (4) copies. The City Clerk shall distribute four copies as noted in Chapter 2, with the officially stamped copy sent to the Housing Director.

E. Petition for Fast Tracking (SO Section 13.6.3.) See Chapter 2, Section 6 herein for the rules and regulations governing the processing and scheduling of eligible fast track inclusionary housing petitions.

F. *Reserved.*

**Section 3. - Formal review of the inclusionary housing petition.**

A. Planning Director Review. Upon receipt of a copy of the SPSR/Inclusionary Housing Petition officially filed in the City Clerk's Office, the Planning Director shall conduct a formal review of the application and prepare a report under the normal procedures for SPSR review outlined in Chapter 2 of these Rules and Regulations, and shall be responsible for coordinating and incorporating the review comments of the other agencies and departments as appropriate.



B. Housing Director Review. The Housing Director shall also review the SPSR/Inclusionary Housing Petition, with specific emphasis on determining that the inclusionary housing application component (particularly the "implementation plan") is complete enough in form to be analyzed for recommendations to SPGA. If information is deemed to be insufficient, or the Housing Director requires additional information for proper review, he/she will communicate the need for submission of additional information to the Applicant under the same procedures normally employed for special permit review (see Chapter 2 of these Rules and Regulations) The Housing Director should make every effort to clearly itemize, in writing the missing components and/or additional requested information that will bring the Inclusionary Housing Application component to the satisfaction of the Housing Director.

The Housing Director shall prepare preliminary recommendations to the SPGA within thirty-five (35) days of the official filing date. The Housing Director may request that the Applicant provide additional information and/or meet with him/her during this review.

C. SPGA Public Hearing and Review. The SPGA shall conduct its public hearing and the advertisement/notification of such under standard procedures for an SPSR application. SZO Section 5.3 and Chapter 2 of these Rules and Regulations shall govern the responsibilities for public notification, scheduling the requisite public hearing, and advising the SPGA as to time deadlines for action.

If the inclusionary housing petition qualifies for fast tracking under section 13.6.2 of the petitioner has duly applied for such fast tracking the guidelines of Section 4 below provide information of scheduling fast-tracking applications.

#### **Section 4. - Inclusionary Housing Developer Application Kit.**

A. Housing Director to Provide Developer's Application Kit. The Housing Director will prepare the "Inclusionary Housing Developer's Application Kit" and make this available at the Housing Division, Planning Division and on the City of Somerville web site. The Housing Director will provide assistance to Applicants in completing their inclusionary housing applications.

B. Contents of Developer Kit and Applicant Responsibility to Provide Complete Information. The Developer's Kit shall include the following items (at minimum), and the Applicant shall complete the Inclusionary Housing Application and provide all required information to the best of his/her ability. The Applicant must submit a completed Inclusionary Housing Application in order to be reviewed.

- 1) Inclusionary Housing Application Forms, designed to obtain information from the Applicant related to Article 13 of the Somerville Zoning Ordinance (SZO) and these Rules and Regulations.

- 2) Household income and Affordability Standards. Scheduled current income, rent and sales price information for Somerville, which establishes definitive

affordability levels for low and moderate-income households, in compliance with SZO Article 13 (e.g. current maximum sales prices and rents which may be considered for inclusionary housing units). Applicants must use this information to complete the application, must use the forms provided for collecting income information of all household members who will occupy the inclusionary housing units.

3) Implementation Plan (SZO Section 13.3.1). An Applicant must provide an Implementation Plan as part of the application. Forms for documenting information required in the implementation plan will be included in the Developer's Kit.

4) Legal documents and forms for the Applicant's use in documenting compliance with implementing procedures of those Rules and Regulations and with long-term affordability requirements.

**Section 5. - Specific standards administered by housing director.**

A. Housing Director Authority. The Housing Director, or designated staff of the Housing Division, is delegated the authority and responsibility to oversee compliance with the provisions of this Section 5 of Chapter 3 of the Rules and regulations.

B. Household Income (SZO) Section 13.3.2. The Housing Director shall establish current income figures for households eligible for low and moderate income units, based upon percentages of median Standard Metropolitan Statistical Area household income stipulated in SO Section 13.3.2. These standards and figures will be presented in the Developer's Kit, and will be update annually (minimum) by the Housing Division. Applicants must use the form provided in the Developer's Kit to collect income information for all household members.

A "household" is defined the same as the definition for "family" in SZO Article 2.

C. Affordability (SZO Section 13.3.3. The Housing Director shall establish current maximum sales prices and rents that developers may charge for affordable housing units in an inclusionary housing development. These figures will be presented in the Developer's Kit, which will be updated annually (at a minimum) by the Housing Division. A developer must submit evidence to OHCD that sales prices or rents are in compliance prior to applying for a certificate of occupancy for any units in an inclusionary housing project.

D. Quantity and Distribution of Units (SZO Section 13.3.4).

1) At time of Application: As part of the Inclusionary Housing Application, an Applicant shall present the total number of inclusionary housing units required and the proposed breakdown of low-income sand moderate units. Applicants may obtain assistance from the Housing Division or Planning Division staff in determining these numbers.

Applicants must also specify the number of bedrooms proposed in each inclusionary housing unit - the number of one, two, or three (or more) bedroom units. The number of bedrooms in the inclusionary housing units shall be comparable to or exceed the number of bedrooms typical in the balance of the development.

2) Inspection and Certificate of Occupancy: Developers will notify the Housing Director prior to applying for certificates of occupancy and will identify the actual inclusionary housing units at the time, so that the Housing Division staff may inspect and approve the units. The Housing Division will inspect units within three (3) business days of being notified by the developer. Inspectional Services (ISD) will grant certificates of occupancy on the inclusionary housing units only after the Housing Director notifies ISD that the Applicant has selected income-eligible tenants or buyers.

Developers may apply to ISD for certificates of occupancy for the market rate units only upon Housing Division approval of the inclusionary units and only after the Housing Director has approved the developer's long-term affordability protective mechanisms.

At the time of application for a certificate of occupancy, a developer of a project with homeownership units shall record in the Middlesex Registry of Deeds the required deed restrictions on the inclusionary units as a condition for certificate of occupancy of any unit. In rental projects, the exact location of the inclusionary housing units may change over time, as a result of changes in tenant's income; therefore, the initial designation of Inclusionary Housing units will not be permanent (see item "H" below).

E. Disposition (SZO Section 13.3.5).

1) At time of Application and Approval: As part of the Inclusionary Housing Application, an Applicant shall submit a plan for disposition of units in accordance with the provisions of SZO Article 13. The disposition plan will become part of the SPSR/Inclusionary Housing approval. As part of its approval, the SPGA may delegate the Housing Director with the authority to approve modifications to the dispositions plan, provided such modifications still result in a plan complying with these Rules and Regulations.

