



CITY OF SOMERVILLE, MASSACHUSETTS  
LAW DEPARTMENT

January 2, 2019

Honorable Board of Aldermen  
City Hall  
93 Highland Avenue  
Somerville, MA 02143

Re: That the City Solicitor Provide this Board with Written State and Local Regulations  
Regarding Public Notices

Board Order No. 206789

Dear Honorable Board Members:

You have asked this office to provide state and local written regulations regarding public notices. Enclosed please find a non-exhaustive compilation of state laws and city ordinances relating to common public notices by the City of Somerville. With respect to public hearings, generally, the Open Meeting Law, MGL c. 30A, s. 18-25 governs a public body's requirements for posting notice of a meeting, but does not impose a requirement as to public hearing notices. Mass. Atty. Gen. Div. of Open Gov't., *OML 2013-187* (2013). A public hearing may be subject to a separate notice requirement set out in a law specific to the hearing, which may govern the format, frequency, or publication of such notice.

Please contact me if you have any additional questions or seek additional laws regarding a particular public notice.

Very truly yours,

Jason D. Grossfield  
Assistant City Solicitor

Enc.

cc: Mayor Joseph A. Curtatone  
John Long, City Clerk



## ALM GL ch. 4, § 13

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE I JURISDICTION AND EMBLEMS OF THE COMMONWEALTH, THE GENERAL COURT, STATUTES AND PUBLIC DOCUMENTS (Chs. 1 - 5) > TITLE I JURISDICTION AND EMBLEMS OF THE COMMONWEALTH, THE GENERAL COURT, STATUTES AND PUBLIC DOCUMENTS (Chs. 1 — 5) > Chapter 4 Statutes (§§ 1 — 13)*

### **§ 13. Publication of Legal Notice — Electronic.**

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(a) As used in this section, “statewide website” shall mean a website established and maintained as a repository for legal notices and operated as a cooperative effort of a majority of Massachusetts newspapers that distribute newspapers to subscribers residing in the commonwealth.

(b) If a person, corporation, state agency, including its political subdivisions, a state authority, including its political subdivisions, municipality, including its political subdivisions, or other legal entity is required by a statute, ordinance, by-law or judicial order to publish a legal notice in a newspaper or newspaper of general circulation, the person, corporation, agency, authority, municipality or other legal entity shall publish said notice in a newspaper which shall ensure that the legal notice appears in: (i) a newspaper’s print publication; (ii) on the newspaper’s website; and (iii) on a statewide website that may be maintained as a repository for such notices; provided, however, that if a newspaper does not maintain its own website, publication on a statewide website and reference to the statewide website in the print publication notice shall satisfy the requirement of publication on the newspaper’s website.

(c) When publishing legal notices on a newspaper’s website or a statewide website, the operator of the website shall:

(i) ensure access by the public to the website at all times, other than during website maintenance or due to causes beyond the operator’s control;

(ii) make the full text of legal notices available in a searchable format for the period of time that the legal notice is required to be posted;

(iii) ensure that the website substantially complies with the accessibility standards of section 508 of the federal Rehabilitation Act of 1973, as amended and codified at *29 U.S.C. section 794d*;

(iv) provide access to view legal notices on the website, and to perform searches for legal notices on such websites, for no fee; provided, that operators of newspaper websites may charge a fee for enhanced search and customized content delivery features;

(v) maintain an archive of legal notices that are no longer displayed on the website for at least 90 days; and

(vi) charge no additional fee for publication on a website in excess of the fee for publishing the legal notice in the print newspaper.

(d) An error in a legal notice published on a newspaper’s website or the statewide website that is the result of (i) an error of the website operator; or (ii) a temporary website outage or service interruption that prevents the publication or display of a legal notice on the website shall not constitute a defect in publication of the legal notice; provided, however, that the legal notice appears correctly in the newspaper’s print publication and satisfies all other legal notice requirements.

### **History**

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2016, 174, § 1.

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ALM GL ch. 30B, § 5

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE III LAWS RELATING TO STATE OFFICERS (Chs. 29 - 30B) > TITLE III LAWS RELATING TO STATE OFFICERS (Chs. 29 — 30B) > Chapter 30B Uniform Procurement Act (§§ 1 — 23)*

**§ 5. Competitive Sealed Bidding; Contracts for \$10,000 or More; Procedures.**

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(a) Except as permitted under section six or section eight, award of procurement contracts in the amount of more than \$50,000, other than contracts for the procurement of real property, shall conform to the competitive sealed bidding procedures set forth in this section.

(b) A procurement officer shall issue an invitation for bids for a procurement contract. The invitation for bids shall include:

- (1) the time and date for receipt of bids, the address of the office to which bids are to be delivered, the maximum time for bid acceptance by the governmental body;
- (2) the purchase description and all evaluation criteria to be utilized pursuant to paragraph (e); and
- (3) all contractual terms and conditions applicable to the procurement.

The invitation for bids may incorporate documents by reference; provided, however, that the invitation for bids specifies where prospective bidders may obtain the documents. The procurement officer shall make copies of the invitation for bids available to all persons on an equal basis.

(c) The procurement officer shall give public notice of the invitation for bids a reasonable time prior to the date for the opening of bids. The notice shall:

- (1) indicate where, when and for how long invitations for bids may be obtained;
- (2) describe the supply or service desired, and reserve the right of the governmental body to reject any or all bids;
- (3) if award of the contract is subject to the approval of any board, committee, commission or other body, so state and identify each such body;
- (4) remain posted, for at least two weeks, in a conspicuous place in or near the offices of the governmental body until the time specified in the invitation for bids; and
- (5) be published at least once, not less than two weeks prior to the time specified for the receipt of bids, in a newspaper of general circulation within the area served by the governmental body and on the COMMBUYS system administered by the operational services division.

For procurements in the amount of more than \$50,000, or such larger amount as may be established by the state secretary, the procurement officer shall also place the notice in any publication established by the state secretary for the advertisement of such procurements.

The procurement officer may distribute copies of the notice to prospective bidders, and may compile and maintain lists of prospective bidders to which notices may be sent.

A city or town which regularly publishes a periodical listing municipal contracting opportunities may apply to the state secretary for permission to utilize such periodical in lieu of advertising in a newspaper of general circulation. The state secretary, after notice and an opportunity for interested persons to present their views, may grant, renew, or revoke permission for said city or town to utilize such periodical in lieu of newspaper advertising for procurements or classes of procurements not to exceed such amount as may be established by the state secretary. Such permission shall remain in effect for a specified period not to exceed three years. In granting, renewing, or

## ALM GL ch. 30B, § 5

revoking such permission, the state secretary shall consider whether the periodical provides prospective contractors with reasonable notice of contracting opportunities, taking account of such factors as circulation, accessibility, reliability, and cost of the periodical. Such permission and any renewal or revocation thereof shall be in writing filed with the city or town clerk, the inspector general, and the state secretary.

(d) The procurement officer shall open bids publicly either (1) at a meeting subject to the provisions of section eleven A  $\frac{1}{2}$  of chapter thirty A, section nine G of chapter thirty-four or section twenty-three B of chapter thirty-nine, in the presence of a quorum, and the names of all bidders and the amounts of their bids shall be entered in the minutes, or (2) in the presence of one or more witnesses, and the procurement officer and said witnesses shall sign a statement under penalties of perjury listing the names of all bidders and the amounts of their bids and declaring that said list is a complete and accurate list of bids opened in the presence of said witnesses. Such minutes or statement, or a certified copy thereof, shall be filed with the contract.

(e) The procurement officer shall evaluate a bid based solely on the requirements and criteria set forth in the invitation for bids. Such criteria shall include the standards by which the procurement officer will determine acceptability as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose.

(f) The procurement officer shall unconditionally accept a bid without alteration or correction, except as provided in this paragraph. A bidder may correct, modify, or withdraw a bid by written notice received in the office designated in the invitation for bids prior to the time and date set for the bid opening. After bid opening, a bidder may not change the price or any other provision of the bid in a manner prejudicial to the interests of the governmental body or fair competition. The procurement officer shall waive minor informalities or allow the bidder to correct them. If a mistake and the intended bid are clearly evident on the face of the bid document, the procurement officer shall correct the mistake to reflect the intended correct bid and so notify the bidder in writing, and the bidder may not withdraw the bid. A bidder may withdraw a bid if a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident.

