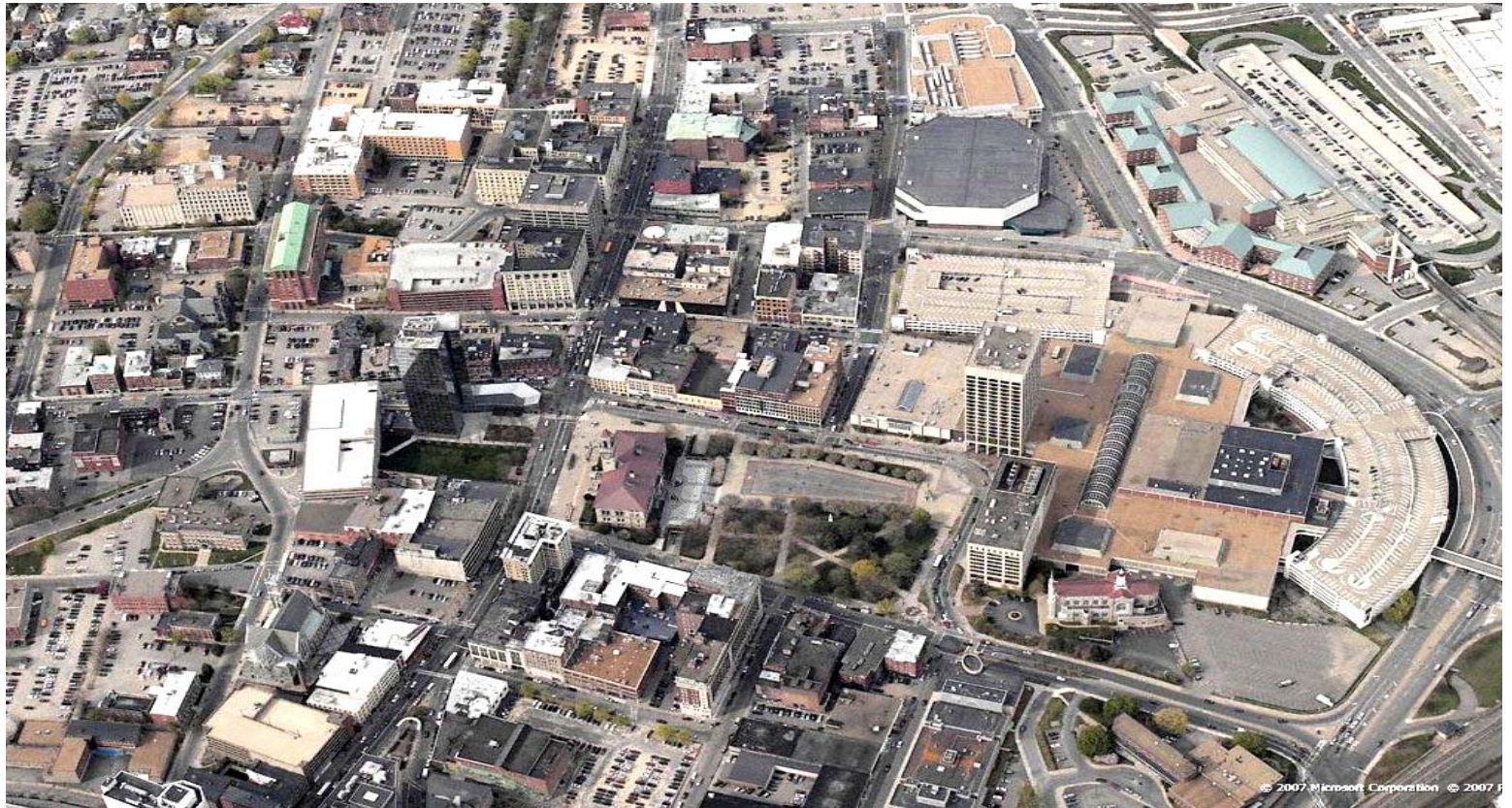




Building in Worcester: A Developer's Guide



City of Worcester, Massachusetts



April 2009



Acknowledgement

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Note to Reader

For information about Applications, Schedules and Fees, please see the Division of Planning and Regulatory Services' web page on the City of Worcester website:

www.ci.worcester.ma.us/ocm/planning/forms.html

Chapter 1: Introduction

Welcome to Worcester! As one of the largest cities in New England, Worcester combines the warmth of a small town and the convenience of a thriving city. Worcester boasts diverse neighborhoods, renowned colleges and cultural institutions, and a proud history of innovation and enterprise.

With six million people living within a 50-mile radius, unique opportunities exist in Worcester for dynamic business growth. The City of Worcester welcomes new investment and forward-thinking developments - whether they be major new commercial, residential or industrial initiatives or small building additions and renovations. Well-located directly along major interstate highways, and well-served by trains and an airport, Worcester has a great deal to offer.

To encourage new investment and development, we take pride in offering a clear and well-defined application, review, approval and permitting process for all property owners and developers seeking to do business in our community. Additionally, as a testament to Worcester's business-friendly environment, Worcester is the first city in the Commonwealth to offer the Expedited Permitting Process for Priority Development Sites.

This user-friendly Guidebook is designed to assist property owners and developers with understanding the City's review and approval processes, and what is required of them so they can better navigate the applications, reviews and approvals necessary to obtain zoning approvals and subsequently a Building Permit.

What's included in this Guidebook and how should it be used? The summary of approval processes outlined in this Guidebook focuses on *zoning* approvals, whose rules and procedures are described in detail in the *City of Worcester Zoning Ordinance*. After using this Guidebook as an introductory navigation tool, applicable parts of the Zoning Ordinance should be read thoroughly to understand the allowed uses, dimensional rules, and specific requirements within each Zoning District of the City (as indicated on the Zoning Map).

This Guidebook does not represent a legal document and should not be construed as legal advice.

What's not included? Other City reviews and approvals beyond those required by the City's Zoning Ordinance are often required as well. Such approvals include Fire Department Review, compliance with Building Codes, Health and Sanitary Codes, and Wetland Orders of Condition, for example. In some instances, state and/or local environmental reviews and approvals may also be needed.

This Guidebook is not intended to address all other independent reviews that may need to be pursued. In the case of the Expedited Permitting Process for Designated Priority Development Sites, many of these local approvals are consolidated and explained in Chapter 8.

The IRT: The City offers informal advice to developers and land owners about how to obtain approvals.