2) Marketing Plan: Developers or their marketing agents must market inclusionary housing units according to the criteria in SZO Section 13.3.5. Households will be eligible to purchase or rent units where the number of bedrooms does not exceed the household size. Prior to applying for a certificate of occupancy, developers must submit a marketing plan to the Housing Division that meets the guidelines in the Developers Packet for advertising, non-discrimination and affirmative fair marketing, lottery priorities and preference categories, and documentation.

3) Rental Units: Owners of rental units may require a security deposit equal to one (1) month's rent (except where any subsidy program requirements would prohibit it) and the payment of the first month's rent at the time a lease is signed with an eligible tenant. A tenant shall not be charged leasing or broker fees. The Housing Division staff will revise lease forms to ensure compliance with the terms of SZO Article 13.

4) Management and Maintenance: Inclusionary Housing Units must be maintained at the same level as other units and must comply with state Sanitary and Building codes. Applicants must specify the name of the management company, if any, in the inclusionary Housing Application.

F. SPGA Right of First Refusal/Option to Purchase (SZO Sec. 13.3.5).

1) SPGA Designee: The SPGA will specifically designate the appropriate party to exercise its option on any specific inclusionary housing project, in writing or on the official record of an SPGA meeting. Alternatively, if no party is designated, the Housing Director will be its agent, and the Housing Director may determine an appropriate party to exercise the purchase option. The Housing Director shall report on the status of any designated party exercising the City's option to purchase.

2) Notice of Completion and Exercise of Rights: Prior to applying for a certificate of occupancy for inclusionary housing units, developers must officially notify the SPGA designee and the Housing Director of completion of the units, so that the SPGA's designee may exercise its right of first refusal to purchase or lease the units. The SPGA or its designee must provide notice of notification by the developer and must exercise its option within ninety (90) days of such notice.

G. Long-term Affordability (SZO Section 13.3.6). The City of Somerville shall enforce the long term affordability requirement of Article 13 through deed restrictions - including restrictions on use and resale, as well as the City's right of first refusal and option to purchase - or other legal methods as the Housing Director may determine in consultation with the Housing Division's attorney's or the City Solicitor's Office. Developers shall show evidence of recording such deed restrictions using legal documents provided in the Developer's Packet or approved by the Housing Division as a precondition to receiving a certificate of occupancy.

In addition, developers shall cooperate with the City in its application to the Massachusetts Executive Office of Communities and Development for designation on Inclusionary Housing Units under the Chapter 774 Local Initiatives Unit Program.

H. Rental Units - Redeterminations and Annual Report.

Developers/owners of rental projects which include inclusionary housing units must submit to the Housing Division an annual statement of rent level, rental income and verification of tenant income. The annual report shall state any changes in income of tenants in affordable units, proposed changes in rent levels or proposed changes in designation of specific units. The following rules shall apply:

1) Owners may make rent determinations no more than twice annually.

2) Tenants occupying inclusionary housing units who become "over-income" or "under-income" for the unit they occupy may not be displaced, but they may be charged rents appropriate to their income level upon approval by the Housing Division (i.e. low-income, moderate-income market or market rate.)

3) If the annual redetermination results in an imbalance in the number of low-income and moderate-income inclusionary housing units in the project, next the vacant unit of the appropriate bedroom size shall be rented or leased to an income-eligible tenant at a rate necessary to restore the balance of ten percent (10%) inclusionary housing units, with at least five percent (5%) of the total project units maintained as low income household units - or if bonus density has been granted under SZO section 13.5, to maintain a minimum fifty percent (50%) of the increased amount of inclusionary housing units as low income units.

4) If no appropriately sized units are available at the time of the redetermination, causing imbalance in low-income and moderate-income units the owner will make payments to the Affordable Housing Trust Fund in an amount equal to the difference between the total rent which would be charges at then-current rates for inclusionary housing units and the average market-rate rent within the project units of the same size. This payment will be made quarterly until such a time as a vacancy within the project allows of low income and moderate-income units to be restored. Because the intention of Article 13 is to always maintain the minimum required five percent (5%) of low-income units and the minimum required ten percent (10%) total inclusionary units - or when bonus density is granted, to maintain a minimum of fifty percent (50%) of the increased amount of inclusionary housing units - in lieu rent payments are allowed only as an interim step to avoid displacement of tenants when their income change.

I. Alternative Methods of Compliance (SZO Section 13.4). Developers seeking permission to use an alternative method of compliance must submit as part of the Inclusionary Housing Application a specific justification for why Inclusionary Housing units cannot be provided on site. Developers must also submit a plan outlining which alternative method will be used and how it meets the requirements of SZO section 13.4.2. Because the intention of Article 13 is to provide inclusionary housing units on site within the residential development, the SPGA will only grant permission to utilize alternative methods of compliance in extreme cases or when there is a required fractional affordable unit of less than 0.5.

Applicants must use the cash payment formula in Section 13.4.2, subsection B.3 to determine payment due if calculation of the number of Inclusionary Housing units yields a fraction of 0.1-0.4 units or if SPGA grants permission to use cash payment as an alternative method for compliance. Required payments will be calculated by the Housing Director at the time of the SPGA's review of the Inclusionary Housing Trust Fund prior to issuance of a certificate of occupancy.

Related to the dollar value formula stipulated in SZO Section 13.4.2.B, the Housing Director shall provide in the Developers Packet, the current values for "B" (median

market sales price for comparable unit types of the preceding four (4) quarters) and "C" (purchase price affordable to a moderate-income household with an income of sixty-five percent (65%) of the Boston area SMSA median income). The Housing Director shall utilize monthly market sales data published by County Home Data, Banker and Tradesman or other comparable source to determine median market sales prices, and update the information provided to Applicants at least every six (6) months.

Because of fluctuations in market values over time, the SPGA reserves the right for the Housing Director to adjust an "in-lieu" fee for a specific project if more than twelve (12) months passes between the date of the SPGA's approval of the special permit with site plan review for inclusionary housing and the date the Applicant seeks to obtain a certificate of occupancy for development including temporary certificate of occupancy for the development. An Applicant may also request that the fee be determined with information current at the time of application for a certificate of occupancy. Any unpaid fee balance must be paid prior to issuance of any certificate of occupancy for the development.

J. Incentive to Provide Additional Affordable Units (SZO Sec. 13.5). Developers seeking a density bonus for providing more than the required ten percent (10%) inclusionary housing units shall submit a plan for the additional units as part of the inclusionary Housing Application, demonstrating with SZO Section 13.5. Any Applicant seeking such bonus density should confer with the Housing Division or Planning Division prior to making his/her preliminary submission required elsewhere in these Rules and Regulations. In review the application, the Housing Director should confer with the Planning Director to verify calculations of affordable and market rate units.