(g) The procurement officer shall award the contract to the lowest responsible and responsive bidder. A contract requiring payment to the governmental body of a net monetary amount shall be awarded to the highest responsible and responsive bidder. The procurement officer shall award the contract by written notice to the selected bidder within the time for acceptance specified in the invitation for bids. The time for acceptance may be extended for up to 45 days by mutual agreement between the governmental body and the apparent lowest responsible and responsive bidder or, for a contract requiring payment to the governmental body, by mutual agreement between the governmental body and the highest apparent responsible and responsive bidder.

## History

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1989, 687, § 3; 1996, 450, § 82; 2000, 159, §§ 71, 72; 2014, 165, § 62; 2016, 218, §§ 7-9.

ALM GL ch. 30B, § 6

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE III LAWS RELATING TO STATE OFFICERS (Chs. 29 - 30B) > TITLE III LAWS RELATING TO STATE OFFICERS (Chs. 29 — 30B) > Chapter 30B Uniform Procurement Act (§§ 1 — 23)*

**§ 6. Competitive Sealed Proposals; Contracts for \$35,000 or More; Procedures.**

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(a) A chief procurement officer may enter into procurement contracts in the amount of more than \$50,000 utilizing competitive sealed proposals, in accordance with the provisions of this section. The chief procurement officer shall not solicit competitive sealed proposals unless he has determined in writing that selection of the most advantageous offer requires comparative judgments of factors in addition to price, specifying the reasons for his determination.

(b) The chief procurement officer shall solicit proposals through a request for proposals. The request for proposals shall include:

- (1) the time and date for receipt of proposals, the address of the office to which the proposals are to be delivered, the maximum time for proposal acceptance by the governmental body;
- (2) the purchase description and all evaluation criteria that will be utilized pursuant to paragraph (e); and
- (3) all contractual terms and conditions applicable to the procurement provided that the contract may incorporate by reference a plan submitted by the selected offeror for providing the required supplies or services.

The request for proposals may incorporate documents by reference; provided, however, that the request for proposals specifies where prospective offerors may obtain the documents. The request for proposals shall provide for the separate submission of price, and shall indicate when and how the offerors shall submit the price. The chief procurement officer shall make copies of the request for proposals available to all persons on an equal basis.

(c) Public notice of the request for proposals shall conform to the procedures set forth in paragraph (c) of section five.

(d) The chief procurement officer shall not open the proposals publicly, but shall open them in the presence of one or more witnesses at the time specified in the request for proposals. Notwithstanding the provisions of *section seven of chapter four*, until the completion of the evaluations, or until the time for acceptance specified in the request for proposals, whichever occurs earlier, the contents of the proposals shall remain confidential and shall not be disclosed to competing offerors. At the opening of proposals the chief procurement officer shall prepare a register of proposals which shall include the name of each offeror and the number of modifications, if any, received. The register of proposals shall be open for public inspection. The chief procurement officer may open the price proposals at a later time, and shall open the price proposals so as to avoid disclosure to the individuals evaluating the proposals on the basis of criteria other than price.

(e) The chief procurement officer shall designate the individual or individuals responsible for the evaluation of the proposals on the basis of criteria other than price. The designated individuals shall prepare their evaluations based solely on the criteria set forth in the request for proposals. Such criteria shall include all standards by which acceptability will be determined as to quality, workmanship, results of inspections and tests, and suitability for a particular purpose, and shall also include all other performance measures that will be utilized. The evaluations shall specify in writing:

- (1) for each evaluation criterion, a rating of each proposal as highly advantageous, advantageous, not advantageous, or unacceptable, and the reasons for the rating;
- (2) a composite rating for each proposal, and the reasons for the rating; and
- (3) revisions, if any, to each proposed plan for providing the required supplies or services which should be obtained by negotiation prior to awarding the contract to the offeror of the proposal.

## ALM GL ch. 30B, § 6

(f) A proposal may be corrected, modified or withdrawn to the extent provided in paragraph (f) of section five.

(g) The chief procurement officer shall determine the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The chief procurement officer shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement. The chief procurement officer may condition an award on successful negotiation of the revisions specified in the evaluation, and shall explain in writing the reasons for omitting any such revision from a plan incorporated by reference in the contract.

(h) If the chief procurement officer awards the contract to an offeror who did not submit the lowest price, the chief procurement officer shall explain the reasons for the award in writing, specifying in reasonable detail the basis for determining that the quality of supplies or services under the contract will not exceed the governmental body's actual needs.

(i) If a contract requiring payment to the governmental body of a net monetary sum is awarded to an offeror who did not submit the highest price, the chief procurement officer shall explain the reasons for the award in writing as set forth in paragraph (h).

(j) Notwithstanding the provisions of this section, with respect to contracts for the recycling or composting of solid waste or the treatment, composting or disposal of sewage, septage or sludge at a facility to be owned and constructed by a private party or parties whether such facility will be, located on public or private land, the request for proposals may include proposed contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or non-negotiable, provided that the request for proposals may request proposals or offer options for fulfillment of other contractual terms. The chief procurement officer shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals. The chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If after negotiation with such offeror, the chief procurement officer determines that it is in the best interests of the governmental body, the chief procurement officer may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract with such offeror. The chief procurement officer shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The chief procurement officer shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The time for acceptance may be extended for up to 45 days by mutual agreement between the governmental body and the responsible and responsive offeror offering the most advantageous proposal as determined by the chief procurement officer.

(k) Notwithstanding the provisions of this section, with respect to contracts for energy-related services entered into by a city or town or group of cities or towns, the requests for proposals may include proposed contractual terms and conditions to be incorporated into the contract, some of which may be deemed mandatory or non-negotiable; provided, however, that the request for proposals may request proposals or offer options for fulfillment of other contractual terms. The chief procurement officer shall make a preliminary determination of the most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in a request for proposals. The chief procurement officer may negotiate all terms of the contract not deemed mandatory or non-negotiable with such offeror. If after negotiation with such offeror the chief procurement officer determines that it is in the best interest of the governmental body, the chief procurement officer may determine the proposal which is the next most advantageous proposal from a responsible and responsive offeror taking into consideration price and the evaluation criteria set forth in the request for proposals, and may negotiate all terms of the contract with such offeror. The chief procurement officer shall award the contract to the most advantageous proposal from a responsible and responsive offeror taking into consideration price, the evaluated criteria set forth in the request for proposals, and the terms of the negotiated contract. The chief procurement officer shall award the contract by written notice to the selected offeror within the time for acceptance specified in the request for proposals. The parties may extend the time for acceptance by mutual agreement.

## History

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ALM GL ch. 30B, § 6

1989, 687, § 3; 1992, 153, § 13; 1997, 164, § 59; 2000, 159, §§ 73, 74; 2014, 165, § 63; 2016, 218, § 10.

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## ALM GL ch. 30B, § 15

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### **§ 15. Disposal of Excess Supplies; Procedures.**

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(a) A governmental body shall dispose of a tangible supply, no longer useful to the governmental body but having resale or salvage value, in accordance with this section. This section does not apply to the disposal of real property.

(b) The governmental body shall offer such supply through competitive sealed bids, public auction, or established markets.

(c) Notice of sale by bid or auction shall conform with the procedures set forth in paragraph (c) of section five. The notice shall indicate the supply offered for sale, designate the location and method for inspection of such supply, state the terms and conditions of sale including the place, date and time for the bid opening or auction, and state that the governmental body retains the right to reject any and all bids.

(d) If the governmental body rejects the bid of the highest responsive bidder, the governmental body may:

(1) negotiate a sale of such supply so long as the negotiated sale price is higher than the bid price; or

(2) resolicit bids.

(e) A procurement officer may trade-in a supply listed for trade-in in the invitation for bids or request for proposals.

(f) For a supply with an estimated net value of less than \$10,000, the procurement officer shall dispose of such supply using written procedures approved by the governmental body.

(g) Notwithstanding any other requirement of this section, a governmental body may by majority vote, unless otherwise prohibited by law, dispose of a tangible supply no longer useful to the governmental body but having resale or salvage value, at less than the fair market value to a charitable organization which has received a tax exemption from the United States by reason of its charitable nature.

### **History**

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1989, 687, § 3; 2000, 159, § 77; 2013, 38, § 48.

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ALM GL ch. 30B, § 16

Current through Act 268 of the 2018 Legislative Session.