Because interpreting all the requirements of the Zoning Ordinance can be complex, the City offers informal advice to developers as to whether their project is compliant with zoning and assists developers in understanding how to navigate the various approval processes that may be required. This advisory process - known as the Inter-departmental Review Team (IRT) - is described in Chapter 2. If projects are determined to be 'By-Right', developers may apply directly for a Building Permit from the Director of Inspectional Services. [See Chapter 9.]



A. Who Should Read This Guidebook

This Guidebook is intended for all property owners and developers looking to build in Worcester. It is designed as a *first look* at the zoning and subdivision reviews and approvals required to develop projects. The Guidebook explains the step-by-step process for applications, reviews and permits required for most building development in the City - whether as a by-right zoning approval process or whether undertaken when special reviews and approvals are needed for Variances, Special Permits, Site Plan Review, Off Street Parking Review or Approval Not Required plans.

This Guidebook is also intended to assist owners and developers of specifically designated properties known as *Priority Development Sites*. These properties are subject to an *Expedited Permitting Process* that assures a final determination of various City approvals within a guaranteed timeframe of 180 days from the time a completed and satisfactory development application is submitted to the City by a property owner. (See Chapter 8.)



B. The Development Approval Process in Worcester: Standard Zoning Approval Processes & the Expedited Permitting Process

This Guidebook describes the City's various development review, approval and permitting processes in two broad categories. The first category - *Standard Approval Processes* - describes the most common zoning reviews and approvals in Worcester - whether for by-right developments or for developments requiring Special Permits, Variances or Site Plan Reviews. All applicants for development approvals in Worcester will utilize one of these standard processes.

The second category, for specific properties designated by the City as Priority Development Sites (PDS), the *Expedited Permitting Process*, is described in Chapter 8.

The Standard Zoning Approval & Permitting Processes

As described in the Introduction, the Standard Zoning Approval & Permitting Processes are described fully in the *City of Worcester Zoning Ordinance*. These standard processes include By-Right Development, Special Permits, Site Plan Reviews and Variances. These Standard Processes are *summarized* in Chapters 2-7.

Expedited Permitting for Priority Development Sites (PDS)

On August 2, 2006, Chapter 43D of the General Laws of Massachusetts was executed. Following municipal acceptance of the Expedited Permitting Process created by Chapter 43D, cities and towns may designate specific sites as *Priority Development Sites (PDS)* in an effort to spur new commercial, industrial and mixed-use development. After sites are officially designated by the City Council and the Commonwealth's Interagency Permitting Board as a PDS, owners or developers of such sites are guaranteed an expedited City review and approval process, ensuring that all permitting decisions, with limited exceptions, are rendered within 180 calendar days after completed and satisfactory applications are submitted.

Chapter 2: 'By-Right' Zoning Determination Process

A. What is a 'By-Right' Project and What Does That Mean?

A 'By-Right' project is one that, as proposed and designed: 1) fully complies with the uses allowed, dimensional rules, parking requirements, and all other zoning requirements of the Zoning District within which it is located; and 2) does not require any further review and approvals by the Planning Board and/or Zoning Board of Appeal. [Refer to 'Chapter 3. Special Permit Granting Process' and Chapter 4. 'Site Plan Review and Approval Process' in this Guide to determine which projects may require a Special Permit and/or Site Plan Review.]

When an application for a Building Permit is submitted, a proposed project is reviewed for zoning compliance by the Department of Inspectional Services. If a project qualifies as 'By-Right', a project developer may then receive a Building Permit from the Department of Inspectional Services, as long as Building Code requirements and any other non-zoning City or state approvals necessary have been obtained.

B. How Do I Determine Whether My Project Is 'By-Right' ?

To assist applicants, the Department of Inspectional Services can provide a Zoning Determination upon request for the proposed project. However, under the law, it is the sole responsibility of the applicant to ensure that the project is fully compliant with all applicable portions of the Zoning Ordinance.

If a project is 'By-Right', the applicant may directly apply for a Building Permit. [See Chapter 9.]

C. Interdepartmental Review Team (IRT) Process & Pre-Application Meeting

To help developers answer their questions and advise them of any City approvals that may be required, the City offers an informal and voluntary 'Pre-Application' meeting between City staff and the project proponent. Known as the *Interdepartmental Review Team (IRT)*, this informal City team offers a preliminary review of a project so that a developer does not have to go from one City office to another to find out about all the reviews and approvals required. The initial IRT consultation can usually clarify whether a project qualifies as 'By-Right' or whether it requires additional approvals – such as Site Plan Review and/or Special Permits. [This informal meeting does not, however, substitute for any required administrative reviews or necessary Board reviews.]

The IRT meets weekly and is comprised of multi-disciplinary staff from the Planning and Regulatory Services Division, Economic Development Division, Inspectional Services Division, Department of Public Works and Parks, and the Conservation Commission. The IRT will answer questions, define potential issues, and explain what approvals may be needed. To schedule an appointment for IRT review, a developer should contact the Planning and Regulatory Services Division at 508-799-1400, extension 1.

Chapter 3: Special Permit Granting Process

A. What is a Special Permit?

Some proposed projects are permitted as a property owner's right. Others, however, because of the potential impact on the neighborhood or city, require additional review and approval – a Special Permit.

A Special Permit is a permit issued by a Special Permit Granting Authority (SPGA), either the Zoning Board of Appeals or Planning Board, which authorizes the recipient to make use of property in accordance with provisions of the Zoning Ordinance, as well as any additional requirements imposed by the SPGA.

The need for a Special Permit, when required by the Zoning Ordinance, signifies that the use, nature, location or size of the project requires detailed review and scrutiny by the SPGA because of the project's potential impact on the site and/or the larger community.



B. Which Projects Require a Special Permit?

Special Permits are required for a wide variety of uses, conditions, and locations and often for projects located within special zoning districts or overlay districts.

Special Permits Granted by the Zoning Board of Appeals

A wide variety of proposed projects or conditions may require a Special Permit according to the Zoning Ordinance. Below is a list of project types or conditions requiring Special Permits from the Zoning Board of Appeals:

- *Certain Uses Requiring Special Permits:* Any use listed in the Zoning Ordinance's '**Permitted Uses by Zoning Districts - Table 4.1**' that indicates a requirement for a Special Permit must receive such permit from the Zoning Board of Appeals.