**Chapter 4 –  
RULES AND REGULATIONS OF THE ZONING BOARD OF APPEALS**

**Section 1. - Purpose of rules.**

The General Rules and Regulations of the Somerville Zoning Board of Appeals (referred to in this Chapter 4 as the "Board" or "ZBA") are intended to be a reference source to interested citizens, to assure an orderly conduct of business matters by the Board, to provide for the most efficient use of Board and staff time, and to facilitate the decision-making processes of the Board. The Rules are established pursuant to Section 12 of MGL Ch 40A.

Should any provisions contained in this document conflict with the provisions of Chapter 39, Sections 23A, 23B, and 23C of the Massachusetts General Laws as amended (commonly referred to as the Open Meeting Law) or to Chapter 40A as amended, those aforesaid chapters shall govern.

**Section 2. - Organization.**

A. General. The Board consists of five (5) members and two (2) associate members appointed by the Mayor, subject to confirmation by the Board of Aldermen. The members of the Board shall be appointed for five (5) year terms and associate members shall be appointed for two-year terms, except that the terms of the initial appointees shall be shortened and so arranged that the term of one (1) member and one (1) associate member shall expire annually.

B. Officers. At the first regular annual meeting, the Board shall elect all Officers of the Board to include a Chair and a Clerk. Associate members do not participate in this act, unless their participation is required to reach a quorum. Members and associate members are paid for their services, which include attendance at meetings and public hearings, site visits, and all work necessary for deliberating on cases and other Board matters.

The Chair shall call for the vote on all matters coming before the Board, and shall himself/herself vote and be recorded. Subject to these Rules, he/she shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances, and subject to these Rules further instructions of the Board, the Chair shall transact the official business of the Board, request necessary help, direct the work of all subordinates, and exercise general supervisory power. At each meeting he/she shall report on all official transactions that have not otherwise come to the attention of the Board.

If the Chair is absent from a meeting, those Board members present will designate from amongst themselves a chairperson to serve temporarily at such meeting.

The Clerk shall be a member of the Board, designated by the Board, subject to the direction of the Board and its Chair. The Clerk's duties include officially reading petitions and public notices at meetings, for the Board record.

C. Staff to the Board. The Board is staffed the Planning Division of OSPCD, which maintains an office at City Hall, 93 Highland Avenue, Somerville, MA 02143. The phone number is 617-625-6600 X2500. The hours are Monday, Tuesday, Wednesday 8:30 - 4:30, Thursday 8:30 - 7:30 and Friday 8:30 - 12:30.

The Planning Division staff shall be responsible for maintaining records of applications to the Board proceedings, taking minutes of Board meetings, keeping a record of Board proceedings, and filing Board decisions with the City Clerk's office and other parties as required by law.

The Planning Division staff shall ensure and document compliance with relevant provisions of the SZO (Particularly SZO section 3.2.6) and these Rules and Regulations related to proper notification and advertisement of public hearings.

The Planning Division staff is responsible for ensuring and documenting compliance with the SZO and for making a record and filing of the ZBA's proceedings relevant to applicable sections of the SZO.

D. Associate Members. The Chair of the Board shall designate, in his/her discretion, an appointed associate member to sit on the various cases such that he/she may fulfill the obligations of any member incapacitated by conflict of interest, inability to act, or absence. For the purposes of deliberations, associate members may participate in any discussion on any matters before the Board regardless of whether he/she will be designated vote on the particular matter.

### **Section 3. - Meetings.**

A. Quorum and Voting Procedure. Four (4) Board members shall constitute a quorum. A concurring vote of four (4) members of the Board shall be necessary to reverse any order or decision of any administrative official or to effect any variance in the application of any ordinance. The decision of the Board for a variance shall be made within one hundred (100) days after the date of the filing of an application.

A special permit shall be granted only upon a favorable vote of approval by at least four (4) members of the Board. The decision of the Board on a special permit petition shall be made within ninety (90) days following the closing date of the public hearing on the petition.

Rules of procedure will generally be governed by Robert's Rules of Order, although the Board may choose to decide upon matters other than those detailed above in a less formal manner.



B. Regular Meetings. Regular meetings of the Board of Appeals are generally held on alternate Wednesday evenings or at the discretion of the Chair. Meetings are duly advertised by posting a notice on the City Bulletin Board on the first floor of City Hall at least forty-eight (48) hours in advance of the meeting, consistent with the open meeting law, a copy of which will be on file at the City Clerks office.

An agenda indicating the subjects to be discussed shall be drawn up by the Planning Division staff prior to the meeting. Any Board member may request that an item be placed on the agenda for consideration. The Board may deviate from the agenda with concurrence of a majority of the Board members in attendance. Minutes shall be taken of all Board meetings.

C. Special Meetings. Special meetings may be called by the Chair, or at the request of three (3) members. Written notice thereof shall be given to each member at least forty-eight (48) hours before the time set. Notices shall be posted publicly as required by law.

D. Staff Report and Recommendations. The Planning Staff shall report its recommendations to the Board on all cases or matters involving Board review, such as variances and special permit applications, as well as other matters over which the Board members exercise statutory review. These reports shall generally be in writing and be delivered to Board Members in advance of the of the meeting whenever feasible; at a minimum, staff reports will be presented to Board Members at the meeting for which a given topic is scheduled for review. A copy of the staff report to the Board may be provided to any Alderman requesting such, but only after the report has been delivered to Zoning Board members as noted above.

E. Staff Report Presentation. The Planning Staff shall provide a short explanation of the staff report and recommendation for each case after the applicant presentation but before the comments from the public. The Planning Staff shall focus on how the application meets or does not meet the goals of the City, the findings for the particular permit as well as conditions that were designed to address abutter concerns and comments. The Board may, at their discretion, waive the staff presentation.

**Section 4. – Reserved.**

**Section 5. - Public hearings.**

A. Notice. The Zoning Board of Appeals shall give due notice of the date, time, and place of its public hearing in accordance with the specific procedures set forth in Chapter 40A, Sec 11 of the Massachusetts General Laws and in accordance with the Somerville Zoning Ordinance (SZO) by:

- 1) Publication of notice in a newspaper of general circulation in the City of Somerville, not less than fourteen (14) days in advance of the hearing, with a second notice the following week; and

- 2) Mailing notice to all parties in interest as defined in Article 2 of the Somerville Zoning Ordinance; and
- 3) Mailing notice to all abutters and abutters-to-abutters within (300) feet of the legal boundaries of a subject property; and
- 4) Posting notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of the hearing.

B. Hearings to be Public. All hearings shall be open to the public and subject to the provisions of Section 5E of Chapter 2 of the Rules and Regulations.

