

# Article 11. Administration & Approvals

<b>11.1 Review Bodies and Administrators.....</b>	<b>11-2</b>		
11.1.1 Establishment	11-2	11.5.7 Phasing	11-56
11.1.2 Powers and Duties	11-2	11.5.8 Submittals	11-56
<b>11.2 Common Procedures .....</b>	<b>11-6</b>	11.5.9 Approval Standards	11-58
11.2.1 Application	11-6	11.5.10 Waivers	11-59
11.2.2 Notice	11-7	11.5.11 Modifications to Approved Plats	11-59
11.2.3 Public Hearing	11-9	11.5.12 Filing	11-59
11.2.4 Filing	11-9	11.5.13 Expiration	11-59
<b>11.3 Zoning Approvals .....</b>	<b>11-10</b>	11.5.14 Survey Monuments	11-59
11.3.1 Text Amendment	11-10	11.5.15 Reservation of Parkland	11-60
11.3.2 Zoning Map Amendment	11-12	11.5.16 Required Improvements	11-60
11.3.3 Special Use Permit	11-14	11.5.17 Building Permits	11-61
11.3.4 Adaptive Reuse Permit	11-17		
11.3.5 Zoning Variance	11-20		
11.3.6 Minor Site Plan Review	11-23		
11.3.7 Major Site Plan Review	11-26		
11.3.8 Planned Unit Development	11-30		
11.3.9 Sign Permit	11-34		
11.3.10 Temporary Use Permit	11-36		
11.3.11 Written Interpretation	11-38		
11.3.12 Administrative Appeal	11-40		
<b>11.4 Right-Of-Way Approvals.....</b>	<b>11-42</b>		
11.4.1 Encroachment Permit	11-42		
11.4.2 Curb Cut Permit	11-45		
11.4.3 Right-of-Way Work Permit	11-47		
11.4.4 Tree Work Permit	11-49		
11.4.5 Thoroughfare Plan	11-51		
<b>11.5 Subdivision Approvals .....</b>	<b>11-53</b>		
11.5.1 Description	11-53		
11.5.2 Initiation	11-53		
11.5.3 Authority	11-53		
11.5.4 Classification	11-53		
11.5.5 Pre-Application Conference	11-53		
11.5.6 Procedure	11-54		

## 11.1 REVIEW BODIES AND ADMINISTRATORS

This section describes the powers and duties of the review bodies and ordinance administrators. A review body is a body of the City of Buffalo that exercises decision-making authority or makes recommendations, pursuant to this Ordinance. An ordinance administrator is an official of the City of Buffalo that exercises regulatory authority, makes recommendations, provides staff support, and/or has duties, pursuant to this Ordinance.

### 11.1.1 Establishment

Review bodies and ordinance administrators are established by the City Charter, except as follows:

- A.** The Zoning Board of Appeals is established by Article 13 of this Ordinance.
- B.** The Zoning Administrator is designated by the Executive Director of Strategic Planning, established by the City Charter

### 11.1.2 Powers and Duties

Table 11A: Application Review summarizes which review body and/or ordinance administrator makes recommendations or decisions on each application. Specific powers and duties for each review body and ordinance administrator are detailed below.

- A. Common Council.** The Common Council has the following powers, pursuant to this Ordinance:
  - 1.** To hear and make decisions on text amendments.
  - 2.** To hear and make decisions on Zoning Map amendments.
  - 3.** To hear and make decisions on special use permits.
  - 4.** To hear and make decisions on adaptive reuse permits.
  - 5.** To hear and make decisions on planned unit developments.

- 6.** To review and make decisions on major encroachment permits.

- B. City Planning Board.** The City Planning Board has the following powers, pursuant to this Ordinance:

- 1.** To make recommendations to the Common Council on text amendments.
- 2.** To make recommendations to the Common Council on Zoning Map amendments.
- 3.** To make recommendations to the Common Council on special use permits.
- 4.** To make recommendations to the Common Council on adaptive reuse permits.
- 5.** To hear and make decisions on major site plan review.
- 6.** To make recommendations to the Common Council on planned unit developments.
- 7.** To make recommendations to the Commissioner of Public Works, Parks, and Streets on thoroughfare plans.
- 8.** To hear and make decisions on minor subdivisions and major subdivisions.

- C. Zoning Board of Appeals.** The Zoning Board of Appeals has the following powers, pursuant to this Ordinance:

- 1.** To hear and make decisions on zoning variances.
- 2.** To hear and make decisions on administrative appeals.

- D. Zoning Administrator**

- 1.** The Zoning Administrator, or his/her designee, has the following powers and duties, pursuant to this Ordinance:
  - a.** To review and make decisions on minor site plan review.
  - b.** To make recommendations to the Commissioner of Permit and Inspection Services on written interpretations.

2. The Zoning Administrator, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications and review applications for completeness for all matters decided by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals.
  - b. To staff pre-application conferences and, if required, arrange for public notice for matters reviewed by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals.
  - c. To maintain permanent and current records, as required by law, regarding all matters reviewed by the Zoning Administrator, City Planning Board, and Zoning Board of Appeals, and to file decisions with the City Clerk.
  - d. To furnish annual reports on the performance of this Ordinance.

**E. Commissioner of Permit and Inspection Services**

1. The Commissioner of Permit and Inspection Services, or his/her designee, has the following powers, pursuant to this Ordinance:
  - a. To review and make decisions on sign permits.
  - b. To review and make decisions on temporary use permits.
  - c. To make decisions on written interpretations.
  - d. To review and make decisions on exempt alteration of lots.
2. The Commissioner of Permit and Inspection Services, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications, review applications for completeness, and staff

pre-application conferences all matters reviewed by the Commissioner of Permit and Inspection Services.

- b. To register, and identify all required City approvals for, projects requiring an application under this Ordinance.
- c. To maintain permanent and current records, as required by law, regarding all matters decided by the Commissioner of Permit and Inspection Services.
- d. To verify compliance of all applications with the rules and procedures of this Ordinance, including any conditions on approvals imposed by the Common Council, City Planning Board, or Zoning Board of Appeals, concurrent with the issuance of a building permit or certificate of occupancy.
- e. To conduct inspections of structures, uses, and land to determine compliance with this Ordinance and, in the case of any violation, to order corrective action.

**F. Commissioner of Public Works, Parks, and Streets**

1. The Commissioner of Public Works, Parks, and Streets, or his/her designee, has the following powers, pursuant to this Ordinance:
  - a. To review and make decisions on minor encroachment permits.
  - b. To review and make recommendations to the Common Council on major encroachment permits.
  - c. To review and make decisions on curb cut permits.
  - d. To review and make decisions on right-of-way work permits.
  - e. To review and make decisions on tree work permits.
  - f. To review and make decisions on thoroughfare plans.

2. The Commissioner of Public Works, Parks, and Streets, or his/her designee, has the following administrative duties, pursuant to this Ordinance:
  - a. To receive applications, review applications for completeness, staff pre-application conferences for all matters reviewed by the Commissioner of Public Works, Parks, and Streets.
  - b. To maintain permanent and current records, as required by law, regarding all matters reviewed by the Commissioner of Public Works, Parks, and Streets.
  - c. To conduct inspections of City rights-of-way and City parks to determine compliance with this Ordinance and, in the case of any violation, to order corrective action.

**G. City Clerk.** The City Clerk, or his/her designee, has the following administrative duties, pursuant to this Ordinance:

1. To receive applications, review applications for completeness, and, if required, arrange for public notice for all matters decided by the Common Council.
2. To maintain permanent and current records, as required by law, regarding all matters decided by the Common Council, and to file decisions of the Common Council.
3. To receive and record all decisions and certificates related to this Ordinance, as required by law.
4. To maintain and make available the official copies of the Unified Development Ordinance and Zoning Map.

TABLE 11A: APPLICATION REVIEW

APPLICATION	SCOPE	RECOMMENDATION	DECISION
Text Amendment	Approve change to UDO text	City Planning Board	Common Council
Zoning Map Amendment	Approve change to Zoning Map	City Planning Board	Common Council
Special Use Permit	Approve uses that require discretionary review	City Planning Board	Common Council
Adaptive Reuse Permit	Permit additional uses for qualifying historic structures	City Planning Board	Common Council
Zoning Variance	Grant relief from zone regulations		Zoning Board of Appeals
Minor Site Plan Review	Review minor development applications for compliance		Zoning Administrator
Major Site Plan Review	Review major development applications for compliance		City Planning Board
Planned Unit Development	Approve planned unit developments	City Planning Board	Common Council
Sign Permit	Approve an application for a sign		Commissioner of Permit and Inspection Services
Temporary Use Permit	Authorize an application for a temporary use and/or structure		Commissioner of Permit and Inspection Services
Written Interpretation	Interpret Ordinance standards	Zoning Administrator	Commissioner of Permit and Inspection Services
Administrative Appeal	Appeal a decision of an Ordinance administrator		Zoning Board of Appeals
Minor Encroachment Permit	Approve an application for a minor encroachment into the public right-of-way		Commissioner of Public Works, Parks, and Streets
Major Encroachment Permit	Approve an application for a major encroachment into the public right-of-way	Commissioner of Public Works, Parks, and Streets	Common Council
Curb Cut Permit	Approve an application for a curb cut		Commissioner of Public Works, Parks, and Streets
Right-of-Way Work Permit	Approve an application for work or activity within an existing or proposed public right-of-way		Commissioner of Public Works, Parks, and Streets
Tree Work Permit	Approve an application for planting, pruning, removal, and/or protection of trees in a public park or public right-of-way		Commissioner of Public Works, Parks, and Streets
Thoroughfare Plan	Review plans for new or reconstructed thoroughfares	City Planning Board	Commissioner of Public Works, Parks, and Streets
Minor Subdivision	Approve division of lot into up to nine lots, or consolidation of up to nine lots		City Planning Board
Major Subdivision	Approve all other divisions and consolidations of land		City Planning Board

## 11.2 COMMON PROCEDURES

### 11.2.1 Application

#### A. Registration

1. All projects for which an application is required under this Ordinance must be registered with the Department of Permit and Inspection Services. All approvals required under this Ordinance will be identified and all appropriate application forms will be available, upon registration.

#### B. Filing

1. All applications must be submitted to the appropriate ordinance administrator on forms provided by the Department of Permit and Inspection Services.
2. Prior to formal submittal of an application, the applicant may request a pre-application conference with the appropriate ordinance administrator. The purpose of the pre-application conference, which does not require a formal application or fees, is to provide informal advice and assistance to the applicant. Any opinions or advice provided are not binding with respect to any official action that may be taken on the application. In the case of a major subdivision application, the pre-application conference is mandatory.

#### C. Fees

1. Upon formal submittal of an application, any applicable fees must be paid in accordance with Chapter 175 of the City Code. Fees are required for the following applications:
  - a. Zoning Map Amendment
  - b. Special Use Permit
  - c. Adaptive Reuse Permit
  - d. Zoning Variance
  - e. Minor Site Plan Review
  - f. Major Site Plan Review

- g. Planned Unit Development
- h. Temporary Use Permit
- i. Administrative Appeal
- j. Encroachment Permit
- k. Curb Cut Permit
- l. Right-of-Way Work Permit
- m. Exempt Alteration of Lots
- n. Minor Subdivision
- o. Major Subdivision

#### D. Determination of Completeness

1. The application will be examined by the appropriate ordinance administrator within 14 days of submittal. If the appropriate ordinance administrator finds that the application does not include all submittal requirements and is incomplete, the application will be rejected, accompanied by a written statement establishing the reasons for the rejection.
2. An application is not considered complete until all necessary forms, including forms relevant to the SEQRA process, are completed and all fees are paid, including fees for costs incurred by the City for notice.

#### E. Substantive Changes

1. After an application is determined to be complete, any substantive change made by the applicant may require re-submittal of the entire application and a determination of completeness. If the appropriate ordinance administrator determines an application re-submittal, in whole or part, is necessary, the payment of additional fees is not required.
2. Once the application is under consideration by the appropriate review body, additional information or revisions requested during review do not constitute a substantive change to the application.

TABLE 11B: NOTICE

APPLICATION	PUBLISHED NOTICE	MAILED NOTICE	POSTED NOTICE
Text Amendment	●		
Zoning Map Amendment	●	●	●
Special Use Permit	●	●	●
Adaptive Reuse Permit	●	●	●
Zoning Variance	●	●	●
Minor Site Plan Review <sup>1</sup>			●
Major Site Plan Review	●	●	●
Planned Unit Development	●	●	●
Thoroughfare Plan	●		
Administrative Appeal <sup>2</sup>	●	●	
Minor Subdivision	●		
Major Subdivision	●		●

● Required

1. Posted notice for a minor site plan review is required only for new construction of a principal building in an N-2C, N-2E, N-3C, or N-3E zone.