- *Earth Filling*
- *Earth Removal*
- *Outdoor Advertising*
- *Wall Murals and/or Banners*
- *Off-street Parking & Loading Requirement Modifications*
- *Compact Parking Spaces – Up to 50% Allowed by Special Permit*
- *Private Unattached Accessory Garage in Residential Districts*
- *Private Garages in Front Yard Setbacks*
- *Residential Conversions*
- *Personal Wireless Service Facilities*
- *Adult Entertainment Establishments*
- *Revival of a Nonconforming Use After Destruction*
- *Expansion or Change in Nonconforming Uses or Structures*

Special Permits Granted by the Planning Board

Projects geographically located either within or allowed under the jurisdiction of the following Zoning Ordinance Articles require a Special Permit issued by the Planning Board:

- Article IV. Section 8(F) Common Driveways
- Article IV. Section 13 Wind Energy Conversion Facilities and Meteorological Towers
- Article VII. Density Bonuses for Affordable Housing
- Article VIII. Cluster Zoning
- Article IX. Mixed Use Development Overlay
- Article X. Continuing Care Retirement Community
- Article XII. Water Resources Protection Overlay District
- Article XIII. Shrewsbury Street Parking Overlay District
- Article XIV. Arts Overlay District
- Article XV. Adaptive Reuse Overlay District
- Article XVIII. Priority Development Site

C. What Are the Criteria For Reviewing Projects Requiring Special Permits?

Special Permits shall be granted upon determination by the SPGA that the adverse effects of the proposed use will not outweigh its beneficial impacts to the City or the neighbor-

hood, in view of the particular circumstances of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in the Zoning Ordinance, the determination shall include general consideration of each of the following:

- Social, economic, or community needs that are served by the proposal;
- Traffic flow and safety, including parking and loading;
- Adequacy of utilities and other public services;
- Neighborhood character and social structure;
- Impacts on the natural environment; and
- Potential fiscal impact, including impact on City services, tax base, and employment.

Additionally, Special Permits may also be subject to other general or specific provisions set forth in the Zoning Ordinance, and may contain other conditions, safeguards, and limitations of time or use.

D. The Special Permit Process: A Step-by-Step Description

Step 1: Petitioner Prepares and Files an Application for a Special Permit to the SPGA

The petitioner shall prepare and file an Application for a Special Permit with the SPGA at the Division of Planning & Regulatory Services.

Once filed with the SPGA, a copy of the Application is then filed with the City Clerk. The City Clerk records the date and time of filing.

Step 2: City Shall Distribute Application to other City Departments

Copies of the Application will be sent by the Division of Planning & Regulatory Services to the SPGAs.

Step 3: SPGA Shall Hold a Public Hearing on the Application for Special Permit

The SPGA shall hold a Public Hearing on the Application that must be held within 65 days after official filing of an Application with the SPGA.

Public Notice of a Public Hearing shall: 1) be advertised once a week for two successive weeks by the Division of Planning and Regulatory Services in a newspaper of general circulation. The first advertisement shall not be less than 14 days before the day of the scheduled hearing; and 2) be posted in a conspicuous place in City Hall for at least 14 days before the date of the scheduled hearing.

Notice of Public Hearing will also be sent by mail by the Division of Planning and Regulatory Services to 'parties of interest', meaning the owner(s) of land (if different from petitioner), abutters, owners directly opposite the street or way, and abutters to abutters within 300 feet of the property line of the project (including all contiguously owned land).

Step 4: SPGA Issues Decision on Special Permit

The SPGA shall render a decision as to whether a Special Permit is to be granted or denied and then must file it with the City Clerk within 90 days following the close of the Public Hearing. Failure of the SPGA to take final action within the 90 day period may be deemed a grant of the Special Permit. These time limits may be extended by written agreement between the SPGA and the petitioner.

Notice of such decision shall be mailed by the Division of Planning and Regulatory Services to the petitioner, and all 'parties of interest', and every person present at the hearing of the decision who requested that notice be sent to him or her. Such Notice of Decision shall specify that any appeals to the relevant court shall be filed with the City Clerk within 20 days after the date of filing of the decision.

Step 5: City Clerk Certifies that No Appeal has been Filed and Special Permit Takes Effect

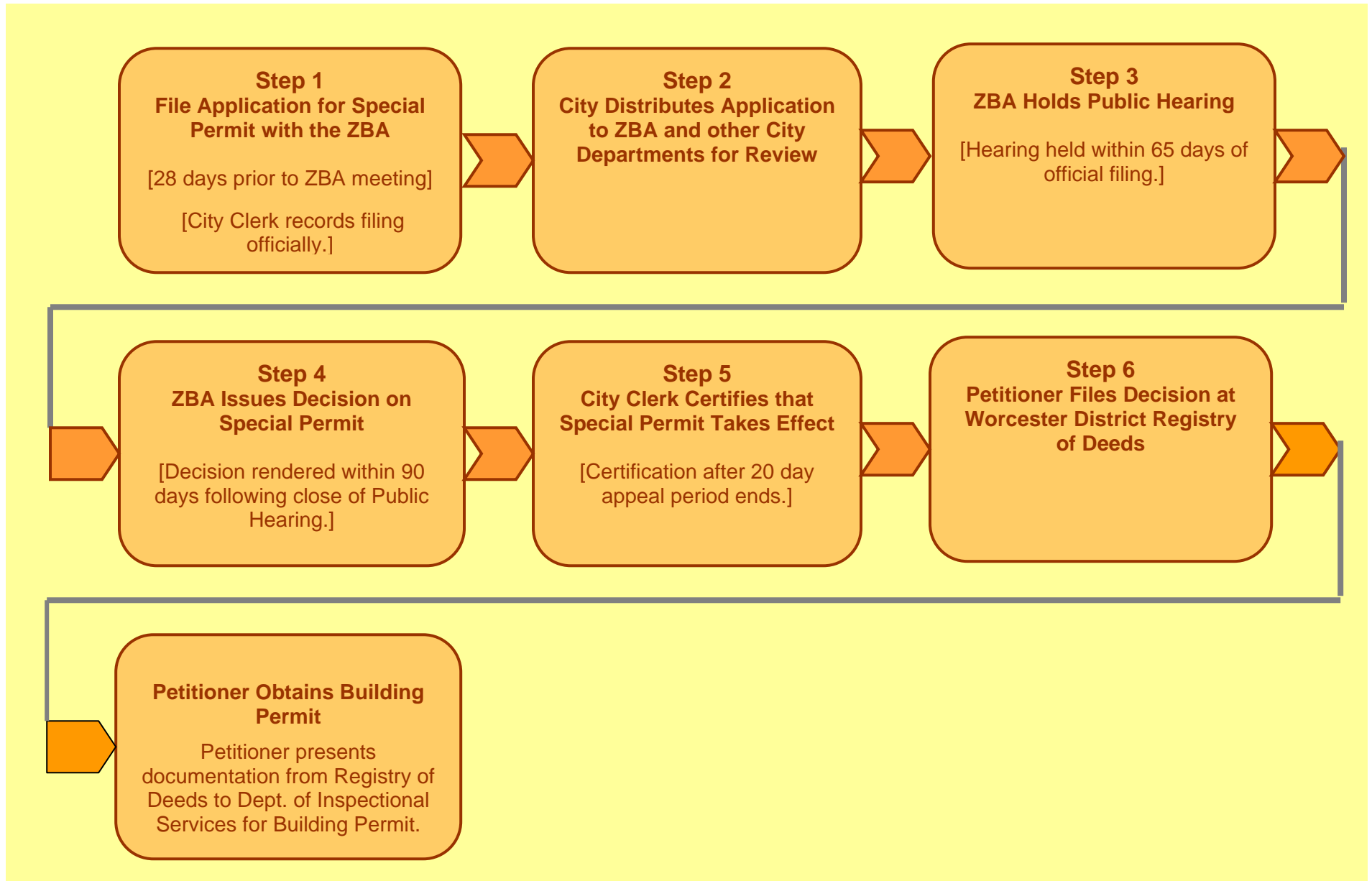
The City Clerk shall certify, once the 20-day appeal period has lapsed, that either no appeal has been filed or that if an appeal is filed, it has been dismissed or denied by the relevant court. As a result of such certification, the grant of the Special Permit takes effect and is final.