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**§ 16. Disposal of Real Property; Procedures.**

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(a) If a governmental body duly authorized by general or special law to engage in such transaction determines that it shall rent, convey, or otherwise dispose of real property, the governmental body shall declare the property available for disposition and shall specify the restrictions, if any, that it will place on the subsequent use of the property.

(b) The governmental body shall determine the value of the property through procedures customarily accepted by the appraising profession as valid.

(c) A governmental body shall solicit proposals prior to:

(1) acquiring by purchase or rental real property or an interest therein from any person at a cost exceeding \$35,000; or

(2) disposing of, by sale or rental to any person, real property or any interest therein, determined in accordance with paragraph (b) to exceed \$35,000 in value.

(d) The governmental body shall place an advertisement inviting the submission of proposals in a newspaper with a circulation in the locality sufficient to inform the people of the affected locality. The governmental body shall publish the advertisement at least once a week for two consecutive weeks. The last publication shall occur at least eight days preceding the day for opening proposals. The advertisement shall specify the geographical area, terms and requirements of the proposed transaction, and the time and place for the submission of proposals. In the case of the acquisition or disposition of more than twenty-five hundred square feet of real property, the governmental body shall also cause such advertisement to be published, at least thirty days before the opening of proposals, in the central register published by the state secretary pursuant to section twenty A of chapter nine.

(e) The governmental body may shorten or waive the advertising requirement if:

(1) the governmental body determines that an emergency exists and the time required to comply with the requirements would endanger the health or safety of the people or their property; provided, however, that the governmental body shall state the reasons for declaring the emergency in the central register at the earliest opportunity; or

(2) in the case of a proposed acquisition, the governmental body determines in writing that advertising will not benefit the governmental body's interest because of the unique qualities or location of the property needed. The determination shall specify the manner in which the property proposed for acquisition satisfies the unique requirements. The governmental body shall publish the determination and the reasons for the determination, along with the names of the parties having a beneficial interest in the property pursuant to section forty J of chapter seven, the location and size of the property, and the proposed purchase price or rental terms, in the central register not less than thirty days before the governmental body executes a binding agreement to acquire the property.

(f) Proposals shall be opened publicly at the time and place designated in the advertisement. The governmental body shall submit the name of the person selected as party to a real property transaction, and the amount of the transaction, to the state secretary for publication in the central register.

## ALM GL ch. 30B, § 16

(g) If the governmental body decides to dispose of property at a price less than the value as determined pursuant to paragraph (b), the governmental body shall publish notice of its decision in the central register, explaining the reasons for its decision and disclosing the difference between such value and the price to be received.

(h) This section shall not apply to the rental of residential property to qualified tenants by a housing authority or a community development authority.

(i) Acquisitions or dispositions of real property or any interest therein pursuant to this section between governmental bodies and the federal government, the commonwealth or any of its political subdivisions or another state or political subdivision thereof shall be subject to subsections (a), (b) and (g).

## History

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1989, 687, § 3; 1995, 131, § 2; 1996, 450, § 86; 2000, 159, § 78; 2014, 165, § 66.

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ALM GL ch. 149, § 44J

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE XXI LABOR AND INDUSTRIES (Chs. 149 - 154) > TITLE XXI LABOR AND INDUSTRIES (Chs. 149 — 154) > Chapter 149 Labor and Industries (§§ 1 — 203)*

**§ 44J. Public Works — Bids — Notice.**

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(1) No public agency or authority of the commonwealth or any political subdivision thereof shall award any contract for which competitive bids are required pursuant to *section forty-four A* of this chapter or *section thirty-nine M of chapter thirty*, or for which competitive proposals are required pursuant to subsection (4) of section forty-four E of this chapter or section eleven C of chapter twenty-five A, unless a notice inviting bids or proposals therefor shall have been posted no less than one week prior to the time specified in such notice for the receipt of said bids or proposals in a conspicuous place in or near the offices of the awarding authority, and shall have remained posted until the time so specified, and unless such notice shall also have been published at least once not less than two weeks prior to the time so specified in the central register published by the secretary of state pursuant to section twenty A of chapter nine and in a newspaper of general circulation in the locality of the proposed project, and on the COMMBUYS system administered by the operational services division. Said notice shall also be published at such other times and in such other newspapers or trade periodicals as the commissioner of capital asset management and maintenance may require, having regard to the locality of the work involved.

(2) Said notice shall specify the time and place where plans and specifications of the proposed work may be had; the time and place of submission of general bids; and the time and place for opening of the general bids. For contracts subject to the provisions of sections forty-four A to H, inclusive, of this chapter, said notice shall also specify the time and place for submission of filed sub-bids, where required pursuant to section forty-four F; and the time and place for opening of said filed sub-bids.

Said notice shall also provide sufficient facts concerning the nature and scope of such project, the type and elements of construction, and such other information as will assist applicants in deciding to bid on such contract.

(3) No contract or preliminary plans and specifications shall be split or divided for the purpose of evading the provisions of this section.

(4) General bids and filed sub-bids for any contract subject to this section shall be in writing and shall be opened in public at the time and place specified in the posted or published notice, and after being so opened shall be open to public inspection.

(5) The provisions of this section shall not apply to any transaction between the commonwealth and any public service corporation.

(6) The provisions of this section may be waived in cases of extreme emergency involving the health and safety of the people and their property, upon the written approval of said commissioner. The written approval shall contain a description of the circumstances and the reasons for the commissioner's determination.

(7) Whoever violates any provision of this section shall be punished by a fine of not more than ten thousand dollars or by imprisonment in the state prison for not more than three years or in a jail or house of correction for not more than two and one-half years, or by both said fine and imprisonment; and in the event of final conviction, said person shall be incapable of holding any office of honor, trust or profit under the commonwealth or under any county, district of<sup>\*</sup>

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\* So in original.

## ALM GL ch. 149, § 44J

municipal agency.

Each and every person who shall cause or conspire to cause any contract or preliminary plans and specifications to be split or divided for the purpose of evading the provisions of this section shall forfeit and pay to the commonwealth, a political subdivision thereof or other awarding authority subject to this section, the sum of not more than five thousand dollars and, in addition, such person or persons shall pay, apportioned among them, double the amount of damages which the commonwealth or political subdivision thereof or other awarding authority may have sustained by reason of the doing of such act, together with the costs of the action.

(8) If an awarding authority rejects all general bids or does not receive any general bids, and advertises for a second opening of general bids with the original filed sub-bids as set forth in subsection (1) of section forty-four E the notice for receipt of such general bids may be published in the central register and elsewhere as required not less than one week prior to the time specified for such second opening of general bids.

(9) No request for proposals or invitation for bids issued under *sections 38A½ to 38O, inclusive, of chapter 7, section 11C of chapter 25A, section 39M of chapter 30*, this section and sections 44A to 44H, inclusive, shall be advertised if the awarding authority's cost estimate is greater than 1 year old.

## History

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1984, 484, § 52; 1988, 210, § 10; 1989, 341, § 79; 1990, 481, § 57; 1994, 60, § 137; 1994, 126, § 17; 1995, 139, § 2; 1997, 19, § 72; 1998, 194, § 185; 2008, 303, § 26; 2016, 218, § 230.

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*ALM GL ch. 149A, § 5*

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**§ 5. Construction Management at Risk Firm — Selection.**

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(a)The public agency shall utilize a 2-phase selection process as provided in subsection (c) of this section and sections 6 to 7, inclusive, for the selection of a construction management at risk firm with whom to enter into a contract to provide construction management at risk services. Each contract between a public agency and a construction management at risk firm shall be secured by a performance and payment bond in the full sum of the guaranteed maximum price by a surety company licensed to do business in the commonwealth and whose name appears on the United States Treasury Department Circular 570.

(b)Before issuing a request for qualifications, hereinafter called RFQ, the public agency shall establish a prequalification committee for the purpose of reviewing and evaluating responses submitted to the RFQ issued pursuant to subsection (c). The prequalification committee shall be comprised of 1 representative of the designer, the owner's project manager, and at least 2 representatives of the public agency.