2. Mailed notice for an administrative appeal is required only if it was required for the original application.

**F. Agency Reports.** After an application is determined to be complete, it will be scheduled for consideration by the appropriate review body. The application may be forwarded to the Buffalo Sewer Authority, Buffalo Water Board, and Commissioner of Public Works, Parks, and Streets, if applicable, for a report. Reports from these agencies must be forwarded to the appropriate review body within 14 days of the determination of completeness.

**G. Withdrawal.** An application may be withdrawn at any time prior to the final decision on the application. The applicant is not eligible for a refund of fees. Requests for withdrawal must be made in writing by the applicant to the appropriate ordinance administrator.

**H. Successive Applications**

1. A disapproved application may not be reconsidered for a minimum of one year from the date of denial, unless substantial new evidence is submitted by the applicant, or a significant mistake of law or of fact was made in the prior disapproval, that justifies reconsideration of the application. If the application is resubmitted earlier than one year from the date of disapproval, the subsequent application must include a detailed statement of the grounds justifying its consideration.
2. If the appropriate ordinance administrator finds that there are no new grounds for consideration of the application, he/she will summarily, and without hearing, deny the request.

**11.2.2 Notice**

Table 11B: Notice summarizes which types of applications require published, mailed, and posted notice. If an application is not listed, this indicates notice is not required for that application.

**A. Published Notice**

1. The appropriate ordinance administrator is responsible for published notice.
2. When published notice is required, it must be published at least ten days prior to the date of the required public hearing or meeting in an official newspaper or a newspaper of general circulation in the City.
3. The published notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. The current zone of the subject property, if applicable.
  - c. A legal description or street address of the subject property, if applicable.
  - d. The time, date, and location of the public hearing or meeting.

- e. A phone number and email address to contact the City for information.
- f. A statement that interested parties may appear at the public hearing or meeting.
- g. If additional information is available online, the appropriate website address.

**B. Mailed Notice**

1. The appropriate ordinance administrator is responsible for mailed notice.
2. When mailed notice is required, it must be mailed at least ten days prior to the public hearing or meeting. Mailed notice must be sent by first class mail to the property owner of the subject property, as well as all property owners within 400 feet of the property line of the subject property. The mailed notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. The current zone of the subject property.
  - c. A legal description or street address of the subject property.
  - d. The time, date, and location of the public hearing or meeting.
  - e. A phone number and email address to contact the City for information.
  - f. A statement that interested parties may appear at the public hearing or meeting.
  - g. If additional information is available online, the appropriate website address.

**C. Posted Notice**

1. The applicant is responsible for posted notice. Signs for posting must be a minimum of 12 square feet in area and should be clearly visible from and, where possible, within 10 feet of the principal thoroughfare.
2. When posted notice is required, it must be

posted on the property at least ten days prior to the public hearing and removed upon the closing of the public hearing. In the case of a Minor Site Plan Review, notice must be posted on the property at least 10 days prior to the date that the Zoning Administrator makes a decision and removed once a decision has been made. When an application involves multiple properties, signs must be placed in all locations determined by the appropriate ordinance administrator.

3. The posted notice must include:
  - a. A description of the application type and brief summary of the approval sought.
  - b. A phone number and email address to contact the City for information.
  - c. If additional information is available online, the appropriate website address.

**D. Electronic Notice.** To the extent practicable, electronic notice by website and/or email will be provided by the appropriate ordinance administrator. Electronic notice is considered a courtesy, and any defect in or failure to provide electronic notice is not a basis for declaring any decision invalid.

**E. Additional Notice.** Notice given pursuant to this section does not prevent the applicant from giving any additional notice he/she may deem appropriate.

**F. Notice Defects.** Minor defects in notice do not impair the notice or invalidate proceedings if a bona fide attempt has been made to comply with applicable notice requirements.

**G. Post-Notice Examination.** After notice is given as required in this section and prior to any decision being made on the application, any person may, upon reasonable request, examine the application and all related documents on file with the appropriate ordinance administrator pertaining to the subject matter of the notice. Any person is entitled to copies of the application and documents upon reasonable request and



payment of a fee, as established in the City Code, to cover the cost of such copies.

**11.2.3 Public Hearing**

Table 11C: Public Hearing summarizes which types of applications require a public hearing. If an application is not listed, this indicates that a public hearing is not required for that application.

- A. Conduct of the Public Hearing.** The public hearing will be conducted in accordance with any and all applicable requirements of the General City Law and the rules and regulations of the body conducting the hearing.
- B. Continuances.** The body conducting the hearing, upon a majority vote of its members, may continue a public hearing. No new notice is required to reopen the public hearing if the hearing is continued to a date specific, provided that a public announcement of the future date, time, and place of the continued hearing is made at the first hearing and recorded in the minutes.

**11.2.4 Filing**

Decisions will be filed by the appropriate ordinance administrator, as required by law, with the Office of the City Clerk within five business days after the decision is made, with a copy mailed to the applicant.

TABLE 11C: PUBLIC HEARING

APPLICATION	CITY PLANNING BOARD	ZONING BOARD OF APPEALS	COMMON COUNCIL
Text Amendment			●
Zoning Map Amendment			●
Special Use Permit			●
Adaptive Reuse Permit			●
Zoning Variance		●	
Major Site Plan Review	●		
Planned Unit Development			●
Administrative Appeal		●	
Minor Subdivision	●		
Major Subdivision	●		

● Required

TEXT AMENDMENT



## 11.3 ZONING APPROVALS

### 11.3.1 Text Amendment

- A. Description.** A text amendment allows for amendment of the regulations imposed by this Ordinance in response to changed conditions or changes in City policy.
- B. Initiation**
  1. The Common Council, City Planning Board, Executive Director of Strategic Planning, Commissioner of Permit and Inspection Services, or Commissioner of Public Works, Parks, and Streets may initiate a text amendment.
  2. A property owner may petition the City to initiate a text amendment.
  3. The property owners of fifty percent or more of the frontage in any zone or part thereof may present a petition duly signed and acknowledged, to the Common Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof.
- C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for text amendments.
- D. Procedure**
  1. A text amendment application must be filed with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
  2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.

3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed text amendment. Notice of the public hearing is required in accordance with Section 11.2.2.
4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application.
5. If a protest of the proposed text amendment is presented to the Common Council a minimum of 24 hours before the scheduled public hearing, approval of the amendment requires a three-fourths vote of the Common Council. The protest must be signed by the property owners of 20% or more of the area of land included in the proposed change, or the property owners of 20% or more of the area of land immediately adjacent to the land included in the proposed change, or the property owners of 20% or more of the area of land immediately across a public right-of-way and within 100 feet of the land included in the proposed change.

**E. Approval Standards.** A text amendment is a matter of legislative discretion that is not controlled by any one of the following standards, but rather on a balancing of these standards. The City Planning Board must make written findings of fact on, and the Common Council must consider, the following criteria:

1. The proposed text amendment is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed text amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
3. The proposed text amendment does not create an undue number of nonconformities.
4. The proposed text amendment promotes the public health, safety, and welfare of the City.

MAP AMENDMENT



11.3.2 Zoning Map Amendment

**A. Description.** A Zoning Map amendment allows for amendment of the Zoning Map in response to changed conditions or changes in City policy.

**B. Initiation**

1. The Common Council, City Planning Board, or Executive Director of Strategic Planning may initiate a Zoning Map amendment.
2. A property owner, or person expressly authorized by the property owner in writing, may initiate a Zoning Map amendment for his/her property.
3. The property owners of fifty percent or more of the frontage in any zone or part thereof may present a petition duly signed and acknowledged, to the Common Council, requesting an amendment, supplement, change or repeal of the regulations prescribed for such zone or part thereof.

**C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a Zoning Map amendment.

**D. Procedure**

1. A Zoning Map amendment application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of receipt of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed

Zoning Map amendment. Notice of the public hearing is required in accordance with Section 11.2.2.

4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application.
5. If a protest of the proposed Zoning Map amendment is presented to the Common Council a minimum of 24 hours before the scheduled public hearing, approval of the amendment requires a three-fourths vote of the Common Council. The protest must be signed by the property owners of 20% or more of the area of land included in the proposed change, or the property owners of 20% or more of the area of land immediately adjacent to the land included in the proposed change, or the property owners of 20% or more of the area of land immediately across a public right-of-way and within 100 feet of the land included in the proposed change.

**E. Approval Standards.** A Zoning Map amendment is a matter of legislative discretion that is not controlled by any one of the following standards, but rather on a balancing of these standards. The City Planning Board must make written findings of fact on, and the Common Council must consider, the following criteria:

1. The proposed Zoning Map amendment is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed Zoning Map amendment is compatible with the existing form, pattern, use, and zoning of nearby property.
3. The proposed Zoning Map amendment corrects an error or omission, adds clarification to existing requirements, or reflects a change in policy.
4. The proposed Zoning Map amendment is consistent with the trend of development, if any, in the general area of the property in question.

5. The proposed Zoning Map amendment promotes the public health, safety, and welfare of the City.

**SPECIAL USE PERMIT**



**11.3.3 Special Use Permit**

- A. Description.** A special use permit allows certain uses that have increased potential for incompatibility in a zone to be carefully reviewed to determine, against fixed standards, whether their establishment on any given site should be allowed. These uses may or may not be appropriate in a particular location depending on a weighing, in each case, of the public need and benefit against the local impact and effect.
- B. Initiation.** A property owner, or person expressly authorized by the property owner in writing, may initiate a special use permit.
- C. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a special use permit.
- D. Procedure**
  - 1.** A special use permit application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
  - 2.** Within 30 days of receipt of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
  - 3.** Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed special use permit. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 4.** Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.

**E. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council decision must consider, the following criteria:

1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed use will be established, maintained, and operated so as to not endanger the public health, safety, or welfare.
3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.
4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affects the surrounding area.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

**F. Conditions.** In granting a special use permit, reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit may be imposed. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the special use permit.

**G. Modifications to Approved Permits.** No use allowed

by a special use permit may be enlarged or increased in intensity without approval of a new special use permit. The Commissioner of Permit and Inspection Services may, however, allow for an exception to this restriction for the following cases:

1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval, but encountered during construction.
2. An increase in gross floor area of 10% or less, so long as the increase in gross floor area does not exceed the maximum gross floor area requirement, if any, of the zone in which the project is located.
3. The addition of any accessory structure customarily found in association with the use allowed by the special use permit.

**H. Expiration**

1. The special use permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Common Council may extend the time for expiration of an approved special use permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk within the original period of validity.
3. Any use approved by a special use permit, that ceases operation for a continuous period of one year, will be considered abandoned and the special use permit will thereby expire.

**I. Revocation**

1. The Common Council may revoke a special use permit after finding that any one of the following has occurred:
  - a. The licenses or permits required for the

operation or maintenance of the use are terminated.

- b.** Any of the provisions of this Ordinance or any of the conditions and restrictions of the special use permit are violated.
- 2.** The Common Council must hold a public hearing to confirm the revocation of the special use permit. Notice for the public hearing is required in accordance with Section 11.2.2, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.



ADAPTIVE REUSE PERMIT



11.3.4 Adaptive Reuse Permit

- A. Description.** An adaptive reuse permit allows for certain historic buildings to be adapted for new uses that may not otherwise be allowed in the zone.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate an adaptive reuse permit.
- C. Applicability.** The applicant is eligible to apply for an adaptive reuse permit only if both of the following criteria are met:
  - 1.** The application applies to a building of at least 5,000 square feet in gross floor area; and that is a local landmark or is a contributing structure to a local historic district, or is listed on, or determined by the State Office of Historic Preservation to be individually eligible for, the National Register of Historic Places, or is a contributing structure to a National Register historic district.
  - 2.** The application seeks approval for any use allowed within the Ordinance, with the exception of the following uses: halfway house; rooming house/S.R.O.; adult establishment; car wash; drive-through facility; gas station; human service facility; kennel; retail and service, heavy; vehicle repair, major or minor; industrial, light or heavy; junk/salvage yard; recycling facility; storage yard; vehicle rental or sales; warehouse/distribution; waste transfer station; freight terminal; heliport; helipad; parking lot, commercial or neighborhood; parking structure; railway facilities; stables; truck stop; and utilities and services, minor and major.
- D. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for an adaptive reuse permit.

**E. Procedure**

1. An adaptive reuse permit application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined that the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
3. Within 62 days of the determination of completeness, the Common Council must hold a public hearing on the proposed adaptive reuse permit. Notice of the public hearing is required in accordance with Section 11.2.2.
4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.