Step 6: Petitioner Files Decision at the Worcester District Registry of Deeds

The City Clerk's certified copy of the decision is then recorded by the petitioner in the Worcester District Registry of Deeds and a copy of such recording is required for any building permit applications.

If the activity authorized by the Special Permit is not initiated within one year of the date of grant (except in the case of phased construction), or not completed within two years, Then the Special Permit shall lapse unless the Director of Inspectional Services makes a determination that the failure to complete was for good cause.

**Special Permit Granting:
Process Flow Chart**



Chapter 4: Site Plan Review Process

A. What is Site Plan Review?

Site Plan Review is a detailed review by the Planning Board of certain individual projects that are deemed, by virtue of their use or size, to potentially have impact upon: 1) the natural and built environments; 2) the provision of public services such as transportation, utilities, ways, public safety and education; and/or 3) the character of the city.

Site Plan Review is triggered when a specific project exceeds certain *thresholds* defined in the Zoning Ordinance and listed in Section B below. Site Plan Review of projects is judged against defined performance criteria or standards also defined in the Zoning Ordinance.

The Planning Board may either: 1) approve the project, 2) conditionally approve the project subject to modifications required in order to meet the defined performance criteria or standards, or 3) deny the project. The Planning Board can only deny the project on the basis of specific written findings identifying one or more of the review standards that were not met.

Site Plan approval, when required by the Zoning Ordinance, must be obtained prior to the issuance of a Building Permit but is not required prior to the grant of a Special Permit or a Variance when they are also required. Applications for Site Plan approval, Variances, and Special Permits may be filed concurrently.

B. When is Site Plan Review Required or Triggered?

Uses Requiring Site Plan Review & Site Plan Review Thresholds

1) Any structure or substantial improvement that requires a Building Permit and meets one or more of the following thresholds:

- Residential: 5 or more dwelling units (DU)
- Manufacturing: 20,000 square feet
- Business: 10,000 square feet
- General: 15,000 square feet
- Slope: 15% or greater

2) Properties listed on the National Register of Historic Places and properties abutting National Register sites.

3) Each lot in a Definitive Subdivision Plan under the Sub-division Control Law.

4) Any structure or substantial improvement requiring a Building Permit and that will be used and operated as a Lodging House.

5) Site Plan Review must be obtained when any other provision of the Zoning Ordinance requires it. An example of such requirement is when residential construction is proposed within the Airport Environs Overlay District.

6) Billboards and Non-accessory signs subject to the Commonwealth's Outdoor Advertising Board.

C. What Are the Performance Standard Categories by Which a Project Is Reviewed?

The Standards for Review are described in detail in Article V. "Site Plan Review", Section 5-"Application Approval Process" of the Zoning Ordinance. The review standards generally fall under the following categories:

- Traffic and pedestrian circulation;
- Parking and loading;
- Location, size and design of buildings, signs and lighting;
- Adequacy of storm water, drainage, water supply and disposal facilities;
- Conformance with landscaping design standards and adequate open space;
- Protection of neighboring properties against noise, glare and unsightliness;
- Adequacy of fire protection, and susceptibility to flooding, erosion or sedimentation;
- Conformance with the site plan design with historic resources; and
- Adequacy of and impact on the regional transportation system.

D. What Information Must An Applicant Submit for Site Plan Review?

Prior to submitting a formal application for Site Plan Review to the Planning Board, as previously mentioned, the city offers an applicant the Interdepartmental Review Team (IRT) process. During this informal review of the proposed project, city staff will advise the developer on what the proposed project's issues and concerns may be prior to submitting a formal application. Once any site planning issues have been identified, a Site Plan Review application then may be submitted.

Application Submission Materials

Materials for Site Plan Review applications must be submitted in such form and numbers as required by the Planning Board for distribution to Planning Board members and other City departments for advice and comments. A detailed list of submission materials is described in Article 5, Section 4, subsection B - "Definitive Application".

The Application should describe:

- 1) Owner information;
- 2) Property location information;
- 3) The property's zoning classification and current use;
- 4) The proposed use of the property;

- 5) An Impact Statement analyzing how the proposed development impacts upon each of the standards for review; and
- 6) A Site Plan.