C. Representation and Absence. An Applicant may appear in his own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an Applicant, the Board will decide on the matter using the information it has otherwise received (also see Chapter 1 of these Rules and Regulations, concerning failure of an Applicant to appear).

D. Order of Business. The following steps will be the usual conduct of business on a case:

- 1) Reading of petition and legal notices by the clerk, together with presentation of exhibits, if any;
- 2) Applicants presentation;
- 3) Presentation of staff recommendation from Planning Staff
- 4) Testimony from any elected official;
- 5) Public Testimony;
- 6) Applicant's rebuttal;
- 7) Questions from Members of the Board;
- 8) Closing of public hearing, followed by deliberations / discussion by the Board;
- 9) Motion and vote.

Board members should make efforts to visit project sites prior to the start of the hearing. If a formal review is required by the Board it will be scheduled and duly noticed as required.

When deemed appropriate, the Board may request additional written testimony, to allow for further elaboration, within such time thereafter as may be fixed by the Board. If a timeframe is set for accepting written testimony that expires prior to the start of the next Board meeting, the Board may close the public hearing at the conclusion of the timeframe to accept written testimony.

#### **Section 6. - Disposition by the board.**

A. Voting Requirement. The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. In addition, the record shall set forth clearly the reason(s) for Board decisions.

B. Application Withdrawal. See Chapter 1 of these Rules and Regulations.

C. Repetitive Petition. In order to have a petition that was denied or withdrawn with prejudice reheard before the Board of Appeals within two (2) years, the petitioner must request permission from the Zoning Board showing new evidence that substantially alters the conditions and circumstances of the original petition. At least four (4) members of the Zoning Board must agree that this requirement has been met before proceeding in the normal manner.

D. *Reserved.*

E. Submission Deadlines for New or Revised Materials. In the event that new or revised materials are submitted by the Applicant to the Planning Staff for comment by City Staff, such materials shall be submitted no later than the close of business on Monday of the week prior to the hearing at which the Applicant's application is to be considered. Should the new or revised material require additional time for the City Staff's review, Planning Staff at their discretion may recommend that the Board continue the matter to a subsequent hearing date.

Planning Staff shall forward all written recommendation and/or materials to the Board no later than close of business on the Friday prior to the hearing date. Board members must receive all recommendations and/or materials for review no later than Monday the week of the hearing.

**Section 7. - Amendments and waivers.**

A. Amendments to the Rules and Regulations. The Board of Appeals may, from time to time, amend the Rules and Regulations promulgated in this Chapter 4 by simple majority vote, and then filing written copy of the amended Rules with the City Clerk.

B. Waivers. The Board may waive any of these Rules and Regulations by a concurring vote of four (4) members, except that the Board may not waive any requirement of M.G.L. Chapter 40A or any other provision of state law or the Somerville charter, SZO, or Code of Ordinances.

**Chapter 5 –  
RULES AND REGULATIONS OF THE PLANNING BOARD**

**Section 1. - Purpose of rules.**

The General Rules and Regulations of the Somerville Planning Board (referred to in this Chapter 5 as the "Board") are intended to be a reference source to interested citizens, to assure an orderly conduct of business matters by the Board, to provide for the most efficient use of Board and staff time, and to facilitate the decision-making processes of the Board. The Somerville Planning Board is established pursuant to Chapter 41, Section 70 of the Massachusetts General Laws (MGL) via Sections 2-231 through 2-235 of the Code of Ordinances of the City of Somerville. The Planning Board shall serve as the Special Permit Granting Authority for cases as designated in the SZO and shall also participate in making recommendations for amendments to the SZO, ruling on repetitive petitions, site plan approvals and subdivisions and participating in master plan activities as identified in MGL and/or the SZO.

Should any provisions contained in this document conflict with the provisions of Chapter 39, Sections 23A, 23B, and 23C of Massachusetts General Laws as amended (commonly referred to as the Open Meeting Law) or Chapter 40A as amended or the portions of Chapter 41 that are applicable to the City of Somerville, those aforesaid chapters shall govern.

**Section 2. – Organization.**

A. General. The Planning Board consists of five (5) members and one (1) alternate member, each appointed by the Mayor for five (5) year terms on a staggered basis. Members are paid for their services, which include attendance at meetings and public hearings, site visits, and all work necessary for deliberating on cases and other Board matters.

B. Officers. The Board shall annually, as soon as practical after February first of each year, elect from among its own number a Chair, Vice-chair and a Clerk.

The Chair, or his/her designee, shall chair all meetings and public hearings and shall be responsible for ensuring they are run in an orderly and professional manner. The Chair shall call for the vote on all matters coming before the Board, and shall himself/herself vote and be recorded. Subject to these Rules, the Chair shall decide all points of order, unless overruled by a majority of the Board in session at the time. He/she shall appoint such committees as may be found necessary or desirable.

In addition to powers granted by general laws and local ordinances, and subject to these Rules and further instructions of the Board, the Chair shall transact the official business of the Board, request necessary help, direct the work of all subordinates, and exercise

general supervisory power. At each meeting he/she shall report on all official transactions that have not otherwise come to the attention of the Board.

The Vice-Chair shall perform the role and responsibilities of the Chair when so directed by the Chair or in the absence of the Chair due to illness, vacation or other such disability.

The Clerk shall read for the record copies of all legal public notices or petitions at public hearings.

C. Staff to the Board. The Board is staffed by the Planning Division of OSPCD, which maintains an office at City Hall, 93 Highland Avenue, Somerville, MA 02143. The phone number is 617-625-6600 X2500. The hours are Monday, Tuesday, Wednesday 8:30 - 4:30, Thursday 8:30 - 7:30 and Friday 8:30 - 12:30.

The Planning Division staff shall be responsible for maintaining records of applications to the Board proceedings, taking minutes of Board meetings, keeping a record of Board proceedings, and filing Board decisions with the City Clerk's office and other parties as required by law.

The Planning Division staff shall ensure and document compliance with relevant provisions of the SZO and these Rules and Regulations related to proper notification and advertisement of public hearings.

The Planning Division staff is responsible for ensuring and documenting compliance with the SZO, and for making a record and filing of the Planning Board's proceedings relevant to applicable sections of the SZO.

D. Alternate. The alternate shall sit on the various cases where he/she may fulfill the obligations of any member incapacitated by conflict of interest, inability to act, or absence. For the purposes of deliberations, the alternate may participate in any discussion on any matters before the Board regardless of whether he/she will be designated to vote on the particular matter.

### **Section 3. – Reserved.**

### **Section 4. - Meetings.**

A. Scheduling and Posting Meetings. Regular meetings of the Planning Board are generally held on alternate Thursday evenings or at the discretion of the Chair. Meetings are duly advertised by posting a notice on the City Bulletin Board on the first floor of City Hall at least forty-eight (48) hours in advance of the meeting, consistent with the open meeting law, and by filing a copy of said notice in the City Clerk's office.