**F. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council decision must consider, the following criteria:

1. The proposed use is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The proposed use will be established, maintained, and operated so as to not endanger the public health, safety, or welfare.
3. The proposed use will be established, maintained, and operated so as to be harmonious with the surrounding area and will not impede the development, use, and enjoyment of adjacent property in any foreseeable manner.

4. The proposed use will be of a character that does not produce noise, odors, glare, and/or vibration that adversely affect the surrounding area.
5. The proposed use will not place an excessive burden on public improvements, facilities, services, or utilities.
6. The proposed use will not result in the destruction, loss, or damage of any feature determined to be of significant natural, scenic, or historic importance.

**G. Conditions.** In granting an adaptive reuse permit, reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit may be imposed. Such conditions may include, but are not limited to, limits on location, scale, intensity, design, lighting, signs, and hours of operation, or provision for recreation, open space, and buffers and screening. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the adaptive reuse permit.

**H. Modifications to Approved Permits.** No use allowed by an adaptive reuse permit may be enlarged or increased in intensity without approval of a new adaptive reuse permit. The Commissioner of Permit and Inspection Services may, however, allow for an exception to this restriction for the following cases:

1. A minor change due to engineering or other physical site circumstances not foreseen at the time of approval, but encountered during construction.
2. An increase in gross floor area of 10% or less, so long as the increase in gross floor area does not exceed the maximum gross floor area requirement, if any, of the zone in which the project is located.
3. The addition of any accessory structure customarily found in association with the use allowed by the adaptive reuse permit.

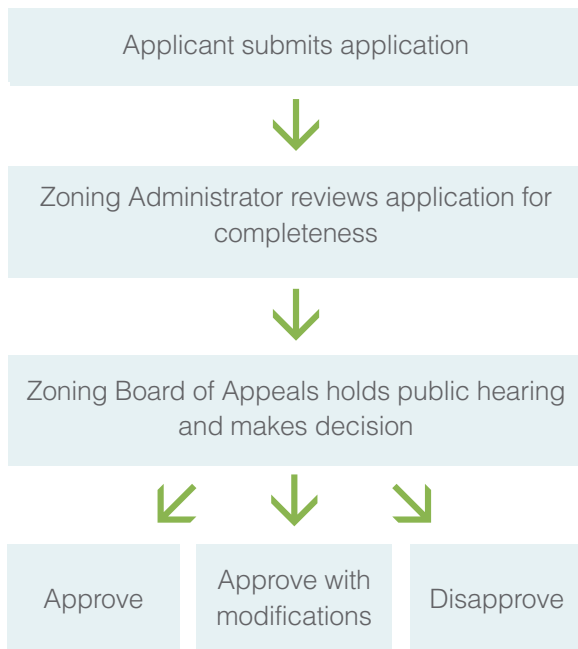
**I. Expiration**

- 1.** The adaptive reuse permit expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
- 2.** The Common Council may extend the time for expiration of an approved adaptive reuse permit for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the City Clerk within the original period of validity.
- 3.** Any use approved by a adaptive reuse permit, that ceases operation for a continuous period of one year, will be considered abandoned and the adaptive reuse permit will thereby expire.

**J. Revocation**

- 1.** The Common Council may revoke an adaptive reuse permit after finding that any one of the following has occurred:
  - a.** The licenses or permits required for the operation or maintenance of the use are terminated.
  - b.** Any of the provisions of this Ordinance or any of the conditions and restrictions of the adaptive reuse permit are violated.
- 2.** The Common Council must hold a public hearing to confirm the revocation of the adaptive reuse permit. Notice for the public hearing is required in accordance with Section 11.2.2, as required for the original approval. The applicant and property owner must be notified of the public hearing. Following the public hearing, the Common Council will make its decision.

ZONING VARIANCE



11.3.5 Zoning Variance

- A. Description.** A zoning variance allows a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create practical difficulties or particular hardships. There are two types of zoning variance:
  - 1. Use Variance.** A use variance is the authorization by the Zoning Board of Appeals for the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning regulations.
  - 2. Area Variance.** An area variance is the authorization by the Zoning Board of Appeals for the use of land in a manner that is not allowed by the dimensional or physical requirements of the applicable zoning regulations.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a zoning variance.
- C. Authority.** The Zoning Board of Appeals must review and take action on zoning variances.
- D. Procedure**
  - 1.** A zoning variance application must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements of Section 11.2.1. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the Zoning Board of Appeals.
  - 2.** Within 62 days of the determination of completeness, the Zoning Board of Appeals must hold a public hearing on the proposed zoning variance. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 3.** Within 62 days of the closing of the public hearing, the Zoning Board of Appeals must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Zoning Board of Appeals.

## E. Approval Standards

### 1. Use Variance

- a.** No use variance may be granted by the Zoning Board of Appeals without making written findings of fact showing that applicable zoning regulations and restrictions have caused the applicant unnecessary hardship. In order to prove such unnecessary hardship, the applicant must demonstrate to the Zoning Board of Appeals that for each and every allowed use under the zoning regulations for the particular zone where the property is located:
  - i.** The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
  - ii.** The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the zone or neighborhood;
  - iii.** The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - iv.** The alleged hardship has not been self-created.
- b.** The Zoning Board of Appeals, in the granting of use variances, must grant the minimum variance deemed necessary and adequate to address the unnecessary hardship proved by the applicant and at the same time preserve and protect the character of the neighborhood and the public health, safety, and welfare.

### 2. Area Variance

- a.** In making its determination, the Zoning Board of Appeals must make written findings of fact that take into account the benefit to the applicant if the variance

is granted as weighed against the detriment to the public health, safety, and welfare by the approval of the variance. In making this determination the Zoning Board of Appeals must also consider:

- i.** Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
  - ii.** Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.
  - iii.** Whether the requested area variance is substantial.
  - iv.** Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone.
  - v.** Whether the alleged difficulty was self-created, which consideration must be relevant to the decision of the Zoning Board of Appeals, but does not necessarily preclude the granting of the variance.
- b.** The Zoning Board of Appeals, in the granting of area variances, must grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety, and welfare of the community.
- F. Conditions.** In granting a zoning variance, the Zoning Board of Appeals may impose reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.
- G. Rehearing.** An aggrieved party may petition for a rehearing of a matter on which the Zoning Board

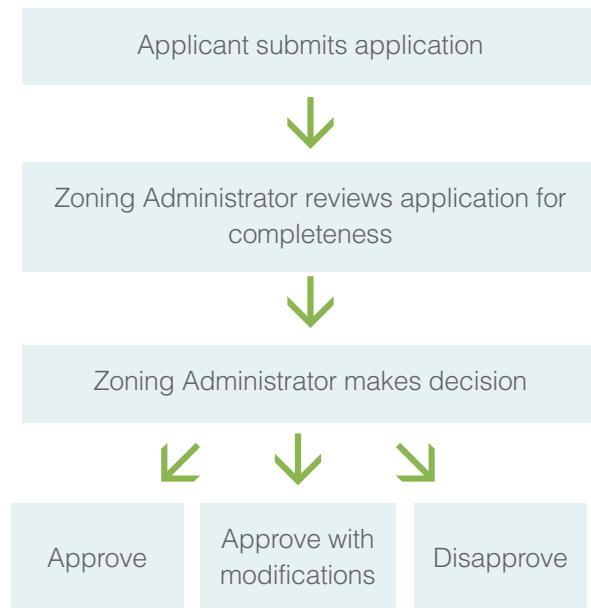
of Appeals has already once made a decision. A motion for the Zoning Board of Appeals to hold a rehearing to review such an order, decision, or determination, not previously reheard, may be made by any member of the Zoning Board of Appeals. Rehearings may only take place as follows:

1. A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur.
2. A rehearing is subject to the same notice provisions as an original hearing.
3. Upon a rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination only upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

#### H. Expiration

1. The zoning variance expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Zoning Board of Appeals may extend the time for expiration of an approved zoning variance for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the Zoning Administrator within the original period of validity.
3. Any use approved by a variance, that ceases operation for a continuous period of one year, will be considered abandoned and the variance will thereby expire.

MINOR SITE PLAN REVIEW



11.3.6 Minor Site Plan Review

- A. Description.** Minor site plan review allows for review of the site design of routine development applications that are eligible to be processed administratively.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a minor site plan review.
- C. Applicability.** Minor site plan review is required prior to a building permit being issued for any development project which meets or exceeds the below thresholds. In no case, however, does it apply to applications which are subject to major site plan review.
  1. New construction of a principal building.
  2. A 2,500 square foot or more increase in gross floor area to an existing principal building.
  3. Substantial renovation of any principal building which is at least 10,000 square feet in gross floor area, other than a principal building in the D-S, D-C, D-IL, D-IH, or C-R zones.
  4. Substantial facade alteration to the front or corner side facades of a principal building, other than:
    - a. A single-unit or double-unit dwelling.
    - b. A principal building in the D-S, D-C, D-IL, D-IH, or C-R zones.
  5. New construction or reconstruction of a parking lot of between six and 49 spaces.
  6. New construction of a loading area containing up to two loading berths.
- D. Submittals.** Minor site plan review applications must include a site plan, drawn to a scale of at least one inch equals 30 feet, on one or more sheets, stamped by a New York State licensed architect, landscape architect, engineer, or surveyor, that contains the information listed below. The Zoning Administrator may waive submittal requirements for site plans where

such information is not necessary to determine the nature of the development or where the development meets relevant approval criteria.

1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the site plan.
2. Evidence of site control.
3. Date of preparation, clear scale, and north arrow.
4. Statement of intent that describes the project.
5. Project boundaries, including total area of the site.
6. Existing zoning and proposed use.
7. The dimension of lots, property lines, and adjacent rights-of-way on the subject property.
8. Relationship of the subject property to adjacent public infrastructure, including sidewalks, roadways, street lighting, street trees, traffic control devices, right-of-way signs, catch basins and inlets, parks and dedicated open spaces, water and sewer services, and any other structures in the right-of-way.
9. Location of any existing water bodies, wetlands, floodplains, shoreline buffers, steep slopes (slopes in excess of 15%), or federal or state designated significant habitats on and within 200 feet of the site.
10. Location of any designated local, state, or national landmark or historic district on and within 200 feet of the site.
11. Existing and proposed improvements on the site, including structures, easements, vehicular and pedestrian access, landscape, established trees (six inch DBH or more), fences or walls, stormwater facilities, lighting, parking and loading facilities, and signs, as applicable.

12. Detailed architectural drawings, drawn to a scale of at least one inch equals four feet.
13. A landscape plan, if required by this Ordinance.
14. A Stormwater Pollution Prevention Plan (SWPPP), if required by this Ordinance.
15. A lighting plan, if required by this Ordinance.
16. Identification of any necessary federal, state, and county permits required for execution of the project.
17. Such other information as the Zoning Administrator may deem necessary for proper consideration of the application, such as reports or other relevant documentation prepared by appropriate professionals.

**E. Authority.** The Zoning Administrator must review and take action on requests for a minor site plan review.

**F. Procedure**

1. A minor site plan application must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1.
2. Within 30 days of the determination of completeness, the Zoning Administrator must approve, approve with modifications, or disapprove the application. This 30 day period may be extended only by mutual consent of the applicant and the Zoning Administrator, or the Zoning Administrator may direct the applicant to resubmit the application as a major site plan, per the below.
3. The Zoning Administrator may, at his/her discretion, determine that, because of its nature, a proposed minor site plan must be resubmitted as a major site plan to the City Planning Board. No additional fees apply.
4. If the Zoning Administrator approves the site plan subject to certain conditions or



minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**G. Approval Standards.** The Zoning Administrator must make written findings of fact on the following criteria:

1. The project complies with all applicable standards of this Ordinance.
2. The project is sufficiently served by or provides services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department, as applicable.

**H. Conditions.** The Zoning Administrator may grant minor site plan approval with conditions only to the extent that these conditions specify the actions necessary to bring the application into complete compliance with applicable standards of this Ordinance or where additional conditions have been agreed to by the applicant.

**I. Amendments.** Amendments to approved site plans may be approved as follows:

1. Amendment applications must include a written description of the proposed change, including the reason for such change, and a notation of changes on the approved site plan. Amendment applications must be submitted to the Zoning Administrator. A revised site plan need only include those components of the submittal package impacted by the proposed change.
2. Within 30 days of the determination of completeness, the Zoning Administrator must approve, approve with modifications, or disapprove the application.
3. If the Zoning Administrator approves the site plan amendment subject to certain conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**J. Expiration**

1. The site plan expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The Zoning Administrator may extend the time for expiration of an approved site plan for one year upon a showing of good cause by the applicant. A request for extension must be made in writing to the Zoning Administrator within the original period of validity.