(c)Phase 1 of the 2-phase selection process shall begin once the public agency gives public notice of the building project and solicits responses to an RFQ from construction management at risk firms; but, that the public notice and solicitation shall include:

- (1)the time and date for receipt of responses to the RFQ, the address of the office to which the responses are to be delivered, and the timeframe in which the public agency will respond to said responses;
- (2)a general description of the project including preliminary concept designs and key factors important to the final selection;
- (3)the evaluation procedure and criteria pursuant to subsection (f), including any rating system;
- (4)a specific description of the scope of services expected of the selected construction management at risk firm during both the design, pre-construction and construction phases of the project;
- (5)a general description of the anticipated schedule and estimated construction cost for the building project;
- (6)a listing of the project team including the public agency, the designer, and the public agency's owner's project manager;
- (7)the criteria for the selection of the construction management at risk firm, including minimum experience, requirements for presentations, and the schedule for the selection process;
- (8)a prohibition against any unauthorized communication or contact with the public agency outside of official pre-proposal meetings; and if desired,
- (9)a limitation on the size and number of pages to be included in the response to the RFQ; and,
- (10)a statement indicating that the RFQ will be used to prequalify construction management at risk firms that will be invited to submit a proposal in response to a request for proposal issued pursuant to section 6.

(d)The public agency shall require interested construction management at risk firms to submit a statement of qualifications in response to the RFQ issued pursuant to subsection (c). The statement of qualifications shall include, at a minimum, the following:

## ALM GL ch. 149A, § 5

- (1) a cover letter or executive summary detailing the key elements and factors that differentiate the firm from other responders;
- (2) completion of a qualifications application similar in form to AIA Document A305, 1986 edition, listing general business information and financial capacity;
- (3) a list of lawsuits and arbitrations to which the firm is a party in regard to construction contracts within the last 3 years, including a list of all convictions or fines for violations of state or federal law;
- (4) submission of a project organization chart with specific information on key project personnel or consultants;
- (5) submission of an audited financial statement for the most recent fiscal year and a letter from the surety company of the firm confirming the ability to provide performance and payment bonds for the building project under consideration; but, the financial information submitted shall remain confidential and shall not be a public record to the fullest extent permissible under the law;
- (6) submission of information on the firm's safety record including its workers' compensation experience modifier for the prior 3 years;
- (7) submission of information on and evidence of the firm's compliance record with respect to minority business enterprise and women business enterprise inclusion goals and workforce inclusion goals, if applicable;
- (8) submission of information regarding the firm's experience on similar building projects including references from the owners and architects of the building projects;
- (9) submission of information on the experience of the firm on similar projects that used the construction management at risk delivery method, including references from the owners and architects of such projects;
- (10) submission of information on any projects where the firm was terminated, failed to complete the work, or paid liquidated damages;
- (11) submission of specific examples of the firm's project management reports or other illustrations of the company's operating philosophy;
- (12) a certificate of eligibility issued by the division of capital asset management and maintenance pursuant to section 44D of chapter 149, showing a capacity rating sufficient for the project, and an update statement; and
- (13) any other relevant information that the public agency determines desirable.

The statement of qualifications shall be signed under pains and penalties of perjury.

(e) The public notice and solicitation required in subsection (c) shall be advertised in a newspaper of general circulation in the area in which the building project is located, in the central register pursuant to section 20A of chapter 9, and within the COMMBUYS system. The public notice and solicitation shall be given not less than 2 weeks before the deadline for submitting responses to the RFQ.

(f) Upon receipt of the statement of qualifications submitted by construction management at risk firms, the prequalification committee established pursuant to subsection (b), shall evaluate each statement of qualifications using the criteria as provided in the RFQ. Only construction management at risk firms achieving an acceptable rating as defined pursuant to clause (3) of subsection (c) will be selected to proceed to phase 2 of the 2-phase selection process and receive a request for proposals issued pursuant to section 6. The prequalification committee shall select a minimum of 3 qualified construction management at risk firms to receive the request for proposals. If the prequalification committee is not able to identify a minimum of 3 qualified construction management at risk firms, the public agency shall re-advertise the building project using the procedures herein, or may procure the building project pursuant to the provisions of sections 44A to 44J, inclusive, of chapter 149. The decision of the prequalification committee shall be final and shall not be subject to appeal except on grounds of fraud or collusion.

## History

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2004, 193, § 27; 2015, 10, § 40.

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## ALM GL ch. 7C, § 47

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE II EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH (Chs. 6 - 28A) > TITLE II EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH (Chs. 6 — 28A) > Chapter 7C Capital Asset Management and Maintenance (§§ 1 — 72)*

### **§ 47. Design Services — Public Notice.**

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(a) Each contract for design services for a project subject to the jurisdiction of the board shall be publicly advertised by the board in a newspaper of general circulation in the area in which the project is located or to be located, and in the central register established under *section 20A of chapter 9*, and in such places as the board requires by regulation, at least 2 weeks before the deadline for filing applications; provided, however, that each contract for design services for a project whose estimated cost of construction is not less than \$10,000 nor more than \$25,000 shall not be required to be advertised in a newspaper of general circulation but shall be required to be advertised in the central register.

(b) The public notice required by subsection (a) shall contain:

(i) a description of the project, including the specific design services sought, the time period within which the project is to be completed, and, if available, the estimated construction cost;

(ii) if there is a program for the project, a statement of when and where the program will be available for inspection for applicants, and when and where a briefing session will be held for applicants, if one is required by the board's regulations and if there is not a program for the project, a statement to the effect;

(iii) the qualification required of applicants for the projects, including whether interior designers are eligible to apply, as determined by subsection (h) of section 48;

(iv) the categories of designers' and interior designers' consultants, if any, for which applicants must list the names of consultants which the applicant may choose to use; and

(v) whether the fee has been set or will be negotiated, and if the fee has been set, the amount of the fee.

### **History**

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2012, 165, § 82; 2014, 299, §§ 9-11.

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ALM GL ch. 138, § 15A

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE XX PUBLIC SAFETY AND GOOD ORDER (Chs. 133 - 148A) > TITLE XX PUBLIC SAFETY AND GOOD ORDER (Chs. 133 — 148A) > Chapter 138 Alcoholic Liquors (§§ 1 — 78)*

**§ 15A. License — Applications.**

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All applications for an original license under sections twelve and fifteen shall be made on a form or forms to be prescribed by the commission and shall include a sworn statement by the applicant giving the names and addresses of all persons who have a direct or indirect beneficial interest in said license. No stock in a corporation holding a license to sell alcoholic beverages shall be transferred, pledged, or issued without first obtaining the permission of the local licensing authorities and the commission. Provisions of this section shall not apply to stockholders of a corporation whose stock is listed for sale to the general public with the Securities and Exchange Commission and who hold less than ten per cent of the outstanding stock entitled to vote at the annual meeting of said corporation. Notation of the date and hour of filing shall be made on every application. Within ten days after receipt of any such application, the local licensing authorities shall cause a notice thereof to be published at the expense of the applicant. Such notice shall be published in the city or town wherein the license is intended to be exercised or, if no newspaper is published in such city or town, in a newspaper, published within the commonwealth, providing general circulation in such city or town, or if there is no newspaper providing general circulation in such city or town, then in a daily newspaper published in the county wherein such license is intended to be exercised. After such publication the name of the newspaper publishing such notice shall be noted by the local licensing authorities on the application for a license. The notice shall set forth the name of the applicant in full, the kind of license applied for, a description of the location and area where the license is intended to be exercised, designating, if practicable, the street and number. No application shall be acted upon by the local licensing authorities except after hearing thereon which shall be held not sooner than ten calendar days after the publication of such notice. An affidavit of the person making such publication on behalf of such authorities, together with an attested copy of the notice published, shall be filed in the office of such authorities, and a certified copy of such affidavit shall be prima facie evidence that such notice has been published in accordance with this section. Where there are no premises actually in existence at the time the application is made, the applicant may file with the local licensing authorities a plan showing the actual dimensions of premises which are to be constructed on which the license is to be exercised. The local licensing authorities may thereafter grant a license upon the condition that such license shall issue upon completion of such premises according to said plan, and the decision of the licensing authorities as to whether or not said plan has been complied with shall be final.