An agenda indicating the subjects to be discussed shall be drawn up by the Planning Staff and distributed to Board Members prior to the meeting. Any Board member may request that an item be placed on the agenda for consideration. The Board may deviate from the agenda with the concurrence of a majority of the Board Members in attendance. Minutes shall be taken of all Board Meetings by the Planning Staff and shall be approved or amended by a majority vote of the Board members attending that meeting.

Special meetings may be called by the Chair, or at the request of three (3) members. Written notice thereof shall be given to each member at least forty-eight (48) hours before the time set. Notices shall be posted publicly as required by law.

B. Staff Report and Recommendations. The Planning Staff shall report its recommendations to the Board on all cases or matters involving Board review, such as site plan approval and subdivisions, special permit applications, Zoning Ordinance amendments proposals, master plan and urban plans, and other matters over which the Board members exercise statutory review. These reports shall generally be in writing and be delivered to Board Members in advance of the of the meeting whenever feasible; at a minimum, staff reports will be presented to Board Members at the meeting for which a given topic is scheduled for review. A copy of the staff report to the Board may be provided to any Alderman requesting such, but only after the report has been delivered to Planning Board members as noted above.

The Planning Staff shall provide a short explanation of the staff report and recommendation for each case after the applicant presentation but before the comments from the public. The Planning Staff shall focus on how the application meets or does not meet the goals of the City, the findings for the particular permit as well as conditions that were designed to address abutter concerns and comments. The Board may, at their discretion, waive the staff presentation.

C. Quorum and Voting. In general, three (3) Board members shall constitute a quorum. Decisions on all matters within the Board's statutory responsibilities shall be made by majority vote of seconded motions or when only three (3) members are present, by unanimous vote, except that in matters where the Planning Board is the Special Permit Granting Authority, approval of any special permit(s) shall require a favorable vote of at least four (4) members of the five (5) member Board.

Rules of procedure shall be governed by Roberts Rules of Order, except that the Board may choose to decide upon matters in a less formal manner.

#### **Section 5. - Public hearings.**

A. Notice. The Planning Board shall give due notice of the date, time, and place of its public hearing in accordance with the specific procedures set forth in Chapter 40A, Sec 11 of the Massachusetts General Laws and in accordance with the Somerville Zoning Ordinance (SZO) by:

- 1) Publication of notice in a newspaper of general circulation in the City of Somerville, not less than fourteen (14) days in advance of the hearing, with a second notice the following week; and
- 2) Mailing notice to all parties in interest as defined in Article 2 of the Somerville Zoning Ordinance; and
- 3) Mailing notice to all abutters and abutters-to-abutters within (300) feet of the legal boundaries of a subject property; and
- 4) Posting notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the day of the hearing.

B. Hearings. Public hearings held pursuant to the statutory powers of the Planning Board will normally be scheduled to occur during the regular meeting of the Board. Hearings will be advertised in accordance with the specific procedures set forth in the Somerville Zoning Ordinance (SZO) and elsewhere in these Rules and Regulations. All hearings shall be open to the public and subject to the provisions of Section 5E of Chapter 2 of the Rules and Regulations

C. Representation and Absence. An Applicant may appear in his/her own behalf, or be represented by an agent or attorney. In the absence of any appearance without due cause on behalf of an Applicant, the Board will decide on the matter using the information it has otherwise received (also see Chapter 1 of these Rules and Regulations, concerning failure of an Applicant to appear).

D. Order of Business. The following steps will be the usual conduct of business on a case:

- 1) Reading of petition and legal notices by the clerk, together with presentation of exhibits, if any;
- 2) Applicants presentation;
- 3) Presentation of staff report from Planning Staff
- 4) Testimony from any elected official;
- 5) Public Testimony;
- 6) Applicant's rebuttal;
- 7) Questions from Members of the Board;
- 8) Closing of public hearing, followed by deliberations / discussion by the Board;
- 9) Motion and vote.

Board members should make efforts to visit project sites prior to the start of the hearing. If a formal review is required by the Board it will be scheduled and duly noticed as required.

#### **Section 6. – Disposition by the Board.**

A. Voting Requirement. The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact. In addition, the record shall set forth clearly the reason(s) for Board decisions.

B. Application Withdrawal. See Chapter 1 of these Rules and Regulations.

C. Repetitive Petition. In order to have a petition that was denied or withdrawn with prejudice reheard before the Planning Board within two (2) years, the petitioner must request permission from the Planning Board showing new evidence that substantially alters the conditions and circumstances of the original petition. At least four (4) members of the Planning Board must agree that this requirement has been met before proceeding in the normal manner.

D. Submission Deadlines for New or Revised Materials. In the event that new or revised materials are submitted by the Applicant to the Planning Staff for comment by City Staff, such materials shall be submitted no later than the close of business on Monday of the week prior to the hearing at which the Applicant's application is to be considered. Should the new or revised material require additional time for the City Staff's review, Planning Staff at their discretion may recommend that the Board continue the matter to a subsequent hearing date.

Planning Staff shall forward all written recommendation and/or materials to the Board no later than close of business on the Friday prior to the hearing date. Board members must receive all recommendations and/or materials for review no later than Monday the week of the hearing.

**Section 7. - Amendments and waivers.**

A. Amendments. The Planning Board may, from time to time, amend its own Rules and Regulations (promulgated herein this Chapter 5) in accordance with its normal voting procedures, and by filing a written copy of the amended Rules with the City Clerk.

B. Waivers. The Board may by a majority vote of the members present and voting or, if only three (3) members are present, by unanimous vote, waive any of these Rules and Regulations except that the Board may not waive any requirements of MGL Chapter 40A, the provisions of MGL Chapter 41 that apply in the City of Somerville or any other provision of state law, the SZO, the Somerville charter or the Code of Ordinances.



**Chapter 6 –  
RULES AND REGULATIONS PERTAINING TO SITE PLAN APPROVAL**

**Section 1.** - Planning board serves as permit authority.

The Planning Board shall serve as the review authority for site plan approval. The Planning Board will review and grant site plan approval in accordance with SZO Section 5.4 and the Rules and Regulations herein. The Planning Board may specifically delegate authority to the Planning Director to grant minor site plan approvals, upon adoption of such a provision in this Chapter of the Rules and Regulations.

**Section 2.** - Planning director coordinates procedural review.

The Planning Director, or his/her staff designee, shall administer the procedural standards for all site plan approval petitions as established in SZO Section 5.4 and these Rules and Regulations. The Planning Director shall provide an application form for site plan approval, which should inform the Applicant of information requirements and recommended procedures. The Planning Director, or his/her staff designees, should be available to meet with Applicants during normal business hours.