**K. Appeals.** An aggrieved party may appeal the minor site plan decision of the Zoning Administrator to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.



**11.3.7 Major Site Plan Review**

- A. Description.** Major site plan review allows for discretionary review of the site configuration and architectural design of projects which, due to their magnitude, are more likely to have significant impacts on their surroundings.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a major site plan review.
- C. Applicability.** Major site plan review is required prior to a building permit being issued for any development project which meets or exceeds the below thresholds.
  1. New construction of a principal building of at least 5,000 square feet in gross floor area, except in a case that involves the construction of only a single unit dwelling or a double unit dwelling.
  2. A 5,000 square foot or more increase in gross floor area to an existing principal building.
  3. New construction of, or additions to, principal buildings to be conducted in phases so that the total gross floor area of all phases combined is at least 5,000 square feet.
  4. New construction of a principal building of the civic building type in a neighborhood zone.
  5. New construction of a principal building on a parcel that is within, directly across a public right-of-way from, or within 150 feet of, a Historic Olmsted Park or Parkway.
  6. Any new construction of a multiple-unit dwelling in an N-2R or N-3R zone.
  7. Substantial renovation of any principal building that is at least 50,000 square feet in gross floor area and that involves a change of use, other than in the D-S, D-C, D-IL, D-IH, or C-R zones.
  8. New construction or reconstruction of a parking lot of at least 50 spaces.

9. New construction of a loading area containing at least three loading berths.
  10. The demolition of a principal building in an N-1D, N-1C, N-1S, N-2C, N-2E, N-3C, N-3E per Section 3.2.1.K.
- D. Submittals.** Major site plan review applications must include a site plan, drawn to a scale of at least one inch equals 30 feet, on one or more sheets, stamped by a New York State licensed architect, landscape architect, engineer, or surveyor, that contains the information listed below. The Zoning Administrator may waive submittal requirements for site plans where such information is not necessary to determine the nature of the development or where the development meets relevant approval criteria.
1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the site plan.
  2. Evidence of site control.
  3. Date of preparation, clear scale, and north arrow.
  4. Statement of intent that describes the project.
  5. Project boundaries.
  6. Existing zoning and proposed use.
  7. The dimension of lots, property lines, and adjacent rights-of-way on the subject property.
  8. Relationship of the subject property to adjacent public infrastructure, including sidewalks, roadways, street lighting, street trees, traffic control devices, right-of-way signs, catch basins and inlets, parks and dedicated open spaces, water and sewer services, and any other structures in the right-of-way.
  9. Context of development within 100 feet of the site, including location and scale of principal buildings, and site ingress and egress points.
  10. Location of any existing water bodies, wetlands, floodplains, shoreline buffers, steep slopes (slopes in excess of 15%), or federal or state designated significant habitats on and within 200 feet of the site.
  11. Location of any designated local, state, or national landmark or historic district on and within 200 feet of the site.
  12. Existing and proposed improvements on the site, including structures, easements, vehicular and pedestrian access, landscape, established trees (six inch DBH or more), fences or walls, stormwater facilities, lighting, parking and loading facilities, and signs, as applicable.
  13. Detailed architectural drawings, drawn to a scale of one inch equals four feet, including proposed building materials.
  14. A landscape plan, if required by this Ordinance.
  15. A Stormwater Pollution Prevention Plan (SWPPP), if required by this Ordinance.
  16. A lighting plan, if required by this Ordinance.
  17. A Transportation Demand Management (TDM) plan, if required by this Ordinance.
  18. Identification of any necessary federal, state, and county permits required for execution of the project.
  19. Such other information as the Zoning Administrator or City Planning Board may deem necessary for proper consideration of the application, such as reports or other relevant documentation prepared by appropriate professionals.
- E. Authority.** The City Planning Board must review and take action on requests for a major site plan review.
- F. Procedure**
1. A major site plan review application must be

filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the City Planning Board.

2. Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed major site plan. Notice of the public hearing is required in accordance with Section 11.2.2.
3. Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the City Planning Board.
4. If the City Planning Board approves the site plan subject to certain conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**G. Approval Standards.** The City Planning Board must make written findings of fact on the following criteria:

1. The project complies with all applicable standards of this Ordinance.
2. The project is consistent with the spirit and intent of the Comprehensive Plan.
3. The project will be sited and designed so as to be harmonious with the surrounding area and not interfere with the development, use, and enjoyment of adjacent property.
4. The project will promote building design that responds to the surrounding neighborhood and demonstrates respect for surrounding historic resources, while allowing for a diversity of architectural styles and original and distinctive design approaches.
5. The project will ensure safe and efficient

access for all site users, including pedestrians, cyclists, transit passengers, the mobility impaired, and motor vehicles, as applicable.

6. The project will be located, designed, and/or managed to meet its anticipated travel demand, and will include reasonable efforts to minimize single-occupancy vehicle trips, reduce vehicle miles travelled, and promote transportation alternatives. If required by this Ordinance, a Transportation Demand Management (TDM) plan must be approved by the City Planning Board as evidence of the project meeting this criterion.
7. The project will provide for the adequate protection of significant natural, cultural, heritage, and scenic assets on or near the site.
8. The project contributes to existing pedestrian-oriented rights-of-way in relation to the public realm and streetscape.
9. The project will utilize plant materials that are capable of withstanding the climatic conditions of Buffalo and the microclimate of the site, and will be planted so as to maximize prospects for healthy growth.
10. The Project builds in fair housing, inclusionary, and equal opportunity initiatives of the City of Buffalo to promote access to community assets such as quality education, employment and transportation for all, without consideration of race, gender, religion, age, sexual orientation, national origin or ethnic background.
11. The project will make for the most efficient use of land and municipal services, utilities, and infrastructure.
12. The project is sufficiently served by or provides services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Commissioner of Public Works, Parks, and Streets, and Fire Department.

**H. Conditions.** The City Planning Board may grant major site plan approval with conditions only to the extent that such conditions specify the actions necessary to bring the application into compliance with applicable regulations and requirements, and to meet the approval standards of this section.

**I. Amendments.** Amendments to approved site plans may be approved as follows:

1. Within 30 days of receipt of a complete application for a site plan amendment, the City Planning Board must determine whether the proposed amendment constitutes a substantial change to the site plan. A site plan amendment will be considered substantial if the City Planning Board determines that the proposed amendment is significant enough to warrant a change to the findings per 11.3.7.G and, potentially, the decision on the original site plan review.
2. Upon a determination that a major site plan amendment is not substantial, the City Planning Board must approve the application, including any conditions or minor modifications it may require. No public hearing or notice is required for amendments that are not determined to be substantial.
3. Within 30 days of a determination that a proposed major site plan amendment is substantial, the City Planning Board must approve, approve with modifications, or disapprove the application. Substantial amendments to approved site plans require a public hearing and notice in accordance with Section 11.2.2.
4. The City Planning Board may determine, due to the scope of proposed changes, that an application for a site plan amendment to an approved major site plan review constitutes a new application. In which case, such site plan must be processed as a new major site plan review application. New fees apply.
5. If the City Planning Board approves the site plan amendment subject to certain

conditions or minor modifications, all plans and drawings submitted as part of the building permit application must reflect those conditions or minor modifications.

**J. Expiration**

1. The site plan expires within one year of the date of approval if a building permit application has not been submitted or a certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
2. The City Planning Board may extend the time for expiration of an approved site plan for one year upon a showing of good cause by the applicant. A request for extension must be submitted in writing to the Zoning Administrator within the original period of validity.

PLANNED UNIT DEVELOPMENT



11.3.8 Planned Unit Development

- A. Description.** A planned unit development allows for a defined area to be developed as a unified and integrated development and is intended to create more flexible or precise development outcomes than would be possible through the strict application of the standards of this Ordinance, helping achieve the following objectives:
  1. An alternative development pattern in harmony with the objectives of the Comprehensive Plan.
  2. A creative use of land and related physical development.
  3. Diversification in the uses allowed and variation in the relationship of uses, structures, and public space in developments conceived as cohesive unified projects.
  4. Alternative or supplementary standards for site and building design.
  5. The preservation and enhancement of desirable site characteristics.
  
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, or the Common Council, may initiate a planned unit development.
  
- C. Applicability.** The applicant may apply for a planned unit development only where both of the following criteria are met:
  1. The application applies to a site that is under common ownership or unified control or, if there are two or more owners, all owners of the site are included as joint applicants.
  2. The application applies to a site of at least two contiguous acres.
  
- D. Authority.** The Common Council, after receiving a recommendation from the City Planning Board, must take action on requests for a planned unit development.
  
- E. Waiver or Modification of Requirements.** In

approving a planned unit development, the Common Council may waive, modify, or supplement the standards of the underlying zone, if such action furthers the objectives of this section, and the application meets all approval criteria. Waivers or modifications of existing standards may apply only to the following regulatory categories:

1. Residential density standards.
2. Lot dimensions and lot coverage.
3. Building setbacks (except for required waterfront yards, which may not be waived or modified).
4. Building height and story height.
5. Transparency and pedestrian access.
6. Exterior facade materials.
7. Specific standards that apply to the zone.
8. Principal uses and accessory uses.
9. Sign standards.

**F. Submittals.** A planned unit development application must include a plan, in written and graphic form, that contains the information listed below. The City Clerk may waive submittal requirements for plans where such information is not necessary to determine the nature of the application or where the application meets relevant approval criteria.

1. Name, address, telephone number, and email address of the applicant and the person or firm preparing the plan.
2. Evidence of site control.
3. A map giving the legal description of the property, including total acreage, lot lines and dimensions, easements, rights-of-way, utilities, structures, water bodies, and other significant natural and manmade features for the site, along with date of preparation, clear scale, and north arrow.

4. A location map that illustrates the context of the site, including the adjacent area within 500 feet.
5. A narrative description of the goals underlying the creation of the planned unit development, as well as specific waivers from or modifications of the underlying zoning that will be sought, and supplemental standards, if any, that will apply to the site.
6. A general layout of the proposed project including maps, plans, or drawings relating to proposed land uses, location and dimensions of buildings, and location and type of rights-of-way, pedestrian and bicycle circulation systems, and public spaces, including preliminary plans and profiles, at suitable scale and in such detail as may be required by the City Clerk.
7. Phases of development, including delineation of areas, building sites, land uses, and improvements to be constructed in independent phases and the scheduled timing and sequencing of development.
8. Any other information or documentation as the City Clerk may deem necessary or appropriate for proper consideration of the application.

**G. Procedure**

1. A planned unit development application must be filed, including payment of the applicable fee, with the City Clerk in accordance with Section 11.2.1. Once it is determined the application is complete, the City Clerk must forward the application to the City Planning Board.
2. Within 30 days of the determination of completeness, the City Planning Board must make a recommendation to approve, approve with modifications, or disapprove the application, and forward the application to the Common Council.
3. Within 62 days of the determination of

completeness, the Common Council must hold a public hearing on the proposed planned unit development. Notice of the public hearing is required in accordance with Section 11.2.2.

4. Within 62 days of the closing of the public hearing, the Common Council must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Common Council.
5. Following approval of the planned unit development by the Common Council, the City Clerk must designate the area included in the application as “Planned Unit Development Number \_,” and append the map and text for the planned unit development to the official copy of this Ordinance. All subsequent applications for the use and development of the site will be subject to the provisions of the planned unit development, as well as other applicable standards of this Ordinance.

**H. Approval Standards.** The City Planning Board must make written findings of fact on, and the Common Council must take into consideration, the following criteria:

1. The planned unit development is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
2. The planned unit development allows for the creative and innovative development of property that would otherwise not be possible through strict application of the standards of this Ordinance.
3. The planned unit development will be compatible with, and not impede the normal and orderly development and improvement of, adjacent property.
4. The planned unit development will promote a coordinated site and building design to enhance the relationship of buildings to public space, the interconnectedness of

rights-of-way and blocks, and social vitality.