Every applicant for an original license under section twelve, fifteen or thirty A, or for a transfer of such a license from one location to another, or an applicant for a change in the description of a licensed premises, or someone in his behalf, shall, within three days after publication as hereinbefore provided, cause a copy of the published notice to be sent by registered mail to each of the persons appearing upon the assessors' most recent valuation list as the owners of the property abutting on the premises where the license is intended to be exercised and, if a school, which gives not less than the minimum instruction and training to children of compulsory school age required by chapter seventy-one, or a church or hospital, is located within a radius of five hundred feet from said premises, to such school, church or hospital. The notice sent to such school, church or hospital shall indicate the necessity of a written objection to prevent the issuance or transfer of such license under the provisions of section sixteen C. An affidavit of the applicant or of the person mailing such notice in his behalf, together with an attested copy of the notice mailed, shall be filed in the office of the local licensing authorities, and a certified copy of such affidavit shall be prima facie evidence that such notice has been mailed in accordance with this section. If any abutter or the authorities in charge of any such school, church or hospital shall make complaint in writing to the local licensing authorities that such license was granted or transferred hereunder without such notice having been mailed to him or them as required hereby, and after due hearing

## ALM GL ch. 138, § 15A

it appears that such notice was not mailed as aforesaid, the local licensing authorities may cancel the license. Any person who has filed a complaint with the local licensing authorities under this section who is aggrieved by the action of such authorities in refusing to cancel a license hereunder or by their failure to act upon such a complaint within a period of thirty days may appeal to the commission in writing within five days following receipt of written notice of such action or within five days following the expiration of the thirty day period, and the commission may, after hearing, cancel such a license and in such event, shall send notice of the cancellation to the local licensing authorities. Nothing herein contained shall be construed to prohibit a licensee whose license has been cancelled by the local licensing authorities under authority contained in this section from appealing to the commission as provided in section sixty-seven. No application by the same applicant for the same type of license to be exercised on the same premises may be filed within one year of the date of his last prior application except in the discretion of the licensing authorities.

## History

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1934, 370, § 5; 1935, 440, § 13; 1939, 414; 1943, 542, § 5; 1965, 400; 1967, 523; 1968, 361; 1970, 192, § 2; 1971, 477, § 2; 1980, 318, § 1; 1985, 661.

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ALM GL ch. 40A, § 5

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*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE VII CITIES, TOWNS AND DISTRICTS (Chs. 39 - 49A) > TITLE VII CITIES, TOWNS AND DISTRICTS (Chs. 39 — 49A) > Chapter 40A Zoning (§§ 1 — 17)*

**§ 5. Procedure for Adoption or Change of Zoning Ordinances.**

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Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant to section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance or by-law is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of said hearing, and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of housing and community development, the regional planning agency, if any, and to the planning board of each abutting city and town. The department of housing and community development, the regional planning agency, the planning boards of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the city or town clerk prior to town meeting or city council action on a proposed zoning ordinance, by-law or change thereto. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of such hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee established by such ordinance or by-law. In cases involving boundary, density or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances or by-laws unless such defect is found to be misleading.

Prior to the adoption of any zoning ordinance or by-law or amendment thereto which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural and aquacultural practices, the city or town clerk shall, no later than seven days prior to the city council's or town meeting's public hearing relative to the adoption of said new or amended zoning ordinances or by-laws, give notice of the said proposed zoning ordinances or by-laws to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one.

## ALM GL ch. 40A, § 5

No vote to adopt any such proposed ordinance or by-law or amendment thereto shall be taken until a report with recommendations by a planning board has been submitted to the town meeting or city council, or twenty-one days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend and adopt any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after the city council hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after the planning board hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided.

No zoning ordinance or by-law or amendment thereto shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting; provided, however, that if in a city or town with a council of fewer than twenty-five members there is filed with the clerk prior to final action by the council a written protest against such change, stating the reasons duly signed by owners of twenty per cent or more of the area of the land proposed to be included in such change or of the area of the land immediately adjacent extending three hundred feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths vote of all members.

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

When zoning by-laws or amendments thereto are submitted to the attorney general for approval as required by *section thirty-two of chapter forty*, he shall also be furnished with a statement which may be prepared by the planning board explaining the by-laws or amendments proposed, which statement may be accompanied by explanatory maps or plans.

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to *section thirty-two of chapter forty*. If, in a town, said by-law is subsequently disapproved, in whole or in part, by the attorney general, the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote. In a municipality which is not required to submit zoning ordinances to the attorney general for approval pursuant to *section thirty-two of chapter forty*, the effective date of such ordinance or amendment shall be the date passed by the city council and signed by the mayor or, as otherwise provided by ordinance or charter; provided, however, that such ordinance or amendment shall subsequently be forwarded by the city clerk to the office of the attorney general.

A true copy of the zoning ordinance or by-law with any amendments thereto shall be kept on file available for inspection in the office of the clerk of such city or town.

No claim of invalidity of any zoning ordinance or by-law arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceedings and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless legal action is commenced within the time period specified in sections thirty-two and thirty-two A of chapter forty and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition with the town or city clerk within seven days after commencement of the action.

## History

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1975, 808, § 3; 1977, 829, §§ 3B, 3C; 1984, 189, § 47; 1987, 685, § 3; 1991, 515, §§ 1, 2; 1996, 258, § 16; 1998, 161, § 255; 2008, 451, § 45.

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ALM GL ch. 40A, § 11

Current through Act 268 of the 2018 Legislative Session.

*Annotated Laws of Massachusetts > PART I ADMINISTRATION OF THE GOVERNMENT (Chs. 1 - 182) > TITLE VII CITIES, TOWNS AND DISTRICTS (Chs. 39 - 49A) > TITLE VII CITIES, TOWNS AND DISTRICTS (Chs. 39 — 49A) > Chapter 40A Zoning (§§ 1 — 17)*

**§ 11. Notice and Publication; Review of Special Permit Applications; Certificate of Special Permit or Variance.**

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In all cases where notice of a public hearing is required notice shall be given by publication in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of such hearing. In all cases where notice to individuals or specific boards or other agencies is required, notice shall be sent by mail, postage prepaid. "Parties in interest" as used in this chapter shall mean the petitioner, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, the planning board of the city or town, and the planning board of every abutting city or town. The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes. The permit granting authority or special permit granting authority may accept a waiver of notice from, or an affidavit of actual notice to any party in interest or, in his stead, any successor owner of record who may not have received a notice by mail, and may order special notice to any such person, giving not less than five nor more than ten additional days to reply.

Publications and notices required by this section shall contain the name of the petitioner, a description of the area or premises, street address, if any, or other adequate identification of the location, of the area or premises which is the subject of the petition, the date, time and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested if any. No such hearing shall be held on any day on which a state or municipal election, caucus or primary is held in such city or town.

Zoning ordinances or by-laws may provide that petitions for special permits shall be submitted to and reviewed by one or more of the following and may further provide that such reviews may be held jointly:—the board of health, the planning board or department, the city or town engineer, the conservation commission or any other town agency or board. Any such board or agency to which petitions are referred for review shall make such recommendations as they deem appropriate and shall send copies thereof to the special permit granting authority and to the applicant; provided, however, that failure of any such board or agency to make recommendations within thirty-five days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

When a planning board or department is also the special permit granting authority for a special permit applicable to a subdivision plan, the planning board or department may hold the special permit public hearing together with a public hearing required by sections 81K to 81GG inclusive of chapter 41 and allow for the publication of a single advertisement giving notice of the consolidated hearing.

Upon the granting of a variance or special permit, or any extension, modification or renewal thereof, the permit granting authority or special permit granting authority shall issue to the owner and to the applicant if other than the owner a copy of its decision, certified by the permit granting authority or special permit granting authority, containing the name and address of the owner, identifying the land affected, setting forth compliance with the statutory requirements for the issuance of such variance or permit and certifying that copies of the decision and all plans referred to in the decision have been filed with the planning board and city or town clerk.

## ALM GL ch. 40A, § 11

No variance, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied, or that if it is a variance which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the petition for the variance accompanied by the certification of the city or town clerk stating the fact that the permit granting authority failed to act within the time prescribed, and no appeal has been filed, and that the grant of the petition resulting from such failure to act has become final, or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant.

## History

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1975, 808, § 3; 1977, 829, §§ 4C-4F; 1979, 117; 1987, 498, § 2; 2006, 205, § 9; 2008, 239, § 1.

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## Section 3.2. - The Board of Appeals.