The *Site Plan*, prepared by a Registered Engineer, shall include:

- 1) Legal boundary, parcel, and easement lines;
- 2) Locus map showing the site in context of surrounding streets and other adjacent natural and built features;
- 3) A grading plan showing existing and proposed grades;
- 4) The location and size of both proposed and existing buildings;
- 5) Yard setback dimensions;
- 6) Information about roadways, sidewalks, parking, driveways, curb cuts, and loading;
- 7) Surface and subsurface drainage facilities, including ponds, and supporting drainage calculations;
- 8) Signs and lighting;
- 9) Proposed landscaping & retention of existing vegetation;
- 10) Useable open space;
- 11) Information on erosion and sedimentation control; and
- 12) Other information or documentation that the Planning Board may require.

E. Site Plan Review Process: A Step-by-Step Description

Step 1: Applicant Presents Project at Optional Pre-Application Review to the Interdepartmental Review Team (IRT)

Although not required, the Applicant is encouraged to informally present his/her project for review by the IRT. This review will allow city staff to address concerns, questions or issues with the proposed project or informational adequacy of the application. This informal review is intended to help guide the applicant to prepare and submit a formal Site Plan Review application. The IRT advisory process is available to the applicant at any stage in the process.

Step 2: Applicant Shall Prepare a Site Plan Review Application and File the Application with the Planning Board

The Applicant shall prepare his/her development proposal and then file the Site Plan Review Application with the Planning Board.

Step 3: City Shall Distribute the Application to Relevant Parties of Interest

The Planning Board shall distribute copies of the 'Definitive Application' to all City departments listed in the Zoning Ordinance or deemed appropriate by the Planning Board.

Step 4: Planning Board shall Review the Application and Hold a Public Meeting

The Planning Board shall commence its review of the application and hold a Public Meeting on the Application within 65 days of the formal filing. All abutters of the project shall be notified by mail of the Public Meeting. [It is the Applicant's responsibility to provide the Planning Board with a list of the names and addresses of all abutters and parties of interest that shall be certified by the City Assessor. The Applicant shall pay the cost of mailing the meeting notices, which shall be done by the City.] The Planning Board shall consider the comments of all parties at the Public Meeting and take into account the advice of various City Departments.

Step 5: Planning Board Shall Make a Finding on the Adequacy of the Site Plan Review Application

The Planning Board, within 65 days of the formal filing of the Site Plan Review Application, shall make a finding of approval, approval with conditions, or denial. The Planning Board shall not deny an Application except on the basis of adequacy in meeting one or more of the review criteria or standards. To the maximum extent possible, an Applicant

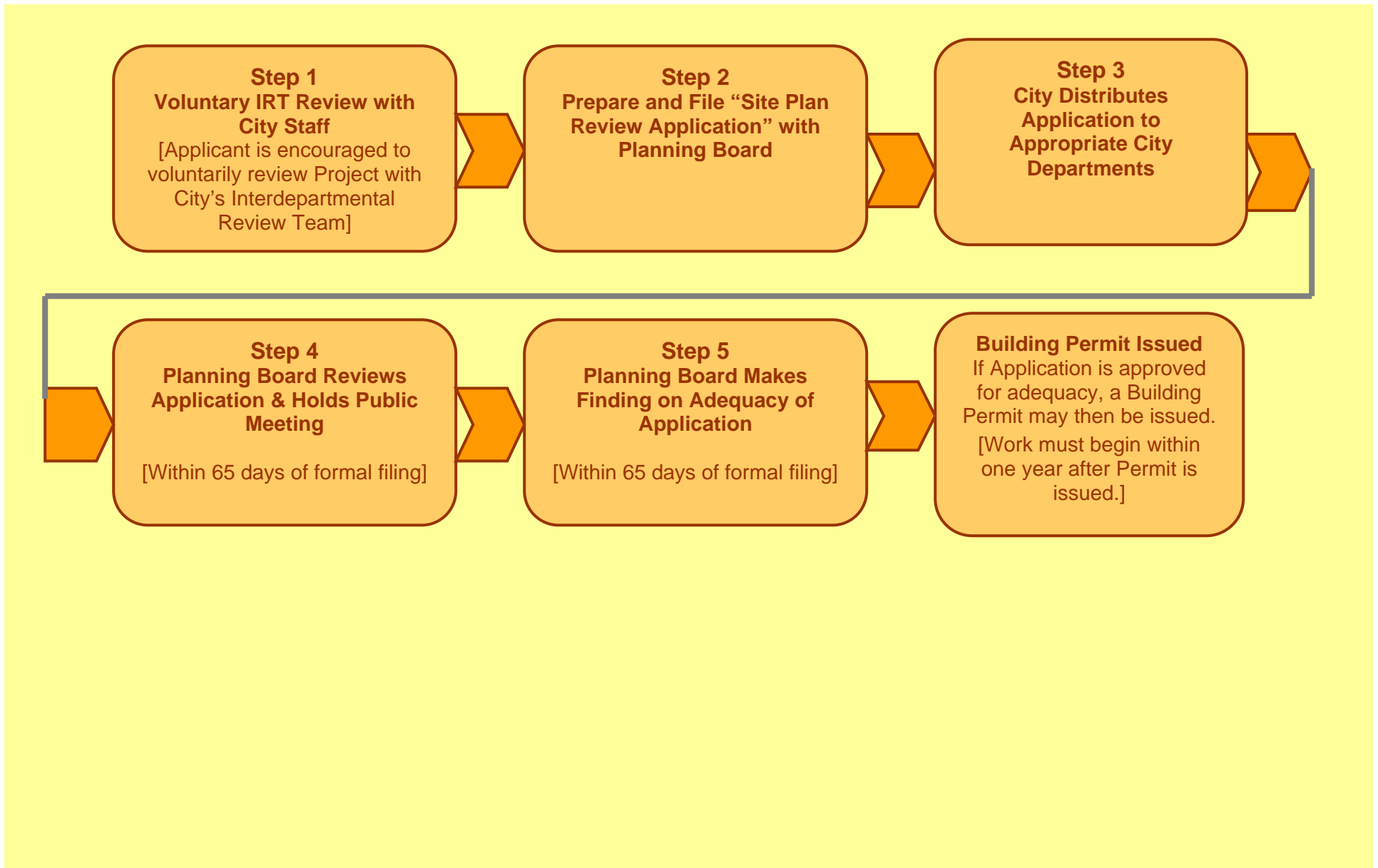
shall be provided an opportunity to supply corrections or additions on development proposal particulars.