**Section 3.** - Minor projects (SZO SEC. 5.4.5).

A. Establishment of Minor Project Classification. The Planning Board shall normally conduct full review of development projects requiring site plan approval. However, as allowed under SZO Section 5.4.5, the Planning Board hereby establishes a class of minor development projects under site plan approval for which full Board review shall not be necessary, unless requested by at least two (2) members of the Board. The minor project classification is limited to the following cases where special permit review, special permit with design review, or special permit with site plan review are not required under the SZO:

1. New Structures or additions/extensions to existing structures of up to five hundred (500) gross square feet in area.
2. Applications for facade alterations only, up to five hundred (500) linear feet of building face.
3. Mechanical enclosures and horizontal improvements (parking lots, accessways, walkways, landscaping and the like), unless the horizontal improvement involves a new or relocated curb cut into a public street or significant changes in vehicle circulation.
4. Establishment or change in use within a lawfully existing structure, where there is no increase in the structure's square footage in area.

5. Subdivision resulting in the creation of only one (1) additional lot (e.g. an existing lot divided into two (2) lots-creating one (1) new lot).

Site plan approval for the above listed minor projects shall not be subject to public hearing requirements. Minor projects shall, however, be subject to full compliance with approval standards and criteria of SZO Section 5.4.6 and all other applicable standards of the SZO.

B. Designation of Planning Director Authority. For Administrative efficiency, the Planning Board designates the Planning Director as the review authority for minor development projects as noted in "A" above. The Planning Director shall determine the applicability of the minor site plan approval classification to any given development proposal.

C. Application for Minor Project Site Plan Approval. Application for minor site plan approval shall be made under the normal procedures for submission and filing noted in these Rules and Regulations, with the following exceptions:

1. The Planning Director shall have authority to waive any information requirements he/she deems unnecessary to determine compliance with the standards of SZO Sec. 5.4.6.
2. The Official filing with the City Clerk requires only two (2) copies of the site plan submission, which the City Clerk will transmit to the Planning Director after officially stamping.

D. Review and Action of Application. The Planning Director shall make every effort to expedite the review of a minor project application within ten (10) business days of official filing. The Director shall provide a written record of his/her review of the application and decision to the Applicant, including any conditions attached to an approval or reasons for denial as stipulated in SZO Section 5.4.4.C. The Planning Director shall submit a report to the Planning Board at its first subsequent regular meeting of any action taken regarding site plan approval of minor projects.

E. Appeals. An Applicant for minor site plan approval may appeal the Planning Director's decision before the Planning Board by submitting a written request noting what aspect(s) of the Director's decision is disputed. Such an appeal shall effectively constitute a request for full Planning Board consideration of site plan approval for the development project, and as such is subject to the normal public hearing and due notice requirements set forth herein (Sections 5 & 6 of this Chapter 6). If an Applicant is dissatisfied with any action taken by the Planning Board, he/she may further pursue the normal appeals available and as set forth in Article 3 of the SZO.

**Section 4. - Submission procedure (Reference SZO SEC. 5.4.3).**

A. Preliminary Meeting with the Planning Director. Applicants seeking site plan approval, particularly for larger development projects, are strongly encouraged to meet

with the Planning Director (or his/her designated staff) at least once prior to official filing. This will help to expedite the ensuing process by determining procedures, information requirements, level of review necessary, and applicability of review standards, criteria and design guidelines. When meeting to make a formal submission, the Applicant should schedule a meeting with the Planning Director to insure all applicable information is in satisfactory form for official filing. This will minimize potential delays to the Applicant or disapproval of an application as incomplete.

B. Official Filing. The Applicant shall file four (4) copies of the required site plan submission (see "C" below) in the office of the City Clerk, during normal business hours. The stamp of the City Clerk shall establish the official date of filing. The Clerk shall forward the documents to the Planning Director who shall forward one (1) copy to the Director of Traffic and Parking, and one (1) copy to the City Engineer. Only one (1) copy of the specialized items such as photos or architectural material samples shall be required; these should be presented separately at the offices of the Planning Division, which will review and forward the materials to any other board or agency as appropriate.

C. Minimum Submission/Information Requirements. Each site plan submission shall include the minimum items listed below. The information submitted shall document compliance with the standards of SZO Sec. 5.4.6:

- 1) Completed application for site plan approval;
- 2) \$250.00 filing fee (\$50.00 for minor site plan approval or when site plan approval is requested simultaneously with a special permit application) in cash or check payable to the "City of Somerville";
- 3) A written statement explaining how the project complies with each standard of SZO Sec. 5.4.6, referencing additional documents, plans, drawings, photos, evaluations etc., as necessary;
- 4) Documentation of property ownership, such as a deed;
- 5) Scaled (minimum 1" = 50') site plan with north arrow showing:
  - a) Existing and proposed property lines, road rights-of-way, easements (utility, access, etc.);
  - b) Footprint/roof area of all existing and proposed buildings within fifty (50) feet of the proposed development;
  - c) Location of existing and proposed paved areas within fifty (50) feet of the proposed development;

Note: THE PLAN SHALL BE PREPARED BY A REGISTERED PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT, OR PROFESSIONAL LAND SURVEYOR, AND THE STAMP OF SUCH REGISTERED PROFESSIONAL SHALL APPEAR ON THE PLAN. THIS REQUIREMENT MAY BE WAIVED IN THE CASE

OF A MINOR SITE PLAN APPROVAL OR IN ACCORDANCE WITH SECTION 5.4.7.1 OF SZO.

6) Subdivision. In the case of a subdivision, the submission shall include the above items plus the following:

a. Scaled (min. 1" = 30') boundary survey and subdivision plot, showing north arrow, date, and prepared by a Massachusetts-registered Professional Land Surveyor, upon which the seal and signature of such professional shall appear. The subdivision plot shall indicate:

1. The total calculated land area of the subdivided lands in total;
  2. the calculated land area of each lot;
  3. boundaries, angles, bearing and dimensions of all lots;
  4. existing and proposed block and lot numbers;
  5. notation of specific reference plats, if applicable;
  6. description of field control points, monuments, or markers for locating lot corners.
- b. Statement as to the proposed use of the new lots and the purpose for subdividing;
- c. A plan showing location of nearest existing and proposed fire hydrant(s);
- d. Proposed deed restrictions and covenants, if any, especially as related to future development on the subdivided lots complying with provisions of the SZO, particularly Section 5.4.6.