*3.2.1. Appointment and Organization.* There shall be a Board of Appeals, as established in accordance with M.G.L. Chapter 40A, Section 12, as amended. Said Board shall consist of five (5) members and two (2) associate members, appointed by the Mayor and subject to the confirmation of the Board of Aldermen. The members of the Board shall be appointed for five-year terms and associate members 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. An appointed associate member shall be designated by the Chairman of the Board to sit in the place of any member incapacitated by personal interest, inability to act, or absence. Vacancies shall be filled for unexpired terms in the same manner as in the case of the original appointment. The Board shall keep minutes of its proceedings and may adopt such rules of procedure and policy as it may deem necessary to the conduct of its affairs.

*3.2.2. Powers and Duties.* The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Ordinance, and shall have the following powers and duties as are prescribed by law:

- a. *Zoning Appeals.* To hear and decide appeals from any person unable to obtain a permit or enforcement action from the Building Official or an administrative officer; or from any person, including any officer or board of the City, aggrieved by an order or decision of the Building Official or other administrative official, in violation of M.G.L. Chapter 40A or the zoning ordinance.
- b. *Special Permits.* To hear and decide requests for Special Permits upon which the Planning Board is not specifically designated as the Special Permit Granting Authority under this ordinance.
- c. *Variances.* To authorize upon appeal with respect to a particular parcel of land or to an existing building thereon, a Variance from the terms of this Ordinance where, owing to soil conditions, shape or topography of land or structure, especially affecting such parcel or building, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Ordinance would involve substantial hardship to the appellant, and where desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Ordinance, but not otherwise.

(Ord. No. 2011-02, § 4, 2-10-2011)

### *3.2.3. Zoning Appeals.*

*3.2.3.1. Standing to Appeal.* Appeals to the Board of Appeals may be taken by any person aggrieved by reason of his/her inability to obtain a permit or enforcement action from any administrative official under the provisions of this Ordinance, or by any

person including an officer or Board of the City, or of an abutting city or town aggrieved by an order or decision of the Superintendent of Inspectional Services or other administrative official in violation of any provision of this Ordinance, or M.G.L. Chapter 40A.

*3.2.3.2. Procedure for Zoning Appeals.* All appeals shall be taken within thirty (30) days from the date of the order or decision which is being appealed. The petitioner shall file a notice of appeal specifying the grounds thereof, with the City Clerk. A copy of said notice, including the date and time of filing certified by the City Clerk, shall be filed forthwith by the petitioner with the officer or board whose order or decision is being appealed, and to the Board of Appeals, specifying in the notice grounds for such appeal. Such officer or board shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken.

All appeals shall be made on forms provided by and available in the Office of the City Clerk. Every appeal shall refer to the specific provision of the zoning ordinance involved, and shall exactly set forth the interpretation that is claimed.

(Ord. No. 2011-02, § 4, 2-10-2011)

*3.2.4 Reserved.*

(Ord. No. 2011-02, § 4, 2-10-2011)

*3.2.5. Special Permits, Special Permits with Site Plan Review, and Variances.* An application for a special permit, special permit with site plan review, design and site plan review or petition for variance over which the Board of Appeals exercises original jurisdiction shall be filed by the petitioner with the City Clerk, as specified by the procedures in Article 5.

(Ord. No. 2011-02, § 4, 2-10-2011; Ord. No. 2013-11, 11-26-2013)

*3.2.6. Notice and Hearing.* The Board of Appeals shall hold a hearing on any appeal, application or petition within sixty-five (65) days from the receipt of notice by the Board of such appeal, application or petition. The Board shall give due notice of the hearing by posting a notice thereof upon the property with respect to which the appeal, application or petition is filed, and by sending a written notice to the petitioner; the owners of the properties adjoining and opposite such property; owners of land which are abutters within three hundred (300) feet of the property line, even if in another city or town, as shown on the most recent tax list of the Board of Assessors; the Planning Board of abutting cities or towns; and to such other owners as may be deemed by the Board of Appeals to be interested. Additionally, the Board of Appeals shall publish such notice in a newspaper of general circulation within the City of Somerville, not less than fourteen (14) days in advance of the hearing with a second notice the following week.

**Note—** § 3.2.6 was amended by Ordinance 1991-1 on January 10, 1991.

(Ord. No. 2011-02, § 4, 2-10-2011)

*3.2.7. Decisions.* Decision of the Board shall be made within one hundred (100) days after the date of the filing of an appeal, application or petition, except in regard to special permits, which decision shall be made within ninety (90) days after the closing of the public hearing held pursuant to Section 3.2.6, and as provided for in Article 5 and M.G.L. Chapter 40A, Section 9. Public hearings held open for written comment shall be deemed closed at the end of the written comment period identified by the Board in the public meeting. The required time limits for a public hearing and said action may be extended by written agreement of the applicant. In its decision, the Board, among other things, shall clearly state the reasons for its decision.

**Note—** § 3.2.7 was amended by Ordinance 1991-1 on January 10, 1991.

(Ord. No. 2011-02, § 4, 2-10-2011)

*3.2.8. Failure of the Board to Act.* Failure by the Board to act within one hundred (100) days, or ninety (90) days after the public hearing held pursuant to Section 3.2.6 in the case of special permits, or other extended time, if applicable, shall be deemed to be the grant of the appeal, application or petition. The petitioner who seeks such approval by reason of the failure of the Board to act within the time prescribed shall notify the City Clerk in writing of the Board's failure to act, and that notice has been sent by the petitioner to the parties in interest. This written notice by the petitioner to the City Clerk shall take place within fourteen (14) days from the expiration of the Board's prescribed time limit (either one hundred (100) days, or ninety (90) days after the public hearing held pursuant to Section 3.2.6 in the case of special permits, or other extended time if applicable). The petitioner shall send such notice to parties in interest by mail or by hand. Such notice shall specify the appeals, if any shall be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date the City Clerk received written notice by the petitioner that the Board failed to act within the time prescribed. After the expiration of twenty (20) days without notice of appeal to court of competent jurisdiction, or, if appeal has been taken, after receipt of certified records of a court of competent jurisdiction indicating that such approval has become final, the City Clerk shall issue a certificate stating the date of approval, the fact that the Board failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner.

**Note—** § 3.2.8 was amended by Ordinance 1991-1 on January 10, 1991.

*3.2.9. Contents, Notice and Filing of Decision.* The Board shall make a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and setting forth clearly the reason for its decision and of its official actions, copies of all of which shall be filed within fourteen (14) days in the Office of the City Clerk and shall be a public record. Notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest, and to every person present at the hearing who requested that notice be sent to him/her and stated the address to

which such notice was to be sent. Each notice shall specify that appeals to the decision, if any, shall be made pursuant to M.G.L. Chapter 40A, Section 17 and shall be filed within twenty (20) days after the date of filing of such notice in the Office of the City Clerk.

(Ord. No. 2011-02, § 4, 2-10-2011)

*3.2.10. Appeal of Decision.* Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority, whether or not previously a party to the proceedings, or any municipal officer, board, or Board member may appeal to Middlesex County Superior Court, District Court, or to the Land Court, provided that such appeal is filed in said Court within twenty (20) days after such decision is recorded.

*3.2.11. Repetitive Petitions.* No appeal for a variance or application for special permit which has been unfavorably acted upon by the SPGA shall be acted favorably upon within two (2) years after the date of unfavorable action unless in accordance with M.G.L. Chapter 40A, Section 16. In such instance, the SPGA shall find specific and material changes in the conditions upon which the previous unfavorable action was based, and consent of all but one of the members of the Planning Board is required.

### Section 3.3. - Amendments.

*3.3.1. Jurisdiction.* All amendments to this Ordinance shall be made in a manner conforming with M.G.L. Chapter 40A, Section 5. The Board of Aldermen of the City of Somerville may, from time to time, amend this Ordinance or any part thereof in the manner prescribed in the Massachusetts General Laws.

A proposed amendment to this Ordinance, or change, addition, or repeal thereof, shall be initiated by the Board of Aldermen or individual member thereof, the Mayor, the Board of Appeals, by an individual owning land to be affected by any change or adoption, by request of ten (10) registered voters in the City of Somerville, or by the Planning Board, to the Board of Aldermen. Any such submission must be filed on forms available in the Office of the City Clerk. Within fourteen (14) days of receipt of such proposed change, addition or repeal of the Ordinance or amendment, the Board of Aldermen shall submit it to the Planning Board for review.