Upon the Planning Board's finding of adequacy, a Building Permit may then be sought and issued. If the work or action authorized by Site Plan Approval is not commenced by the applicant within one (1) year of the date of grant, the approval shall become invalid; provided however, that the Planning Board in its discretion, upon written application of the Applicant and following due notice and a public meeting, may grant one (1) or more extensions for time periods not to exceed two (2) years each.

F. Site Plan Review Relief for Priority Development Sites

Notwithstanding the triggering thresholds for Site Plan Review described above in Section B of this Chapter, Site Plan Review shall *not* be required for any project or land use *that requires a Special Permit* in any Priority Development Site; provided however, that the applicant for such Special Permit shall submit all information required under 'Article V – Site Plan Review, Section 4.B (Submission Requirements – Definitive Application)' to the SPGA as part of the required application.

**Site Plan Review:
Process Flow Chart**



Chapter 5: The Variance Process

A. What is a Variance and When Is It Required?

A Variance is a unique exception or relief granted by the Zoning Board of Appeals (ZBA) from certain terms of the Zoning Ordinance, upon petition or appeal by a property owner. Such relief allows a project to receive approvals although the project does not or cannot strictly conform to the requirements of the Zoning District within which the project is to be built, and would not, under normal circumstances, be otherwise approved.

B. What Criteria or Standards Must a Property Meet to Obtain a Variance?

The ZBA must determine that *all* of the following findings apply in order to grant the petitioner a Variance:

- A literal enforcement of the provisions of the Ordinance would cause substantial hardship, financial or otherwise, to the petitioner.
- The hardship is due to factors such as soil conditions, shape, and/or topography of the land that specifically have an adverse effect on the proposed project, but which do not generally affect the Zoning District in which it is located.
- Desirable relief may be granted by the ZBA to the petitioner without substantial detriment to the public good and without nullifying or substantially diminishing the intent or purpose of the Ordinance.
- The extent of the Variance or relief granted shall be no greater than the minimum necessary to provide relief from the hardship.

C. Variance Process: Step-by-Step Description

Step 1: Applicant Prepares and Files a Petition with the ZBA

The petitioner shall prepare and file an Application for a Variance with the Zoning Board of Appeals at the Division of Planning & Regulatory Services. Once filed with the Division of Planning and Regulatory Services, a copy of the Application is then filed with the City Clerk. The City Clerk records the date and time of filing.

Step 2: City Shall Distribute Petition to Appropriate Boards or City Departments

Copies of the Petition will be sent by the Planning and Regulatory Services Division to the ZBA and the other City departments.

Step 3: ZBA Shall Hold A Public Hearing on the Notice of Appeal

The ZBA shall hold a Public Hearing on the Petition that must be held within 65 days after receipt of notice of the Petition by the ZBA.

Public notice of such Public Hearing shall be given once in each of two successive weeks by the Division of Planning and Regulatory Services by publication in a newspaper of general circulation, the first publication of which shall not be less than 14 days before the day of the scheduled hearing.

Notice of Public Hearing will also be sent by mail by the Division of Planning and Regulatory Services to 'parties of interest', meaning the owner(s) of land (if different from petitioner), abutters, owners directly opposite the street or way, and abutters to abutters within 300 feet of the property line of the project (including all contiguously owned land).

Step 4: ZBA Issues Decision on Variance

The ZBA shall render a decision on a Variance within 100 days after the Petition is officially filed. Failure of the ZBA to act within the 100-day period may be deemed a grant of the Variance. These time limits may be extended by agreement of the Zoning Board of Appeals and the applicant.

Notice of such decision shall be mailed by the Division of Planning and Regulatory Services to the petitioner, and all 'parties of interest', and every person present at the hearing of the decision who requested that notice be sent to him or her. Such Notice of Decision shall specify that any appeals to the relevant court shall be filed with the City Clerk within 20 days after the date of filing of the decision.

Step 5: City Clerk Certifies that No Appeal has Been Filed and the Variance Takes Effect

The City Clerk shall certify, once the 20-day appeal period has lapsed, that either no appeal has been filed or that, if an appeal has been filed, it has been dismissed or denied by the relevant court. As a result of such certification, the grant of the Variance takes effect and is final.

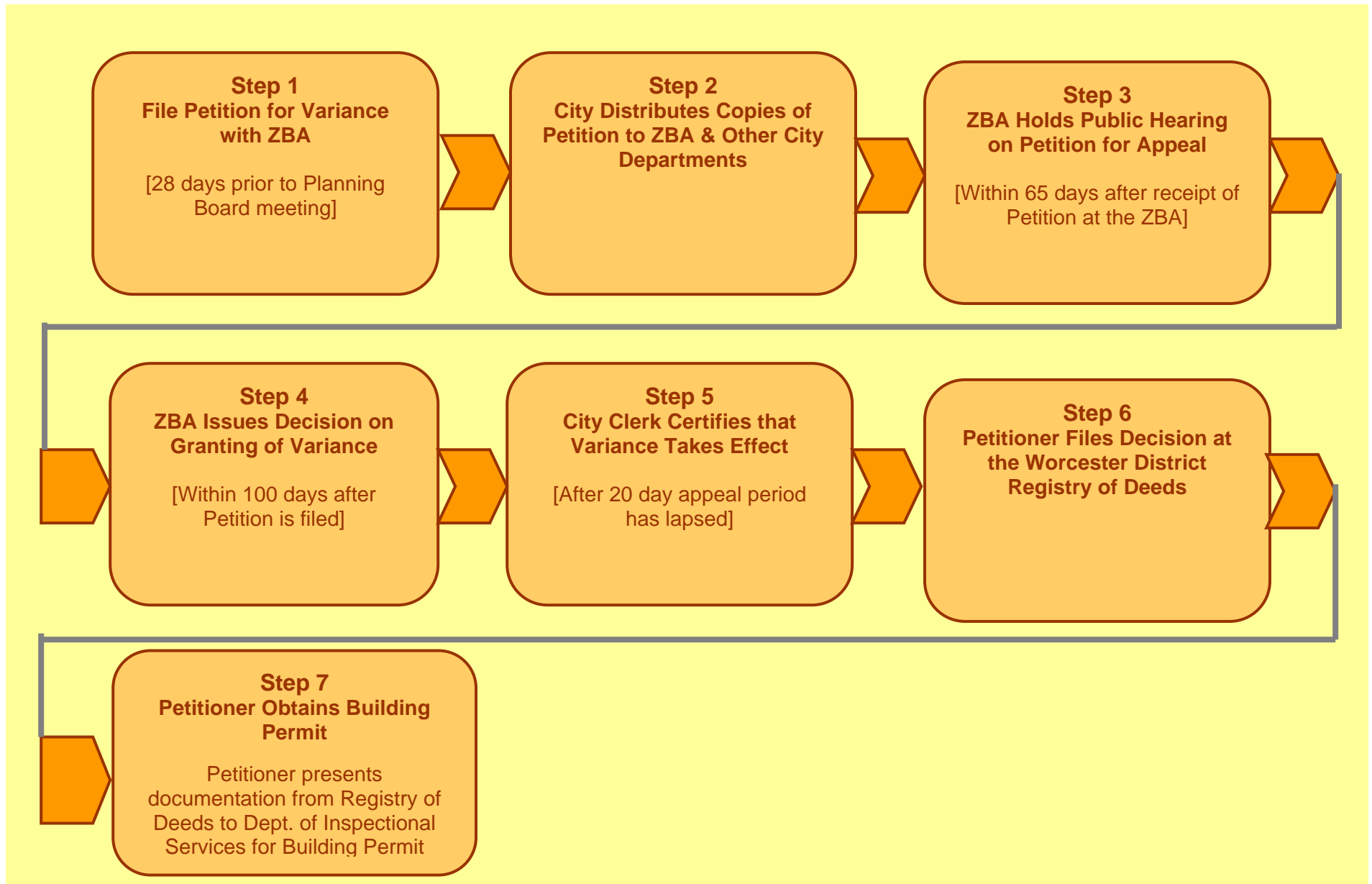
Step 6: Petitioner Files Decision at the Worcester District Registry of Deeds