D. Requirement for Additional Information in Application. Although the above minimum information will often be sufficient, there may be a need for more detailed or additional information on any specific project. The actual final information requirements will vary for each individual site plan approval, dependent on the size and scope of the proposed development. The Applicant should submit additional information indicated as pertinent by the Planning Director in discussion at the preliminary meeting. The Applicant may also submit information he/she feels will aid the Planning Board in reviewing compliance with the SZO Sec. 5.4.6. After the application has been officially filed, the planning Board and/or Planning Director may request additional information beyond that submitted by the Applicant, but only that which is reasonably related to demonstrating compliance with a specific standard or criteria of Section 5.4.6. Examples of materials, which may be pertinent to a given project and requested of the Applicant include:

- 1) Scaled boundary survey/plot plan certified with the seal of a Professional Land Surveyor (or in the case of application to the Planning Director for minor site plan approval, a mortgage plot plan or similar scaled drawing) indicating total land area, boundaries, angles, bearings, and dimensions of site and its boundaries, north arrow;
- 2) Existing natural or vegetative features, and proposals for alterations thereto, including as appropriate:
  - a. Topographic information at not less than two (2) foot contour intervals, showing both existing grade and proposed changes to grade (if applicable);
  - b. General drainage patterns and plans, including drainage inlets/outfalls, and proposed erosion and sedimentation controls;
  - c. Soil survey;

d. Hydrogeologic evaluation and program storm water management (when large scale site work is required and site drainage altered);

NOTE: GRADING AND RAINAGE PLANS MAY BE REQUIRED TO BE PREPARED BY A MASSACHUSETTS-REGISTERED PROFESSIONAL ENGINEER OR LANDSCAPE ARCHITECT, WHOSE SEAL SHALL APPEAR ON SAID PLANS.

3) In the case of development including installation of new utilities or modification of existing utility systems, the submission shall also include information as to location of existing and proposed utilities and mechanical systems (except those fully enclosed within a building) and location of nearest and proposed fire hydrant(s). Subsurface water and sewer plans shall be prepared by a registered Professional Engineer, whose seal shall appear on said plans.

4) Architectural elevations for any new structure and any existing structure proposed to be modified, at a scale not less than  $1/16" = 1'$ , specifying materials, colors and finishes. Where new construction is proposed immediately adjacent to or attached to existing structure, the application should include information on the design context by showing a portion of the attached structure within the elevation drawing, providing a photographic montage of the existing buildings, or similar study. For larger projects, the Planning Board may request a photographic study of the neighborhood, up to a distance of three hundred (300) feet from the site perimeter, or a three-dimensional model of proposed buildings and the surrounding physical context;

5) Landscape plans, including schedule of materials and planting specifications.

6) Building shadow analysis

7) Paving plans and specifications

8) Signage plans and specifications

9) Exterior lighting plans showing location and type of any exterior lighting fixtures, and location and type of any exterior lighting fixtures such as those within open or partially open garage structures, illuminated within open or partially open garage structures, illuminated signage and the like, but excluding normal interior lighting.

10) Traffic circulation and parking plans showing location, layout, and dimensions.

11) Traffic impact analysis (for projects over twenty-five thousand (25,000) gross sf of new construction) detailing existing and estimated peak hour traffic volumes and their effects on capacity and operating conditions of the nearest collector and arterial streets. Applicants may request to be reviewed based on the information they submit, regardless of any additional information requested by the Planning Board or the Planning Director. However, an incomplete application may be grounds for denial of the site plan approval,

per SZO Section 5.4.4. Applicants have a right to appeal any Planning Board decision regarding an incomplete application to the Board of Appeals.

E. Request for Simultaneous Review when Submitted with a Special Permit Petition. In accordance with SZO Section 5.4.4.B and with Section 6B below, whenever a site plan approval application is made for a site or use also requiring some form of special permit, and the Planning Board is the SPGA, an Applicant may request that the Board review both the site plan application and special permit application simultaneously. An Applicant must request the simultaneous one-step review at the time of official filing of his/her application.

**Section 5. - Staff/administration review of application.**

A. Review by Planning Director and solicitation of Comments. After official filing of the site plan application by the Applicant, the City Clerk shall send the stamped copies to the Planning Director. The Planning Director shall review the site plan approval application under all requirements of SZO Section 5.4. The Planning Director shall also communicate with the Director of Traffic and Parking, and the City Engineer, and ascertain their concerns, if any. The Planning Director may, in his/her discretion, contact other relevant agencies affected by the proposed development to solicit their input on concerns such as traffic and parking, fire safety and protection, landscaping, coordination of infrastructure improvements and the like.

B. Schedule of Public Hearing. The Planning Director shall schedule before the Planning Board a public hearing within forty within forty-five (45) days of the official filing date of the site plan application, and shall notify all parties in interest as defined in SZO Article 2 and as stipulated in Section 11 of the MGL Chapter 40A, and in accordance with the Boards normal hearing notification procedure (see chapter 5 of these Rules and Regulations). Such notice shall include a brief description of the proposed development, and be sent via U.S. mail not less than fourteen (14) days prior to the scheduled hearing. If the Applicant has submitted a petition for site plan approval simultaneously with a petition for a required special permit, and has requested simultaneous review of both applications at a combined hearing, the public hearing will then be scheduled and advertised in accordance with the requirements for the special permit petition (SZO Sections 5.3.2 and 5.3.3). The public advertisement should clearly identify that the hearing will concern both a site plan approval and a special permit petition.

C. Report from Planning Director. The Planning Director shall prepare a report to the Planning Board with his/her analysis and recommendations. This report should generally be forwarded to the Planning Board at least three (3) days prior to the scheduled review and public hearing. Planning Board members should try to visit the site of the proposed development prior to the hearing, so as to be familiar with its context.

**Section 6. - Planning board review and action (reference SZO SEC. 5.4.4.).**

A. Conduct of Public Hearing. The Planning Board shall conduct the public hearing on the site plan approval petition under its normal rules and procedures for public hearings (see Chapter 5 of these Rules and Regulations), including establishment of the necessary quorum of members and restrictions on time allotted to individuals wishing to comment of the application.

B. Combined Hearing with Special Permit Petition. If an Applicant has requested simultaneous hearing and review of site plan approval and special permit petitions (in those cases for which this is applicable), this request shall generally be honored for the purpose of administrative efficiency. This will eliminate the potential need for two (2) separate hearing dates, although the Planning Board shall take one separate action on the site plan application and another separate action on the special permit application. The Planning Board may also allow the Applicant to submit in his/her site plan approval application only that information not otherwise submitted in the special permit application, in order to avoid redundancy. The Planning Board shall consider this one-step review only by written request of the Applicant, in which case the Applicant agrees to waive the normally specified time limits for site plan approval review and accepts the applicable time limits for review and sanction under the appropriate type of special permit application stipulated in Section 5.3 of the SZO.