5. The planned unit development will maximize transportation efficiency.
6. Whether the planned unit development will provide for public benefits and amenities not otherwise required by this Ordinance. Examples include:
  - a. Affordable housing units.
  - b. Below-market commercial incubator space.
  - c. Green building systems and sustainable landscapes.
  - d. Adaptive reuse of heritage resources.
  - e. Reserved or dedicated open space.
  - f. Accessible buildings and sites that exceed minimum standards of the United States Access Board (USAB).
  - g. Transportation amenities that invite site users to walk, bike, and take transit.
  - h. Use of renewable energy sources.
  - i. Water conservation and reuse.
  - j. Brownfield reclamation and cleanup.
  - k. Enhancement of physical and visual access to the waterfront.
  - l. Restoration of natural features, such as wildlife habitats, native vegetation, shoreline buffers, floodplains, and wetlands.
7. The planned unit development will be sufficiently served by or provide services, utilities, and infrastructure as required by the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department.
- I. **Conditions.** In granting planned unit development approval, the City Planning Board may

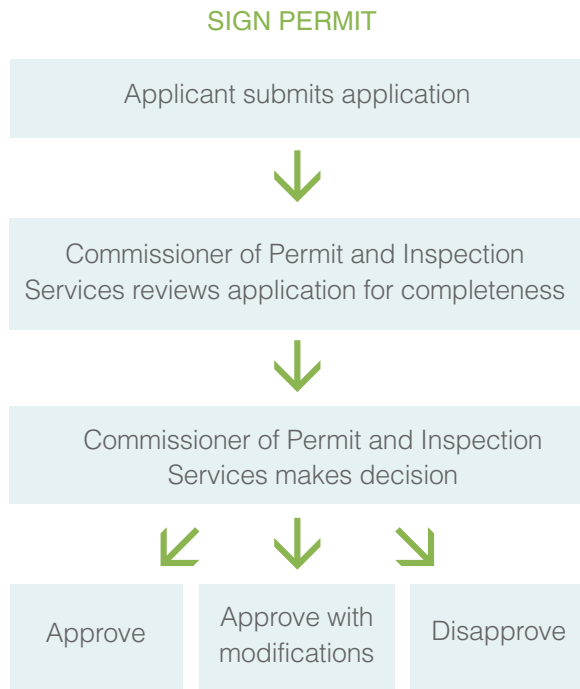


recommend, and the Common Council may impose, reasonable conditions which serve to ensure that the required findings are upheld.

**J. Amendments.** Any amendment to an approved planned unit development requires submission of a revised planned unit development application in accordance with the procedures for approving the original plan.

**K. Expiration**

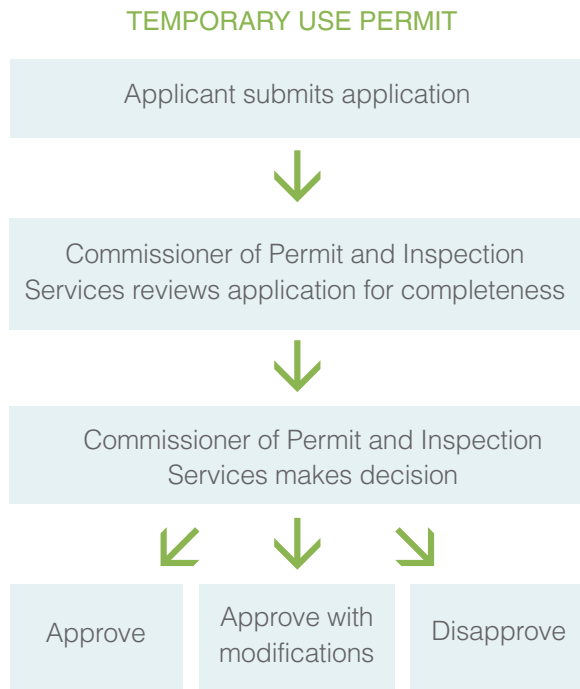
- 1.** The planned unit development expires within two years of the date of approval if a building permit application has not been submitted or certificate of occupancy has not been issued and no request for a time extension is sought within the original period of validity.
- 2.** The Common Council may extend the time for expiration of an approved planned unit development for one year upon a showing of good cause by the applicant. A request for extension must be submitted in writing to the City Clerk within the original period of validity.



### 11.3.9 Sign Permit

- A. Description.** A sign permit allows for signs to be erected, installed, reconstructed, altered, or relocated in conformance with this Ordinance and all other applicable regulations.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a sign permit.
- C. Authority.** The Commissioner of Permit and Inspection Services must review and take action on requests for a sign permit.
- D. Procedure**
  - 1.** A sign permit application must be filed, including payment of the applicable fee, with the Commissioner of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Permit and Inspection Services.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Permit and Inspection Services must review the sign permit application and approve, approve with modifications, or disapprove the application.
- E. Expiration.** If the work authorized under a sign permit is not completed within one year after the date of issuance, the sign permit expires.
- F. Revocation.** The Commissioner of Permit and Inspection Services may revoke any sign permit where there has been a violation of this Ordinance, misrepresentation of fact on the sign permit application, or threat to the public health, safety, and welfare.
- G. Appeals.** An aggrieved party may appeal the sign permit decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.

- H. Approval Standards.** The Commissioner of Permit and Inspection Services must determine whether the project complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.



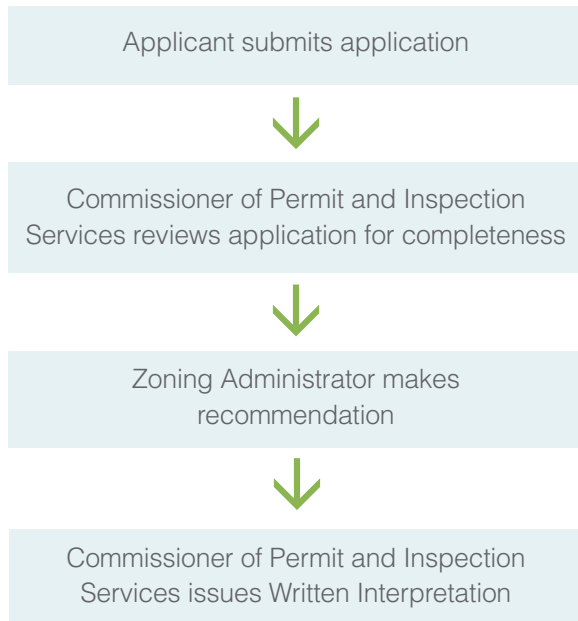
### 11.3.10 Temporary Use Permit

- A. Description.** A temporary use permit allows for the short-term use and/or placement of structures on private property and/or the public right-of-way, in accordance with the standards of this Ordinance and any other applicable law, regulation, or statute.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a temporary use permit.
- C. Authority.** The Commissioner of Permit and Inspection Services must review and take action on requests for a temporary use permit.
- D. Procedure**
  - 1.** A temporary use permit application must be filed, including payment of the applicable fee, with the Commissioner of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Permit and Inspection Services. In the case of an application that proposes a temporary use in a City park or City right-of-way, the application will not be considered complete until the Commissioner of Public Works, Parks, and Streets has authorized the temporary use in the City park or City right-of-way.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Permit and Inspection Services must review the temporary use permit and approve, approve with modifications, or disapprove the application.
- E. Expiration.** The temporary use permit is valid only for the time period granted as part of the approval.
- F. Appeals.** An aggrieved party may appeal the temporary use permit decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within

60 days after the filing of a decision in the office of the City Clerk.

- G. Approval Standards.** The Commissioner of Permit and Inspection Services must make a determination based on the following criteria:
- 1.** The project complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.
  - 2.** The project will be established, maintained, and operated so as to not endanger the public health, safety, and welfare.

WRITTEN INTERPRETATION



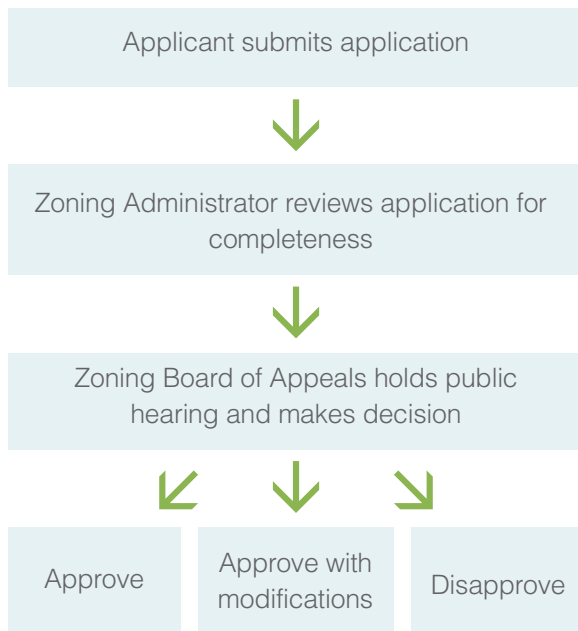
11.3.11 Written Interpretation

- A. Description.** A written interpretation allows for a process to interpret the regulations of this Ordinance, which, though detailed and extensive, cannot, as a practical matter, address every specific situation to which they are applied. The interpretation authority is not intended to add or change the essential content of this Ordinance, but only to allow authoritative application of that content to specific cases.
- B. Initiation.** Any review body, ordinance administrator, property owner, or person expressly authorized by the property owner in writing, may initiate a written interpretation. The interpretation must be for the purpose of furthering an actual development proposal.
- C. Submittals.** A request for a written interpretation of any provision of this Ordinance must set forth the specific provision or provisions to be interpreted and the facts of the specific situation concerning the request for an interpretation. The Zoning Administrator or Commissioner of Permit and Inspection Services may require further facts and information as are, in his/her judgment, necessary to provide a meaningful interpretation of the provision in question.
- D. Authority.** The Commissioner of Permit and Inspection Services, after receiving a recommendation from the Zoning Administrator, must take action on a request for a written interpretation.
- E. Procedure**
  - 1.** A written interpretation application must be filed with Commissioner of the Department of Permit and Inspection Services in accordance with Section 11.2.1. Once it is determined that the application is complete, the Commissioner of Permit and Inspection Services must forward the application to the Zoning Administrator.
  - 2.** Within 30 days of the determination of completeness, the Zoning Administrator must review the application and forward

a recommended interpretation to the Commissioner of Permit and Inspection Services. The Zoning Administrator must state any specific precedent(s), reasons, and analysis upon which the recommended interpretation is based.

- 3.** Within 45 days of the determination of completeness, the Commissioner of Permit and Inspection Services must issue the written interpretation. If the Commissioner of Permit and Inspection Services does not act within 45 days of the determination of completeness, the recommended interpretation from the Zoning Administrator will be deemed final.
  - 4.** Following the issuance of an interpretation, the written interpretation must be appended to the official copy of this Ordinance and distributed with any official copies of this Ordinance.
- F. Appeals.** An aggrieved party may appeal the written interpretation decision of the Commissioner of Permit and Inspection Services to the Zoning Board of Appeals in accordance with Section 11.3.12. Appeals must be filed within 60 days after the filing of a decision in the office of the City Clerk.

ADMINISTRATIVE APPEAL



11.3.12 Administrative Appeal

- A. Description.** An administrative appeal allows for a redress of a decision made by the Zoning Administrator or Commissioner of Permit and Inspection Services where an alleged error or misinterpretation has been made in the enforcement or application of the zoning provisions of this Ordinance.
- B. Initiation.** Any party aggrieved, or officer, department, board, or bureau of the City affected, by an order, requirement, decision, interpretation, or determination of the Zoning Administrator or Commissioner of Permit and Inspection Services may initiate an administrative appeal.
- C. Authority.** The Zoning Board of Appeals must hear and take action on an administrative appeal.
- D. Procedure**
  - 1.** An application for an administrative appeal must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements of Section 11.2.1 within 60 days of filing the requirement, decision, interpretation, or determination being appealed. Once it is determined that the application is complete, the Zoning Administrator must forward the application to the Zoning Board of Appeals. All papers, correspondence, and records requested by the Zoning Board of Appeals must be forwarded to the Board.
  - 2.** Within 62 days of the determination of completeness, the Zoning Board of Appeals must hold a public hearing on the administrative appeal. Notice of the public hearing is required in accordance with Section 11.2.2.
  - 3.** Within 62 days of the closing of the public hearing, the Zoning Board of Appeals must approve, approve with modifications, or disapprove the application. This 62 day period may be extended only by mutual consent of the applicant and the Zoning Board of Appeals.



- E. Stay of Proceedings.** An administrative appeal stays all administrative proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Zoning Board of Appeals, after the appeal is filed, by reason of facts stated, that a stay would cause imminent peril to life or property, in which case proceedings may only be stayed by the issuance of a restraining order, which may be granted by the Zoning Board of Appeals or by the court of record on the application.
- F. Rehearing.** An aggrieved party may petition for a rehearing of a matter on which the Zoning Board of Appeals has already once made a decision. A motion for the Zoning Board of Appeals to hold a rehearing to review such an order, decision, or determination, not previously reheard, may be made by any member of the Zoning Board of Appeals. Rehearings may only take place as follows:
- 1.** A unanimous vote of all members of the Zoning Board of Appeals then present is required for such rehearing to occur.
  - 2.** A rehearing is subject to the same notice provisions as an original hearing.
  - 3.** Upon a rehearing, the Zoning Board of Appeals may reverse, modify, or annul its original order, decision, or determination only upon the unanimous vote of all members then present, provided the Zoning Board of Appeals finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision, or determination will not be prejudiced thereby.