The City Clerk's certified copy of the Decision is then recorded by the Petitioner in the Worcester District Registry of Deeds and a copy of such recording is filed with the Director of Inspectional Services.

The Director of Inspectional Services then issues a Building Permit to the Petitioner.

If the rights authorized by the Variance are not exercised by the grantee within one (1) year of the date of grant, they shall lapse, provided, however, that the ZBA in its discretion and upon written application of the grantee may extend the time by no more than six (6) months.

**Variance:
Process Flow Chart**



Chapter 6: Off-Street Parking Plan Review Process

A. When Does the Planning Board Review Off-Street Parking?

The Planning Board shall review and approve all off-street parking lots with 9 or more spaces. Plans for parking lots containing fewer than 9 parking spaces shall be reviewed and approved administratively by the Director of Inspectional Services.

Any projects that have received formal review and approval under the Site Plan Review procedures of Article V. shall be deemed to have received parking lot approval.

B. What Must an Applicant Submit for Parking Plan Review?

Parking plans should be submitted for approval. They should identify elevations and contours of the finished site, existing rights-of-way, entrances and exits, driveways, aisles, parking spaces, loading spaces, circulation, capacity, drainage, lighting, berms, curbing, fences, landscaped areas and other design features.

C. What Criteria Does the Planning Board Use to Review Off Street Parking Lots?

The Planning Board will review parking plans with respect to adequate access, drainage, capacity, circulation, compatibility, and safety to pedestrians and vehicles using the facilities and adjoining streets, and shall integrate such considerations into the review process.

Additionally, the Planning Board will use all the specific criteria and design standards enumerated in Article IV. Section 7 – ‘Off-Street Parking and Loading’ in reviewing parking lot plans.

D. The Off-Street Parking Plan Review Process

The Planning Board shall use the procedures of the *Site Plan Review* process as articulated in Article V of the Zoning Ordinance and summarized in Chapter 4 of this Guidebook.

Chapter 7: The Approval Not Required (ANR) Plan Process

A. What is an ANR Plan?

ANR (Approval Not Required) Plans show the division of a tract of land into two or more lots with adequate frontage and access on either: (a) a public way or way maintained and used as such; (b) a way previously approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the City of Worcester (June 26, 1939) and providing for the needs of vehicular traffic and the installation of municipal services, and whose frontages along such way(s) are dimensionally compliant with the requirements of the Zoning Ordinance. For such ANR lots, Subdivision approval is not required.

For more information on Subdivisions that are subject to Planning Board approval, please refer to Worcester's Subdivision Regulations which are intended to locally implement the Commonwealth's Subdivision Control Law (MGL Chapter 41, Sections 81K-81GG).

B. How Does the ANR Process Work?

Any Applicant wishing to record a plan that he/she believes is *not* a Subdivision may submit an ANR (Approval Not Required) Plan to the Planning Board through the Division of Planning and Regulatory Services.

The submitted Plan shall provide the Planning Board with sufficient information to determine that the applicant is entitled to an "Approval Not Required" endorsement. Such information should include: a surveyed plan showing lot boundaries and frontages, current zoning district, names of abutting land owners, names of all ways (labeled public, private or developer's) abutting the applicant's land, and information about the applicant and the following statement labeled on the Plan: "The above endorsement is not a determination of conformance with Zoning regulations."

The Plan must also include a statement above the area for the Planning Board endorsement that states "Approval Under the Subdivision Control Law is Not Required."

The ANR Plan must also meet Worcester District Registry of Deeds filing requirements.

The review of an ANR Plan by the Planning Board does not require a Public Hearing.

If the Board finds that the Plan *does not* require approval under the Subdivision Control Law, it must immediately endorse the plan "Approval Not Required" under the Subdivision Control Law.

The Planning Board *must* endorse the submitted Plan as "Approval Not Required" if the plan meets the following three (3) standards:

- All lots on the plan abut a qualified existing way;
- All lots have adequate frontage, as specified in the Zoning Ordinance (minimum of 20 feet); and
- Vital access exists to each lot.

A *qualified way* is either: 1) a public way or way which the City Clerk certifies is maintained and used as a public way, 2) a way shown on a Plan which has been previously approved in accordance with the Subdivision Control Law, or 3) a way in existence when the Subdivision Control law took effect in Worcester and having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the lots.