C. Planning Board Action. In accordance with the SZO Section 5.4.4.C, the Board shall approve the site plan application, or approve such with conditions related to standards of Section 5.4 or the district within which the site is located, unless the site plan application is found to be deficient in one (1) of the three (3) specified items under Section 5.4.4. When an application is deemed generally acceptable, but is of a nature where specific approval of each applicable standard or criteria of SZO Section 5.4.6 cannot be reached (such as in subdivision, where all physical site development plans may not be finalized at the time of the plot recording), the Planning Board may attach a condition(s) requiring recordation of deed restrictions or covenants ensuring future compliance with specifically applicable standards of SZO Section 5.4.6.

Site plan approval is a process designed to insure public review and the benefit of public comment with respect to relevant architectural and site planning standards and guidelines, but not in any manner defined as a review of the appropriateness of a given proposed use. Any conditions attached to approval, or reasons for withholding approval shall be specifically related to the standards and guidelines of the SZO but exclude those designed for regulation and review of use.

D. Document of Decision. Within ten (10) business days of the Planning Board's action on the site plan approval petition, the Planning Director shall issue a written record of such decision, including a detailing of the findings and analysis that were the basis for the decision, including a detailing of the findings and analysis that were the basis for the decision. The written record shall be filed in the office of the City Clerk, and a copy transmitted to the Applicant and to any party in interest requesting a copy.

Although not mandatory, Applicants are strongly encouraged to file a copy of the written decision in the Middlesex Registry of Deeds. This affords a secondary public record on the decision, for the protection of those having an interest in the property question.

E. Appeals of the Planning Board Decision. Appeals of the Planning Board decision on a site plan approval petition may be made in accordance with MGL 40A, Section 17.

F. Enforcement. The Planning Director shall be responsible for ensuring that any conditions or requirements of the site plan approval are adhered to. The Planning Director shall work with the Superintendent of Inspectional Services as necessary in taking enforcement action against a violation of a site plan approval, under the enforcement provisions set forth in Article 3 of the SZO.



**Chapter 7 –  
RULES AND REGULATIONS OF THE DESIGN REVIEW COMMITTEE**

**Section 1. - Purpose of rules.**

The General Rules and Regulations of the Somerville Design Review Committee (referred to in this Chapter as the "DRC" or "Committee") are intended to be a reference source to interested citizens, to assure an orderly conduct of business matters by the DRC, to provide for the most efficient use of DRC and staff time, and to facilitate the decision-making processes of the DRC.

Should any provisions contained in this document conflict with the provisions of Chapter 39, Sections 23A, 23B, and 23C of Massachusetts General Laws as amended (commonly referred to as the Open Meeting Law) or Chapter 40A as amended, those aforesaid chapters shall govern.

**Section 2. - The design review committee and planning staff.**

Members volunteer their services, which includes attendance at meetings, site visits, and all work necessary for deliberating on cases and other Committee matters. The DRC is supported by the Director and Staff known as the Planning Division. The Planning Division maintains an office on the third floor of City Hall, 93 Highland Avenue, Somerville, MA 02143. The office is open Monday, Tuesday and Wednesday from 8:30 to 4:30, Thursday from 8:30 to 7:30, and Friday from 8:30 to 12:30, and can be reached at (617) 625-6600 x2500.  
(Adopted 5-15-2009)

**Section 3. - Officers.**

The DRC shall annually, as soon as practical after the first of each year, elect from among its own Committee a Chairperson. The Chairperson, or his/her designee, shall head all meetings and shall be responsible for ensuring they are run in an orderly and professional manner. Subject to these Rules, the Chair shall decide all points of order, unless overruled by a majority of the Committee in session at the time. He/she shall appoint such sub-committees as may be found necessary or desirable.  
(Adopted 5-15-2009)

**Section 4. - Meetings.**

A. Scheduling and Posting Meetings. Regular meetings of the Design Review Committee are generally held on the fourth Thursday of the month or at the discretion of the Chairperson or Planning Director. Meetings are duly advertised by posting a notice on the City Bulletin Board on the first floor of City Hall at least (48) hours in advance of the meeting, and by filing a copy of said notice in the City Clerk's office. Additional

meetings may be held as needed, provided that a quorum is met and proper notice of the meeting is posted.

An agenda indicating the subjects to be discussed shall be drawn up by the Planning Staff and distributed to Committee Members prior to the meeting. The Committee may deviate from the agenda with the concurrence of a majority of the Committee Members in attendance.

B. Minimum Submission/Information Requirements. In addition to all application materials submitted to the Special Permit Granting Authority (SPGA), the DRC may request any additional materials related to the cohesive presentation of the project. The Applicant should submit additional information indicated as pertinent by the Planning Staff. The Applicant may also submit information he/she feels will aid the DRC in reviewing the project. Applicants may request to be reviewed based on the information they submit, regardless of any additional information requested. However, incomplete applications may be grounds for the DRC to be unable to make a recommendation on the application.

Additional information may include:

1. Site Plan (including neighboring context, parking layout, landscape plan)
2. Photos of neighboring context
3. Perspective views of project within the neighboring context
4. Physical Model or Digital Model views
5. Floor Plans
6. Building Sections
7. Exterior Elevations (all)
8. Materials palette (including samples, images of other projects using similar materials)
9. Signage and Lighting Scheme

The Applicant must provide documents digitally in PDF format and/or seven (7) hard copies to Planning Staff at least a week prior to the meeting to give the committee members an opportunity to review the project.

C. Quorum and Recommendation. In general, three (3) DRC members shall constitute a quorum. When the recommendations on matters within the DRC's review are not made by a majority opinion the discrepancy shall be recorded in the written recommendation. The Planning Staff shall prepare meeting minutes, which shall include members in attendance, key discussion points, and recommendations for each application reviewed. Minutes shall be approved or amended by DRC members attending that meeting. The Planning Staff shall report the DRC's recommendations to the SPGA and Applicant. The recommendations shall be in writing and be sent to SPGA Members in advance of the meeting whenever feasible; at a minimum, recommendations will be presented to SPGA Members at the meeting for which a given topic is scheduled for review. Minutes, including the recommendations, which have been endorsed by the DRC are public records and may be obtained by any interested party.

D. Additional Meetings. After the meetings required under this Ordinance or by the SPGA, the DRC shall only review the project again if requested by the Applicant.

E. Review Fees. Applicants shall pay a fee for the first requisite meeting with the DRC, as provided in the Schedule of Fees, Appendix 1A to Chapter 1 of these Rules and Regulations. There will be no charge for subsequent meetings.  
(Adopted 5-15-2009)

**Section 5. - Amendments and waivers.**

The Design Review Committee may, from time to time, amend its own Rules and Regulations (promulgated herein this Chapter) with a majority vote, and by filing a written copy of the amended Rules with the City Clerk.

The DRC (assuming a quorum) may by a majority vote of the members present waive any of these Rules and Regulations except where said waiver would conflict with Massachusetts General Laws or the Rules and Regulations of the Planning Board or Zoning Board of Appeals.