### MINOR ENCROACHMENT PERMIT



### MAJOR ENCROACHMENT PERMIT



## 11.4 RIGHT-OF-WAY APPROVALS

### 11.4.1 Encroachment Permit

- A. Description.** An encroachment permit allows for a privately-owned structure to be erected upon, over, or under the public right-of-way.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate an encroachment permit.
- C. Applicability.** An encroachment permit is required for any application in which a proposed structure will encroach upon, over, or under a public right-of-way.
- D. Permit Classification**
  - 1. Minor Encroachment.** The Commissioner of Public Works, Parks, and Streets will classify the application as a minor encroachment where the proposal involves any of the following.
    - a. Sidewalk cafes.
    - b. Awnings or canopies.
    - c. Bicycle parking fixtures.
    - d. Newspaper/periodical racks.
    - e. Street furniture, including benches and trash receptacles.
    - f. Landscaping, including planters less than 10,000 pounds, irrigation systems, and electrical outlets for tree lighting.
    - g. Signs, including historical markers.
    - h. Temporary uses of a public right-of-way lasting six months or less.
  - 2. Major Encroachment.** The Commissioner of Public Works, Parks, and Streets will classify the application as a major encroachment where the proposal involves any of the following:
    - a. The installation or construction of any

structure upon, over, or under a public right-of-way that cannot be classified as a minor encroachment.

- b.** The installation of any structure which would obstruct use of the pedestrian way, defined as providing for less than five feet of horizontal clearance and seven feet of vertical clearance within the throughway zone, or less than 18 inches of horizontal clearance from the curbline.
- c.** The installation of any structure upon, over, or under the vehicular way.
- d.** The installation of any monument, statue, or public art.
- e.** An easement to a private party that grants such party permanent access to the public right-of-way.

**E. Submittals.** An application for an encroachment permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets deems necessary and appropriate for proper consideration of the application.

**F. Authority.** The Commissioner of Public Works, Parks, and Streets must review and take action on requests for an encroachment permit for a minor encroachment. The Common Council, after receiving a recommendation from the Commissioner of Public Works, Parks, and Streets, must take action on requests for an encroachment permit for a major encroachment.

**G. Procedure**

**1. Minor Encroachment**

- a.** An encroachment permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
- b.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must

approve, approve with modifications, or disapprove the application.

**2. Major Encroachment**

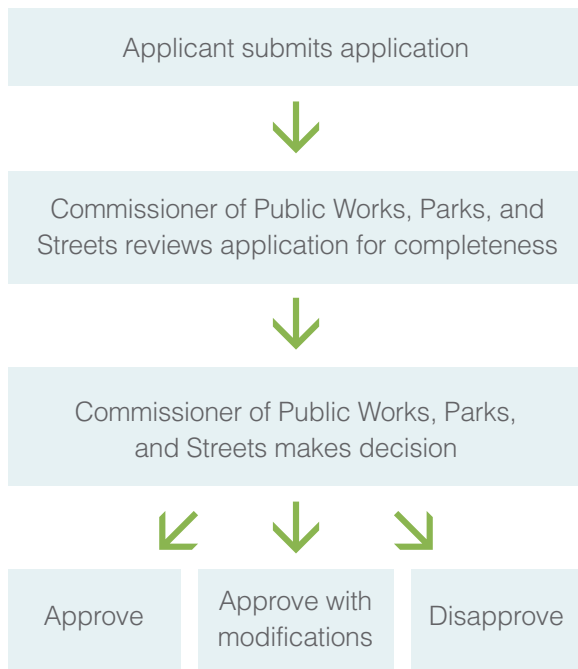
- a.** An encroachment permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
- b.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Common Council.
- c.** Within 62 days of the determination of completeness, the Common Council must approve, approve with modifications, or disapprove the application.

**H. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must make written findings of fact on and, in the case of a major encroachment, the Common Council must take into consideration the following criteria:

- 1.** The encroachment will not result in adverse effects upon the public health, safety, and welfare.
- 2.** The encroachment will not unnecessarily interfere with the use and enjoyment of, or access to, the public right-of-way or adjacent property.
- 3.** The encroachment will not produce conditions that discourage pedestrian travel or street activity.
- 4.** The encroachment will not obstruct pedestrian, cyclist, and vehicular visibility so as to create an unsafe or hazardous condition.

5. The encroachment will comply with this Ordinance and all policies, specifications, and requirements on file with the Department of Public Works, Parks, and Streets.
  6. The encroachment will not place undue liability on the City.
- I. Conditions.** In granting an encroachment permit, reasonable conditions and restrictions upon the public right-of-way encroachment may be imposed, including manner of placement, construction, and maintenance; method of removal and/or replacement; and indemnification to the City of Buffalo. Failure to comply with any condition or restriction constitutes a violation of this Ordinance and, in addition to any other civil or criminal remedy or enforcement procedure, is grounds for modification, suspension, or revocation of the encroachment permit.
- J. Expiration.** If the work authorized under an encroachment permit is not completed one year after the date of issuance, the encroachment permit expires.
- K. Removal.** The Commissioner of Public Works, Parks, and Streets has the authority, except as may be limited by easement, to remove any encroachment, including for the following reasons:
1. To undertake street, sidewalk, or curb replacement, or any other necessary repair, for so long as this removal is necessary.
  2. To ensure the public health, safety, and welfare.
  3. To remove an encroachment that is no longer needed or being used by the property owner.
- L. Revocation.** The Commissioner of Public Works, Parks, and Streets may revoke any encroachment permit where there has been a violation of this Ordinance or departmental policies, specifications, or requirements; misrepresentation of fact on the encroachment permit application; or threat to the public health, safety, or welfare.

**CURB CUT PERMIT**



**11.4.2 Curb Cut Permit**

- A. Description.** A curb cut permit allows for review of proposed cuts to curbing or pavement within a public right-of-way to provide access to a property.
- B. Initiation.** The property owner, or person expressly authorized by the property owner in writing, may initiate a curb cut permit.
- C. Applicability.** A curb cut permit is required for any cutting of the curbing or pavement of a public right-of-way to provide access to a property.
- D. Submittals.** An application for a curb cut permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on a curb cut permit.
- F. Procedure**
  - 1.** A curb cut application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Public Works, Parks, and Streets.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.
- G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the curb cut complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.
- H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the curb cut

permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.

**I. Expiration**

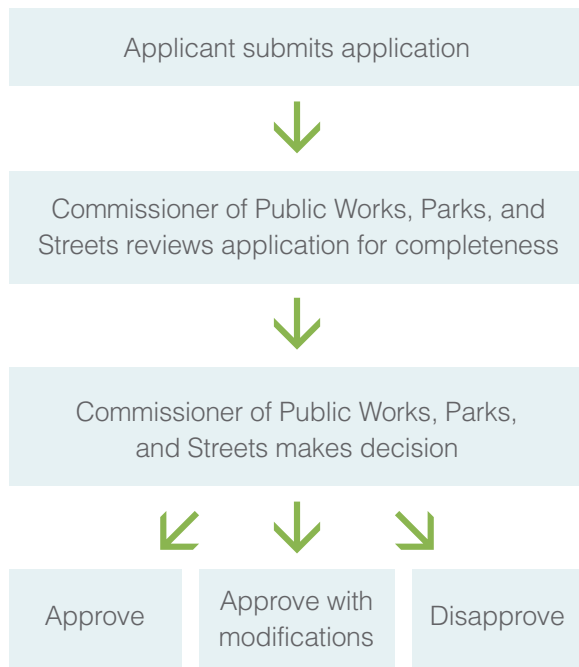
1. If the work authorized under a curb cut permit is not completed one year after the date of issuance and no request for a time extension is sought within the original period of validity, the curb cut permit expires.
2. The Commissioner of Public Works, Parks, and Streets may extend the time for expiration of an approved curb cut permit for one additional year upon a showing of good cause by the applicant. A request for an extension must be made in writing to the Commissioner of Public Works, Parks, and Streets within the original period of validity.

**J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or suspend any curb cut permit if any of the following has occurred:

1. The permit was procured by fraud or misrepresentation.
2. The work creates an unsafe condition or public nuisance.
3. The driveway, parking lot, loading area, or other facility used to access the property has been removed or is no longer in use.
4. The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

**K. Removal.** If a curb cut is revoked per Section 11.4.2.J, the property owner will be required to remove the curb cut and to make the necessary repairs to the satisfaction of the Commissioner of Public Works, Parks, and Streets. If the property owner fails to comply, the Commissioner of Public Works, Parks, and Streets may cause the necessary repairs to be made to the curbing at the property owner's expense.

RIGHT-OF-WAY WORK PERMIT



11.4.3 Right-of-Way Work Permit

- A. Description.** A right-of-way work permit allows for review of work or activity within an existing or proposed City right-of-way. A right-of-way work permit does not include work on street trees, which is addressed by the tree work permit in Section 11.4.4.
- B. Initiation.** Any person intending to undertake work within a City right-of-way must initiate a right-of-way work permit. No right-of-way work permit or fees are required when work is initiated by the Department of Public Works, Parks, and Streets, the Buffalo Water Board, or Buffalo Sewer Authority, or their authorized agents, so long as the Commissioner of Public Works, Parks, and Streets is notified in writing of the locations, dates, and descriptions of the right-of-way work to be undertaken on at least a quarterly basis.
- C. Applicability.** A right-of-way work permit is required for any construction or repair activity within, shoring or excavation within or adjacent to, pavement disturbance within, or installation of structures upon, over, or beneath a City right-of-way, including City water rights-of way, specifically, Cazenovia Creek, Scajaquada Creek, the City Ship Canal, the Buffalo Harbor, and the Buffalo River. This includes the temporary use of the right-of-way for material storage, scaffolding, crane placement, dumpster placement, traversing the right-of-way with oversize equipment and/or equipment that is not permitted to traverse the right-of-way, or any other activity that obstructs free and clear use of the right-of-way.
- D. Submittals.** An application for a right-of-way work permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on a right-of-way work permit.

**F. Procedure**

1. A right-of-way work permit application must be filed, including payment of the applicable fee, with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the application will be considered by the Commissioner of Public Works, Parks, and Streets.
2. Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.

**G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the right-of-way work complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.

**H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the right-of-way permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.

**I. Expiration**

1. If the work authorized under a right-of-way work permit is not completed one year after the date of issuance and no request for a time extension is sought within the original period of validity, the right-of-way work permit expires.
2. The Commissioner of Public Works, Parks, and Streets may extend the time for expiration of an approved right-of-way work permit for one additional year upon a showing of good cause by the applicant. A request for an extension must be made in writing to the Commissioner of Public Works, Parks, and Streets within the original period of validity.

**J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or

suspend any right-of-way work permit if any of the following has occurred:

1. The permit was procured by fraud or misrepresentation.
2. The work creates an unsafe condition or public nuisance.
3. The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

**K. Exemptions.** Emergency responses by franchise holders or utility companies to such events as water or sewer main breaks, gas leaks, downed power poles, or underground power interruptions may proceed prior to issuance of a right-of-way work permit, provided that the applicant notifies the Commissioner of Public Works, Parks, and Streets within 24 hours and applies for a permit within two business days from the start of work. The Commissioner of Public Works, Parks, and Streets retains the authority to order the cessation of such emergency work where it is determined that their construction or location constitutes an unsafe condition or public nuisance.



TREE WORK PERMIT



11.4.4 Tree Work Permit

- A. Description.** A tree work permit allows for review of proposed planting of, work on, or activity which may potentially affect, a City tree.
- B. Initiation.** Any person intending to plant or undertake work on a City tree, or undertake construction work that may impact a City tree, must initiate a tree work permit. No tree work permit is required when work is initiated by the Department of Public Works, Parks, and Streets or its authorized agents.
- C. Applicability.** A tree work permit is required for any planting, pruning, or removal of City trees in any City park, City right-of-way, or other public place owned by the City; construction, repairs, shoring, excavation, or other surface disturbance within the critical root zone of any City tree; or any other development, work, or activity which may affect the health and vitality of a City tree.
- D. Submittals.** An application for a tree work permit must include any information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.
- E. Authority.** The Commissioner of Public Works, Parks, and Streets must take action on tree work permits.
- F. Procedure**
  - 1.** A tree work permit application must be filed with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1.
  - 2.** Within 30 days of the determination of completeness, the Commissioner of Public Works, Parks, and Streets must approve, approve with modifications, or disapprove the application.
- G. Approval Standards.** The Commissioner of Public Works, Parks, and Streets must determine whether the tree work complies with all applicable standards of this Ordinance and any other applicable law, regulation, or statute administered by the City.