*3.3.2. Public Hearing.* No zoning ordinance or amendment thereto shall be adopted until after the Planning Board and the Board of Aldermen or a committee designated or appointed for the purpose by said Aldermen has each held a public hearing thereon, together or separately, at which interested persons shall be given an opportunity to be heard. Both hearings shall be called for the purpose of reviewing said ordinance and any amendment and shall be held within sixty-five (65) days after any such proposed zoning ordinance or amendments thereto is submitted to the Planning Board.

*3.3.3. Notice of Public Hearing.* Notice of the time and place of such public hearing, shall contain the following information: the subject matter to be heard, description of the property to be affected sufficient for identification, and the location where texts and maps concerning the affected area may be inspected.

Such notice shall be published in a newspaper of general circulation in the City once in each of two successive weeks, the first publication to be not less than fourteen (14) days before the day of said hearing, and by posting such notice in a conspicuous place in the City for a period of not less than fourteen (14) days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the Department of Community Affairs, the Metropolitan Area Planning Agency, and to the Planning Board of each abutting city and town.

The Department of Community Affairs, the Metropolitan Area Planning Agency, the Planning Board of all abutting cities and towns and nonresident property owners who may not have received notice by mail as specified in this section may grant a waiver of notice or submit an affidavit of actual notice to the City Clerk prior to Board of Aldermen action on a proposed zoning ordinance, or amendment thereto. No defect in the form of any notice under this chapter shall invalidate any zoning ordinances unless such defect is found to be misleading.

*3.3.4. Adoption.* The vote on any such change or amendment to the Ordinance shall be taken within ninety (90) days after the close of the Board of Aldermen's public hearing. No vote to adopt any such proposed ordinance or amendment thereto shall be taken until a report with recommendations by the Planning Board has been submitted to the Board of Aldermen or twenty-one (21) days after said hearing has elapsed without submission of such report. After such notice, hearing and report, or after twenty-one (21) days shall have elapsed after such hearing without submission of such report, the Board of Aldermen may adopt, reject, or amend and adopt any such proposed ordinance. No change of this Ordinance shall be adopted except by two-thirds vote of all the members of the Board of Aldermen. However, in the event there is filed with the City Clerk, prior to final action by the Board of Aldermen, a written protest against such change, stating the reasons for protest, duly signed by the owners of twenty (20) percent or more of the area of the immediately adjacent land within three hundred (300) feet of the affected area, no such change of this Ordinance shall be adopted except by a three-fourths vote of all the members of the Board of Aldermen. If the Board of Aldermen fails to vote to adopt any proposed ordinance within ninety (90) days after the final public hearing by the Board of Aldermen, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as provided above.

*3.3.5. Unfavorable Action.* No proposed change or amendment which has been unfavorably acted upon by the Board of Aldermen shall be reconsidered by the Board of Aldermen within two (2) years after the date of such unfavorable action unless such proposed change or amendment is recommended in the final report of the Planning Board.

*3.3.6. Claim of Invalidity.* No claim of invalidity of this Ordinance arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless within one hundred and twenty (120) days after adoption of an ordinance or

amendment, legal action is commenced and notice specifying the court, parties, invalidity claim, and date of filing is filed together with a copy of the petition, with the City Clerk within seven (7) days after commencement of said actions.

## Section 5.1. – Special Permits.

*5.1.1. Purpose.* Certain activities, because of the nature of their operation relative to other permitted uses, are designated as requiring special permits. These include, but are not limited to, those activities specified in Article 7, Table of Permitted Uses and Development and Operating Standards.

The Special Permit Granting Authority (SPGA) may grant a special permit for a use, lot, or alteration of a nonconforming structure (see Section 4.4.1), or for modification of off-street parking or loading requirements as allowed under Section 9.13 of this Ordinance. The SPGA may grant a special permit only in those cases where this Ordinance specifically refers to a change from the provisions of this Ordinance by the granting of a special permit and only in those cases where the SPGA makes the findings and determinations set forth below.

The SPGA shall grant a special permit upon making positive findings and determinations under the provisions herein. The SPGA shall not grant a special permit when it makes negative findings and determinations under the provisions herein, unless such findings or determinations concern negative impacts that may be adequately mitigated by the imposition of conditions attaching to the permit, in which case the SPGA may, in its discretion, grant a conditional special permit.

Nothing contained in this Article shall be construed to apply to the use of land or structures for religious or educational purposes if doing so would violate the applicable provisions of M.G.L. Chapter 40A, Section 3.

**Note—** § 5.1.1 was amended by Ordinance 1991-1 on January 10, 1991.

*5.1.2. Information Required for Special Permits.* The SPGA, or its designee, shall, in its discretion, require the following basic information (#1-4) for all applications for special permits and any additional applicable information including, but not limited to, items listed in #5-25. Only that information which is applicable to a proposed use or structure will be required of the applicant. The applicant is strongly encouraged to have a preliminary meeting with the Planning Board staff and, if necessary, the Design Review Committee before submitting the application to help the applicant identify the applicable information requirements as well as any design-related issues that may arise.

**Note—** § 5.1.2 was amended by Ordinance 2005-04 on March 10, 2005.

(Ord. No. 2014-10, § 2, 12-11-2014)

## Basic Information:

1. names, addresses, and telephone numbers of the applicant, the owner if other than the applicant, and other agents for the applicant, such as the architect, engineer and/or attorney, and the name and address of the proposed project;
2. plot plan certified by land surveyor (or, in the case of application to the Zoning Administrator, mortgage plot plan or similar scaled drawing) indicating total land area boundaries, angles, and dimensions of the site and a north arrow;
3. plans showing:
  - a. present and proposed use(s) of the land and existing buildings, if any;
  - b. dimensions of existing and proposed building(s) or other structures including height, setback(s) from property lines and total square footage of all floors;
  - c. locations and dimensions of any easements, public or private rights of way, or other burdens existing or proposed;
  - d. at-grade parking and loading areas showing number, location, and dimensions of parking and loading spaces, driveways, access, and sidewalks, preferably indicated on plot plan; and
4. a brief written description of the proposed project, such as proposed construction or demolition, all uses, who

of, and the continued compliance with, the special permit with site plan review; and/or 2) may require information about subsequent project phases and may combine multiple project phases into one (1) unified special permit.

Where an Applicant offers to make a financial contribution to the City for the construction of improvements to increase the capacity of City facilities or services, with the work not to be performed by the applicant, the SPGA shall make the special permit with site plan review's stages of the proposed development's construction concurrent to, and dependent upon, the stages of the completion of the improvement(s), unless a revised timetable is mutually agreed upon by the applicant and the City. If there is a revised timetable for any agreed improvements, the developer or property owner shall be responsible for notifying all abutters, neighbors, and parties in interest of this revised schedule.

*5.2.7. Special Permit with Site Plan Review-A* Special Permit with Site Plan Review-A (SPSR-A) is a form of Special Permit with Site Plan Review permitted in the Assembly Square District under Section 6.4. The procedure and submission requirements for an SPSR-A are described in Section 6.4.9. When Section 6.4.9 is not specific about a requirement for SPSR-A submission or procedure, Section 5.2 shall apply. The requirements of Section 5.2 shall not apply to the extent that they conflict with the requirements of § 6.4. Refer to Section 6.4.9 for more information on the SPSR-A.

**Note—** § 5.2.7 — Special Permit with Site Plan Review-A was added by Ordinance 2004-04 on April 22, 2004.

### Section 5.3. - Procedures for Special Permits and Special Permits with Site Plan Review.

*5.3.1. Application Procedures and Information Required.* Applications for a special permit under Section 5.1 or a special permit with site plan review under Section 5.2 shall be made to the SPGA on forms provided for that purpose, accompanied by the required fee. The SPGA shall adopt specific Rules and Regulations governing application and fee. The SPGA Rules and Regulations shall specifically provide for fast-tracking of any special permit or special permit with site plan review application that includes at least twenty-five percent (25%) affordable housing units as defined by Article 2 (also see the provisions of Article 13 for more detail on income and affordability guidelines used in defining affordable housing units). The fast-tracking Rules and Regulations should comply with those provisions set forth in Section 13.2 related to expediting the permitting process.

When the application has been received in a completed form as designated by said Rules and Regulations, a copy shall be forwarded to the City Clerk. The stamp of this City Clerk shall designate the date of filing. Copies of the completed application shall be distributed to those boards and departments as specified in the aforementioned Rules and Regulations, which shall include, but not be limited to, the Director of Traffic and Parking.