- H. Conditions.** The Commissioner of Public Works, Parks, and Streets may, in approving the tree work permit, include such terms and conditions as are necessary to protect the public health, safety, and welfare.
- I. Expiration.** If the work authorized under a tree work permit is not completed one year after the date of issuance, the tree work permit expires.
- J. Revocation.** The Commissioner of Public Works, Parks, and Streets may immediately revoke or suspend any tree work permit if any of the following has occurred:

  - 1.** The permit was procured by fraud or misrepresentation.
  - 2.** The work creates an unsafe condition or public nuisance.
  - 3.** The applicant has failed to comply with any standard of this Ordinance, the terms or conditions of the permit, or any other applicable law, statute, or regulation.

### THOROUGHFARE PLAN



### 11.4.5 Thoroughfare Plan

- A. Description.** A thoroughfare plan allows for review of proposed new construction, reconstruction, and reconfiguration of a thoroughfare, alley, or passage.
- B. Initiation**
  - 1. The Commissioner of Public Works, Parks, and Streets may initiate a thoroughfare plan.
  - 2. The property owner, or person expressly authorized by the property owner in writing, may initiate a thoroughfare plan.
- C. Applicability.** A thoroughfare plan is required for any of the following:
  - 1. New construction and reconstruction of any thoroughfare, alley, or passage.
  - 2. Any reconfiguration (i.e., a change in number, in dimensions, or of placement) of vehicle lanes, bicycle lanes or tracks, parking lanes, or pedestrian facilities within an existing thoroughfare, alley, or passage.
- D. Submittals.** A thoroughfare plan must include the information below. The Commissioner of Public Works, Parks, and Streets may waive submittal requirements for thoroughfare plans where such information is not necessary to determine the nature of the right-of-way improvement or that the right-of-way improvement meets relevant review criteria.
  - 1. Name, address, telephone number, and email address of the applicant.
  - 2. Statement of intent that describes the right-of-way improvements to be made.
  - 3. Boundaries of the proposed right-of-way improvements.
  - 4. Existing zone and use of property that abuts the right-of-way to be improved.
  - 5. Dimensions of blocks, lots, and property lines that abut, and rights-of-way that intersect, the right-of-way to be improved.

- 6. Existing and proposed parameters of the right-of-way to be improved, including the total right-of-way, curb radii, travel lanes, medians, bicycle facilities, parking lanes, sidewalks, and planting strips, and the number and species of street tree, type and spacing of street lighting, and type of stormwater management facilities, as applicable.
- 7. Existing and proposed transit, bicycle, and pedestrian amenities, including, but not limited to, transit stops and shelters, curb extensions, bicycle lanes and cycle tracks, shared lane markings, intersection treatments, and signals and signs, as applicable.
- 8. Such other information or documentation as the Commissioner of Public Works, Parks, and Streets may deem necessary or appropriate for proper consideration of the application.

**E. Authority.** The Commissioner of Public Works, Parks, and Streets, after receiving a recommendation from the City Planning Board, must take action on thoroughfare plans.

**F. Procedure**

- 1. A thoroughfare plan must be filed with the Commissioner of Public Works, Parks, and Streets in accordance with Section 11.2.1. Once it is determined that the application is complete, the Commissioner of Public Works, Parks, and Streets must forward the application to the City Planning Board.
- 2. Within 30 days of the determination of completeness, the City Planning Board must review the application and make a recommendation to approve, approve with modifications, or disapprove the application, and forward the recommendation to the Commissioner of Public Works, Parks, and Streets. Notice for the public meeting is required in accordance with Section 11.2.2.

- 3. The recommendations of the City Planning Board are advisory. The Commissioner of Public Works, Parks, and Streets retains sole authority to approve, approve with modifications, or disapprove the application.
- 4. Within 30 days of receipt of the City Planning Board recommendation, the Commissioner of Public Works, Parks, and Streets must review the thoroughfare plan and approve, approve with modifications, or disapprove the application.

**G. Approval Standards.** The City Planning Board must make written findings of fact on, and the Commissioner of Public Works, Parks, and Streets must take into consideration, the following criteria:

- 1. The project complies with all applicable standards of this Ordinance.
- 2. The project is consistent with the spirit and intent of the Comprehensive Plan, the City's complete streets policy, and adjacent zoning.
- 3. The project promotes the public health, safety, and welfare.
- 4. The project is in conformance with applicable standards and specifications as set forth by the Buffalo Sewer Authority, Buffalo Water Board, Commissioner of Public Works, Parks, and Streets, and Fire Department.

**H. Exemptions.** The Commissioner of Public Works, Parks, and Streets may waive the thoroughfare plan requirement for any right-of-way work for which immediate action is necessary to protect the public health, safety, and welfare.

## 11.5 SUBDIVISION APPROVALS

### 11.5.1 Description

Subdivision allows for the orderly division or consolidation of lots, the alteration of lot boundaries, and the dedication of land for public rights-of-way, parks, and other public purposes.

### 11.5.2 Initiation

The property owner, or person expressly authorized by the property owner in writing, may initiate an exempt alteration of lots, a minor subdivision, or a major subdivision.

### 11.5.3 Authority

The Commissioner of Permit and Inspection Services must take action on an exempt alteration of lots. The City Planning Board must take action on requests for approval of a minor subdivision or major subdivision.

### 11.5.4 Classification

**A. Exempt Alteration of Lots.** The Commissioner of Permit and Inspection Services will classify any division, consolidation, or other alteration of lot boundaries as exempt from City Planning Board review and a public hearing where each of the following criteria is met:

1. The proposed division, consolidation, or alteration of lot boundaries complies with the lot dimension standards of this Ordinance and will not result in split zoning classifications.
2. The proposed division, consolidation, or alteration of lot boundaries involves less than one-half acre of land in Neighborhood zones and less than two acres in total.
3. The proposed division, consolidation, or alteration of lot boundaries will not result in any through lots within an N-2R, N-3R, N-4-30, or N-4-50 zone.
4. All lots within the proposed division, consolidation, or other alteration of lot boundaries front on an existing public or private right-of-way, are served by existing

municipal facilities, and do not involve the dedication of land for public rights-of-way, parks, or other public purposes.

**B. Minor Subdivision.** The Commissioner of Permit and Inspection Services will classify the application as a minor subdivision where each of the following criteria is met:

1. The proposed division, consolidation, or alteration of lot boundaries cannot be classified as exempt per 11.5.4.A.
2. The proposed division, consolidation, or alteration of lot boundaries involves less than two acres of land in Neighborhood zones and less than five acres in total.
3. All lots within the proposed division, consolidation, or alteration of lot boundaries front on an existing public or private right-of-way, are served by existing municipal facilities, and do not involve the dedication of land for public rights-of-way, parks, or other public purposes.

**C. Major Subdivision.** The Commissioner of Permit and Inspection Services will classify the application as a major subdivision where the proposal involves any of the following:

1. The proposed division, consolidation, or alteration of lot boundaries cannot be classified as exempt per 11.5.4.A or as a minor subdivision per 11.5.4.B.
2. The construction of new public or private rights-of-way, the extension of municipal facilities, or the dedication of land for public rights-of-way, parks, or other public purposes.

### 11.5.5 Pre-Application Conference

**A.** The purpose of the pre-application conference is to make advice and assistance available to the applicant before preparation of the preliminary plat. The Zoning Administrator may include other relevant City departments and interested agencies in the pre-application conference.

- B.** The pre-application conference does not require formal application or fee. Any opinions or advice provided are not binding with respect to any official action that may be taken on the subsequent preliminary plat.

**11.5.6 Procedure**

- A.** A pre-application conference with the Zoning Administrator is required prior to the filing of a preliminary plat in the case of a major subdivision, and is optional in the case of a minor subdivision.

**B. Minor Subdivision**

- 1.** Only a preliminary plat is required for a minor subdivision application. Once approved, the preliminary plat will be considered the final plat.
- 2.** A preliminary plat must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the preliminary plat is complete, the Zoning Administrator must forward the application to the City Planning Board.
- 3.** Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed preliminary plat. Notice of the public hearing is required in accordance with Section 11.2.2.
- 4.** Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

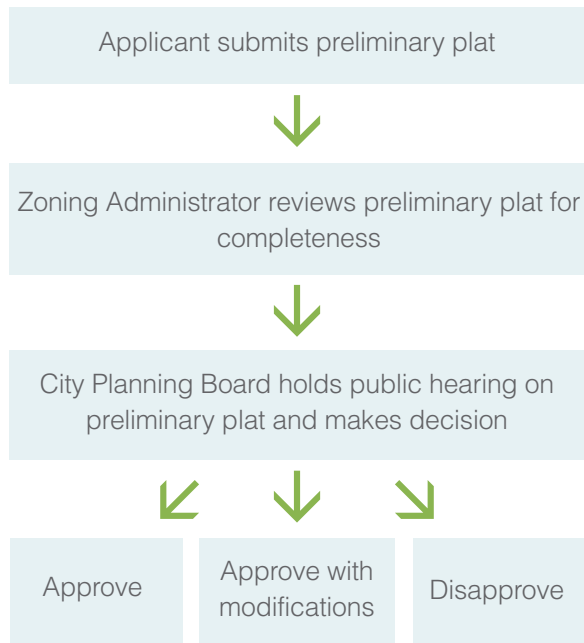
**C. Major Subdivision**

- 1.** A preliminary plat must be filed, including payment of the applicable fee, with the Zoning Administrator in accordance with the requirements in Section 11.2.1. Once

it is determined that the preliminary plat is complete, the Zoning Administrator must forward the application to the City Planning Board.

- 2.** Within 62 days of the determination of completeness, the City Planning Board must hold a public hearing on the proposed preliminary plat. Notice of the public hearing is required in accordance with Section 11.2.2.
- 3.** Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the preliminary plat. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board. Approval of the preliminary plat does not constitute approval of the final plat.
- 4.** Within 180 days of approval by the City Planning Board of the preliminary plat, the applicant must submit a final plat to the Zoning Administrator in accordance with Section 11.2.1. Once it is determined that the final plat is complete, the Zoning Administrator must forward the application to the City Planning Board.
- 5.** Upon the determination of completeness for the final plat, the City Planning Board will make a determination of whether the final plat is in substantial agreement with the approved preliminary plat.
  - a.** If the City Planning Board determines that the final plat is in substantial agreement with the preliminary plat, no additional public hearing is required. Within 62 days of the determination of completeness, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the determination of completeness

MINOR SUBDIVISION



MAJOR SUBDIVISION



will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

- b. If the City Planning Board determines that the final plat is not in substantial agreement with the preliminary plat, the City Planning Board must hold a public hearing on the proposed final plat within 62 days of the determination of completeness. Notice of the public hearing is required in accordance with Section 11.2.2. Within 62 days of the closing of the public hearing, the City Planning Board must approve, approve with modifications, or disapprove the application. The failure of the City Planning Board to act within 62 days of the closing of the public hearing will be deemed an approval of the application as submitted, except where this 62 day period is extended by mutual consent of the applicant and the City Planning Board.

### 11.5.7 Phasing

The City Planning Board may permit a minor or major subdivision to be completed in phases. The City Planning Board may include any requirements or conditions on such phasing plan it deems necessary to ensure orderly development.

### 11.5.8 Submittals

#### A. Pre-Application Conference Submittals

- 1. A sketch plan of the proposed subdivision indicating the general layout of proposed thoroughfares, lots, and other improvements.
- 2. A location map or sketch, approximately in the scale of one inch equals 400 feet, showing the general relationship of the proposed subdivision to its surrounding area, including the general location of major thoroughfares, schools, parks, and other relevant developments.

- 3. A depiction of land reserved for thoroughfares, stormwater management, sewers, water, fire protection, public buildings, utilities, and other facilities.

#### B. Preliminary Plat Submittals

- 1. An application form, available from the Commissioner of Permit and Inspection Services.
- 2. Three hardcopies and one electronic copy of the preliminary plat prepared by a professional engineer or land surveyor licensed by the State of New York.
- 3. Evidence of site control.
- 4. A site plan drawn to a scale of at least one inch equals 100 feet with the following information:
  - a. A north point indication, scale, date of preparation of the preliminary layout, and the signature of the licensed professional engineer or land surveyor preparing the same.
  - b. A legal description of the land proposed to be subdivided, by deed description, surveyed by a New York State licensed land surveyor. The locations and coordinates of all monuments must be referenced to the nearest approved control point as directed by the Commissioner of Public Works, Parks, and Streets, if such control points exist. In the absence of such control points, the surveyor must extend a control point satisfactory to the Commissioner.
  - c. Sufficient information to locate accurately the proposed subdivision in relation to its general vicinity, by means of reference to thoroughfares, railroad lines, recorded plats, etc.
  - d. The boundary lines of the proposed subdivision, drawn to scale, including angles and distances, and a statement of the total area encompassed by such boundary lines.



- e. The location, dimensions, and layout of rights-of-way, blocks, easements, improvements, and utilities within and contiguous to the proposed subdivision, as well as the location and dimensions of such major features as railroad lines, waterways, and exceptional topography.
  - f. The layout, number, dimensions, and area of each lot within the proposed subdivision.
  - g. The location, dimensions, description of use or function, and layout of all parcels of land intended to be dedicated for public use or reserved as common space for subdivision property owners, such as parks and other open spaces.
  - h. The location of all existing and proposed connections with existing and proposed water, sewer, and other utility lines, and an indication of provisions for and location of stormwater management facilities.
5. An outline and description of all public improvements, if required, together with such preliminary drawings and information as required by City departments and interested agencies.
6. When required by the Zoning Administrator:
- a. A topography map with contours at specified intervals.
  - b. The location, size, and approximate grades of proposed sewers.
  - c. Cross-sections of proposed rights-of-way, showing roadway widths and grades, bicycle and pedestrian facilities, green infrastructure, and street trees.
  - d. The proposed location of water, gas, electric, cable, data delivery, and telephone outlets or lines.
- C. Final Plat Submittals.** The final plat submittals must include one original hardcopy, two hardcopies, and one electronic copy of the final plat, bearing the seal and signature of a New York State licensed professional engineer or land surveyor who prepared it. The final plat must conform to the approved plans and specifications for required improvements and the preliminary plat, incorporating any conditions required by the City Planning Board, and including the following information, as applicable:
1. Formal offers of dedication, when not set forth on the final plat, of any public rights-of-way or parks. All such offers of dedication must be accompanied by the appropriate deeds bearing a certification of approval by the City Corporation Counsel.
  2. The plans and specifications for required improvements containing the certifications required by this section, together with any required bonds and waivers.
  3. The final plat must contain the following:
    - a. The date of preparation of the final plat and by whom it was prepared.
    - b. The boundary of the plat, based on accurate traverse, with angles and linear dimensions.
    - c. The exact location, width, and name of all rights-of-way within and adjoining the plat.
    - d. True angles and distances to the nearest established right-of-way line or official monuments (no less than three).
    - e. Municipal, township, county, and section lines accurately tied to the lines of the subdivision by distances and angles.
    - f. Radii, internal angles, points, curvatures, tangent bearings, and lengths of all arcs.
    - g. All easements established for public use and utilities.
    - h. All lot numbers and lot lines, with accurate dimensions given in hundredths of a foot.

- i. Accurate outlines of all areas dedicated or reserved for public use, with the proposed uses indicated, and all areas to be reserved for the common use of the property owners, with the proposed uses indicated.
  - j. Forms of dedication, approval, and certification as required by this Ordinance.
4. Prior to submitting the final plat, the following approvals and certifications must be secured and evidenced on the final plat or by written documents supplementing such final plat:
- a. An endorsement from abstract or title company certifying that there are no liens against the land to be subdivided arising from nonpayment of City taxes, water or sewer charges, or fines.
  - b. A certification by all who have an interest in the property to be subdivided, authorizing and acknowledging the preparation of the subdivision plat and the dedication of any thoroughfares and other public areas.
  - c. The approval of the Commissioner of Public Works, Parks, and Streets that the subdivision agrees with the City survey and is mathematically correct.
  - d. A certification from the Commissioner of Public Works, Parks, and Streets, the Buffalo Sewer Authority, the Buffalo Water Board, and other authorities where approval is required, of the plans and specifications for required public improvements, or waivers from the same.
  - e. A performance bond or other security sufficient to cover the full cost of required improvements, as estimated by the City Planning Board or a City department designated by the City Planning Board to make such estimate, where such departmental estimate is deemed acceptable by the City Planning Board.

Any security must be provided pursuant to a written security agreement with the City, approved by the Common Council and City Corporation Counsel as to form, sufficiency, and manner of execution, and must be in accordance with General City Law §33. Any performance bond or security agreement must run for a term to be fixed by the City Planning Board, but in no case for a longer term than three years, except where this three-year period is extended by mutual consent of the applicant and the City Planning Board.

### 11.5.9 Approval Standards

In approving, approving with modifications, or disapproving an application for a subdivision, the City Planning Board must make written findings of fact on the following criteria:

- A. The land shown on the plat will be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, drainage, or other menace to neighboring properties or the public health, safety, and welfare.
- B. The subdivision will ensure the accurate and easy description of land, orderly growth and development, efficient land use, and proper use of natural resources.
- C. The subdivision is consistent with the spirit and intent of this Ordinance and the Comprehensive Plan.
- D. Lots shown on the plat will:
  - 1. Conform with the standards of this Ordinance.
  - 2. Not result in split zoning classifications.
  - 3. Provide adequate access to a public or private right-of-way, or have access to such right-of-way with a permanent access easement.
  - 4. Be assigned street address numbers per Chapter 109 of the City Code.

- E.** Suitable monuments will be placed at block corners and other necessary points as may be required by the City Planning Board, with locations shown on the plat.
- F.** Rights-of-way will be coordinated so as to compose a convenient and connected system conforming to this Ordinance and the Comprehensive Plan.
- G.** All rights-of-way and other public places shown on the plat will be installed in accordance with standards, specifications, and procedures acceptable to the Buffalo Sewer Authority, Buffalo Water Board, Department of Public Works, Parks, and Streets, and Fire Department.

#### 11.5.10 Waivers

Where the City Planning Board finds that extraordinary hardships may result from strict compliance with these standards, it may waive these standards provided that the adjustment is consistent with the intent and purpose of this Ordinance. In granting any adjustment, the City Planning Board may attach such conditions as are, in its judgment, necessary to secure substantially the objectives of the standards or requirements that are adjusted. This does not authorize the City Planning Board to waive any zoning standard for which a variance would be required.

#### 11.5.11 Modifications to Approved Plats

- A.** The moving of lot lines and rearrangement of easements are considered minor modifications and may be approved by the Zoning Administrator, provided that the lots meet the minimum requirements of this Ordinance and all other applicable regulations, and the number of lots remains the same. All other modifications are deemed major modifications and require resubmission of a preliminary plat.
- B.** No changes, erasures, modifications, or revisions may be made in any final plat after approval has been given by the City Planning Board and endorsed in writing on the plat, unless the Zoning Administrator deems the changes a minor modification.
- C.** In the event that any such plat is recorded without

complying with this requirement, the plat will be considered null and void, and the Zoning Administrator must institute proceedings to have the plat stricken from the records of the County Clerk.

#### 11.5.12 Filing

The issuance of either one of the following constitutes final approval of a plat, and will authorize the filing of the plat with the County Clerk:

- A.** The signature of the Chairman of the City Planning Board on the plat.
- B.** The certificate of the City Clerk as to the date of the submission of the plat and the failure of the City Planning Board to take action within the prescribed time.

#### 11.5.13 Expiration

An approved subdivision expires 62 days from the date of the Chair's signature constituting the approval of the plat, or from the date the certificate is issued, unless within the 62 day period the plat is filed or recorded by the subdivider in the office of the County Clerk.

#### 11.5.14 Survey Monuments

Following final plat approval, survey monuments and markers must be laid out as indicated in the preliminary and final plats as follows:

- A.** The permanent survey monuments must be installed within 30 days of notice from the Commissioner of Public Works, Parks, and Streets and at the expense of the applicant.
- B.** Survey monuments must meet the following standards:
  - 1.** Monuments must be made of concrete cylinders covered with suitably marked bronze plates.
  - 2.** The tops of the monuments and their location and grade must be set as established by the Commissioner of Public Works, Parks, and Streets.
  - 3.** The cylinders must be of sufficient depth to

reach below the frost line.

- C. The Commissioner of Public Works, Parks, and Streets may modify or exempt this requirement based on the nature of the proposed subdivision.

**11.5.15 Reservation of Parkland**

- A. Before the City Planning Board may approve a subdivision plat containing residential units, the subdivision plat must also show, when required by the City Planning Board, a park or parks suitably located for playground or other recreational purposes.
- B. Land for park, playground, or other recreational purposes may not be required until the City Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the City. These findings must include an evaluation of the present and anticipated future needs for park and recreational facilities in the City based on projected population growth to which the particular subdivision plat will contribute.
- C. If the City Planning Board makes a finding that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on the subdivision plat, the City Planning Board may require a sum of money in lieu thereof, in an amount to be established by the Common Council. In making the determination of suitability, the City Planning Board must assess the size and suitability of land shown on the subdivision plat which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any money required by the City Planning Board in lieu of land for park, playground, or other recreational purposes must be deposited into a trust fund to be used by the City exclusively for park, playground, or other recreational purposes, including the acquisition of property.

**11.5.16 Required Improvements**

- A. **Installation of Improvements.** Within three years from the date of approval of the final plat, all improvements required by the Commissioner of Public Works, Parks, and Streets, Buffalo Water Board, and Buffalo Sewer Authority must be made (designed, constructed, installed) by the subdivider at his/her expense. These improvements include, but are not limited to, roadway grading and pavement, sidewalks, curbs or gutters, sanitary sewers, water mains and services, stormwater management facilities, fire services, street lighting infrastructure, street name signs, and street trees.
- B. **Notification.** Prior to the start of construction of any required improvements, the applicant must furnish to the Commissioner of Public Works, Parks, and Streets a copy of the specifications included in any contract entered into by the applicant for construction. The applicant must notify the City at least five days prior to the start of construction or installation of any improvement and at least 24 hours prior to the completion of these improvements.
- C. **Modification of Design of Improvements.** If at any time before or during construction of the required public improvements it is demonstrated to the satisfaction of the Commissioner of Public Works, Parks, and Streets that unforeseen conditions make it necessary or preferable to modify the location or design of the required improvements, the Commissioner of Public Works, Parks, and Streets may authorize modifications upon written request of the applicant, provided that the modifications are within the spirit and intent of the approved final plat and do not amount to the waiver or substantial alteration of the function of any required improvement. The Commissioner of Public Works, Parks, and Streets must issue any waiver in writing and transmit a copy of the waiver to the City Planning Board.
- D. **Inspection of Improvements**
  - 1. The construction of all required improvements must be supervised by a New York State-licensed engineer employed by the City

at the expense of the applicant. After completion of construction, the supervising engineer must certify to the Commissioner of Public Works, Parks, and Streets that all required improvements have been constructed as required.

2. The Commissioner of Public Works, Parks, and Streets must inspect required improvements during and at the completion of construction to ensure their satisfactory completion.
  3. If the Commissioner of Public Works, Parks, and Street finds, upon inspection, that any of the required improvements have not been constructed per the approved plans and specifications, he/she must instruct the applicant to correct any discrepancies.
- E. Default of Security Agreement.** If any required improvements have not been installed as provided in this section within the term of a security agreement, the Common Council may declare the performance bond or security agreement to be in default and collect the sum remaining payable thereunder; and upon the receipt of the proceeds, the City must install the improvements as are covered by the security and as commensurate with the extent of building development that has taken place in the subdivision but not exceeding in cost the amount of such proceeds.
- F. Acceptance of Improvements**
1. If any plat contains public rights-of-way, parks, or easements which are to be dedicated as such, the approval of the plat does not constitute an acceptance by the City of the improvements constructed or installed in the subdivision, irrespective of any acts by an officer, agent, or employee of the City with respect to these improvements.
  2. Every right-of-way, park, or easement shown on a plat filed or recorded in the office of the County Clerk will be deemed to be a private improvement until it has been formally dedicated and accepted by the City. Until such dedication and acceptance, the City is

not responsible for maintenance.

3. The acceptance of improvements may be made only by the adoption of a Common Council resolution after the Commissioner of Public Works, Parks, and Streets files a certificate with the City Clerk certifying that all improvements have been constructed or installed as required. All accepted easements must be filed with the plat and copies forwarded to the Commissioner of Public Works, Parks, and Streets.
  4. No reimbursement will be made by the City or any department or authority for the required improvements.
- G. Modification of Security.** If the City Planning Board decides at any time during the term of the performance bond or security agreement that the extent of building development that has taken place in the subdivision is not sufficient to warrant all the improvements covered by the security, or that the required improvements have been installed in accordance with this Ordinance in sufficient amount to warrant reduction in the amount of the security, and upon approval by the Common Council, the City Planning Board may modify its requirements for any or all such improvements, and the amount of such security must be reduced by an appropriate amount so that the new amount will cover the cost in full of the amended list of required improvements.

#### 11.5.17 Building Permits

No building permit will be issued prior to the filing of the final plat with the County Clerk.

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