Staff to the Board of Appeals and the Planning Board may, within thirty-five (35) days of their receipt of a completed application, transmit to the appropriate SPGA a report or recommendations accompanied by such material, maps or plans as will aid the SPGA in judging the application and in determining special conditions and safeguards. The SPGA shall not take final action on the application until either a report from the staff is received or the expiration of such thirty-five (35) days.

(Ord. No. 2011-02, § 5, 2-10-2011)

*5.3.2. Notification.* The SPGA shall give due notice of the date, time, and place of its public hearing required under Section 5.3.3 by:

- a. 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
- b. Mailing notice to all "parties in interest" as defined in Article 2 of this Ordinance; and
- c. Mailing notice to all "neighbors" (i.e. property owners; see definition for "neighbor" in Article 2) within two hundred (200) feet of the legal boundaries of a subject property in the case of special permit or special permit with design review applications, and to all "neighbors" within three hundred (300) feet of a subject property in the case of special permit with site plan review applications; and



- d. Posting notice in a conspicuous place in the City Hall for a period of not less than fourteen (14) days before the d. hearing.

**Note—** § 5.3.2, items "b" and "c", were amended by Ordinance 1991-10 on August 22, 1991.

*5.3.3. Public Hearing, Receipt of Recommendations.* Except as hereinafter provided, the SPGA shall hold a public hearing on the application, as provided in M.G.L. Chapter 40A, Section 9 and also meeting the notification requirements of Section 5.3.2 above, within sixty-five (65) days after the filing of a complete application and, except as hereinafter provided, shall take final action on an application within ninety (90) days after the hearing. The applicant may grant permission for the SPGA to extend the required timeframe before which the SPGA must provide notice and open a public hearing. The SPGA shall not make a decision on an application for a special permit or special permit with site plan review until boards, commissions and departments which have been notified have submitted reports or recommendations thereon or if reports are not received, until thirty-five (35) days have elapsed since receipt by such boards or agencies of the application. Failure of any such board or agency to make recommendations within said thirty-five (35) days shall be deemed lack of opposition thereto.

**Note—** § 5.3.3 was amended by Ordinance 1991-10 on August 22, 1991.

(Ord. No. 2011-02, § 6, 2-10-2011)

*5.3.4. Extension of Time for Action, Leave to Withdraw.* The period within which final action shall be taken may be extended for a definite period by mutual consent of the SPGA and the applicant. In the event the SPGA determines that the plans and evidence included with the application or presented to it at the public hearing are inadequate to permit the SPGA to make a finding and determination, in its discretion, instead of denying the application, it may:

- (a) Adjourn the hearing to a later date to permit the applicant to submit a revised site plan and further evidence, provided, however, that such adjournment shall not extend the ninety (90) day period within which final action shall be taken by the SPGA, unless said period is extended to a day certain by mutual consent. In such case, the applicant shall bear the cost of readvertising the continuance and renotification of the property owners; or
- (b) Grant a leave to withdraw without prejudice so that the applicant may submit a revised application which shall not be considered as a repetitive petition. Such revised application shall be treated as a new application in accordance with Section 5.3.1.

*5.3.5. Decision of the SPGA.* The SPGA may grant, grant with conditions, deny, or grant a leave to withdraw an application for a special permit or a special permit with site plan review. A decision to grant, or grant with conditions, shall cite the specific section of this Ordinance which refers to the granting of a special permit or special permit with site plan review and shall incorporate by reference the plans which have been filed with the application. A copy of the decision shall be filed with the City Clerk and shall be furnished to the applicant, to all parties in interest, and to every person present at the hearing who requested that notice be sent to him/her and stated the address to which the notice was to be sent.

Any person aggrieved by a decision of the SPGA may file an appeal to a court of the Commonwealth by bringing an action within twenty (20) days of the date the decision was filed with the City Clerk, as provided for in M.G.L. Chapter 40A, Section 17.

An Applicant is not entitled to a special permit or a special permit with site plan review and the SPGA, in its discretion, may decline to grant the special permit if it is unable to make a positive finding and determination as required in this Article.

The Applicant shall be responsible for filing in the Registry of Deeds, or, where applicable, in the Land Court of the Commonwealth, a copy of the City Clerk certified decision of the SPGA granting a special permit or special permit with site plan review. Prior to the issuance of a building permit, the applicant shall present to the Superintendent of Inspectional Services evidence of such recording.

(Ord. No. 2011-02, § 7, 2-10-2011)

4. Implementation of measures to prevent the pollution of surface and groundwater, minimize erosion and se or recharge groundwater levels, reduce the amount and velocity of surface run-off, and minimize the poten
5. Screening of storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses.

#### 5.4.8. Revisions.

- A. Proposed revisions to an approved design and site plan shall be submitted to the Planning Director.
- B. The Planning Director shall determine if the proposed revision is equivalent to a minor or major amendment to the previously approved design and site plan within five (5) business days of receipt of a revised design and site plan application.
  1. Upon a determination that the proposed revision is a minor amendment, the Planning Director shall approve or deny the proposed revisions in writing. Upon denial, the applicant may appeal the decision of the Planning Director to the Planning Board.
  2. Upon a determination that the proposed revision is a major amendment, the Planning Director shall notify, in writing, the applicant and the Planning Board of the determination and the applicant shall submit the proposed revisions to the Planning Board as a new design and site plan submission according to the requirements of §5.4.4.
- C. When considering a revised design and site plan application, review by the Planning Board shall be limited to the proposed revision to the previously approved plan.

(Ord. No. 2013-11, App. B, 11-26-2013)

#### Section 5.5. - Variances.

*5.5.1. Purpose.* The purpose of this Section is to grant variances from the terms of this Ordinance where the standards for granting variances as set forth in M.G.L. Chapter 40A, Section 10 are met by the Applicant.

*5.5.2. Application and Notice for Variances.* All requests for a variance shall be filed with the Board of Appeals. All papers, plans, statements, photographs, or other material having a direct bearing upon the request shall be forwarded to the Board of Appeals along with such notice. Upon receipt of a request for a variance, the Board of Appeals shall forthwith hold a public hearing at which time all parties-in-interest, including but not limited to the applicant, abutters and abutters-to-abutters of the property at issue, members of the Board of Aldermen, the Mayor and the Superintendent of Inspectional Services, may give testimony. Staff to the Board of Appeals may, no later than the date of the public hearing on the request for a variance, transmit to the Board of Appeals a report and recommendations with respect to said request.

(Ord. No. 2011-02, § 8, 2-10-2011)

*5.5.3. Authorization and Conditions for Variances.* A variance from the requirements of this Ordinance may be authorized by the Board of Appeals only for reasons of practical difficulty and substantial hardship, and only where the Board finds that all of the following conditions apply:

- (a) There are special circumstances relating to soil conditions, shape or topography of land or structures which especially affect such land or structures but not affecting generally the zoning district in which it is located, causing a substantial hardship, financial or otherwise.
- (b) The specific variance as may be granted by the Board is the minimum variance that will grant reasonable relief to the owner, and is necessary for a reasonable use of the building or land.
- (c) The granting of the variance will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In addition to considering

the character and use of the nearby buildings, the Board, in making its findings, shall take into account the number of persons residing or working in such buildings or upon such land, and the present and probable future traffic conditions.

In approving a variance the Board may attach such conditions and safeguards as are deemed necessary to protect the neighborhood, public health, safety, and welfare. In addition, such conditions and safeguards shall be related to the purpose and provisions of this Ordinance such that the approved deviation from a strict standard of this Ordinance still allows for compliance with the general intent for such standard.

Sec. 2-44. - Public hearing notice given by city clerk.

Whenever any petition is filed with the city clerk on which a hearing before the board of aldermen is required, he or she shall cause notice to be given of such hearing to be held at the next convenient regular meeting of the board.

(Code 1963, § 3-30)

Sec. 2-45. - Public hearing notice paid by petitioner.

Before a notice of a hearing before the board of aldermen is given, the petitioner shall deposit with the city clerk a sum of money sufficient to pay the expense of such notice.

(Code 1963, § 3-31)

Sec. 2-46. - Public hearing publication requirements.

In such case where it is provided by law or by ordinance that notice of a hearing before the board of aldermen shall be given by publication, such notice shall be published in a weekly newspaper published in the city, if any, or in a daily newspaper published in the city, if any.

(Code 1963, § 3-32)