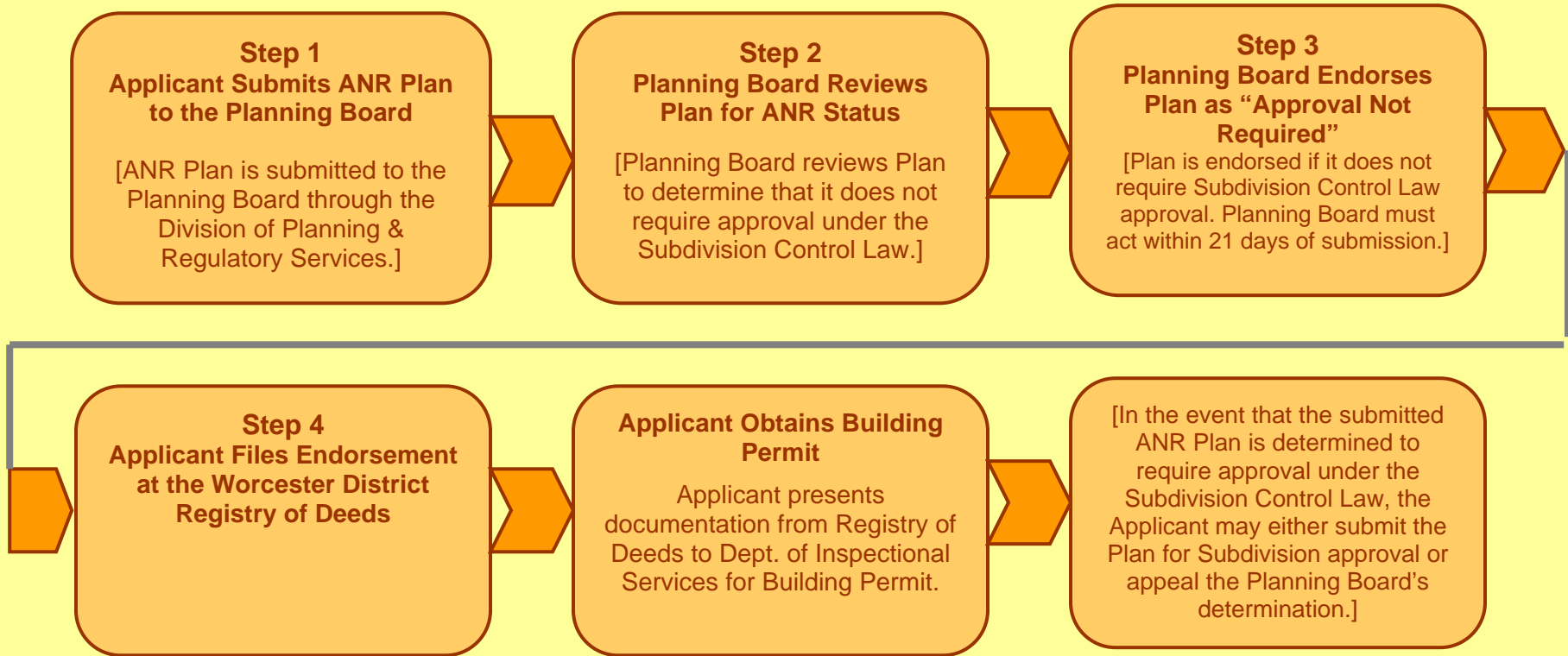
Please note that there is an exception under MGL 81L that allows a lot with two or more structures constructed prior to 1939 to be subdivided with an ANR Plan even if the resulting lots do not have adequate frontage (20' minimum frontage is required).

If the Planning Board determines that the Plan *does* require approval under the Subdivision Control Law, it shall provide written notice of its determination within twenty-one (21) days of the Plan's submission to the City Clerk and the

Applicant. The Applicant may then either submit the Plan for approval as provided under the Subdivision Control Law and the City's Subdivision Regulations, or alternatively, the Applicant may appeal the Planning Board's determination.

If the Planning Board fails to act upon a plan submitted for ANR endorsement or fails to notify the City Clerk and the applicant within twenty-one (21) days of its submission, the Planning Board shall be deemed to have determined that approval under the Subdivision Control Law is not required and shall make such an endorsement on the plan. Upon failure to make such an endorsement, the City Clerk shall issue a certificate to the same effect.

**ANR / Approval Not Required Plan:
Process Flow Chart**



Chapter 8: Expedited Permitting for Priority Development Sites

A. What is the Expedited Permitting Process and What Are Priority Development Sites?

Overview

In 2006, the Commonwealth enacted Chapter 43D of the Massachusetts General Laws. Under this new opt-in program, municipalities may designate certain specific sites intended for commercial, industrial, and/or mixed-use development as 'Priority Development Sites' (PDS) in order to foster targeted economic development within the municipality.

In exchange for such site designation, municipalities are: 1) granted greater access to certain state funding programs for these sites as well as enhanced real estate marketing and promotional efforts, and 2) the owner or developer of a PDS shall be guaranteed, in most instances, expedited and consolidated City review and decisions on zoning as well as certain other local required permits, if applicable, within 180 calendar days of the submission of a complete development application. [Under certain limited circumstances, the 180-calendar day review period may be extended.]

Chapter 43D also requires that certain state environmental (Conservation Commission) or the Massachusetts Historical Commission reviews, if required, be initiated concurrently with the City's 180-day expedited review period.

What is a Priority Development Site?

A Priority Development Site is a privately or publicly-owned parcel or set of parcels:

- Approved by the Worcester City Council and subsequently by the state's Interagency Permitting Board;
- Zoned for commercial, industrial and/or mixed uses; and
- Eligible for the development or redevelopment of a building of at least 50,000 gross square feet.

How does the Expedited Permitting Process Work?

Owners and developers of pre-approved Priority Development Sites may apply for local zoning and other permit approvals for commercial or industrial development within a consolidated 180-calendar day review period that commences after submission of all necessary application materials to the City are determined by the Planning Board to be 'complete'. Such City review must commence the day after a notice of completeness is issued. The City shall provide all necessary permit applications to the applicant. The City must notify an owner whether his or her application is considered complete within 20 business days of its submission.

[Please note that *prior* to starting this formal application process, developers *must* meet with the City's Interdepartmental Review Team (IRT) for a preliminary but *mandatory* review of the project to go over any issues or questions. A PDS project will be given priority scheduling in the IRT's weekly meeting agenda, which is usually set on a first-come-first-served basis.]

At the end of the 180-day review period, the City's various permitting boards must render their decisions - either issue approvals, denials, or conditionally grant approvals. If a permitting board does not render its decision within the 180-day period, and has not provided notice of an extension of that period (permitted only in limited circumstances), the application is deemed automatically approved. Lack of time cannot be used as a basis of permit denial if the applicant has submitted a complete application. Permits issued under the Expedited Process shall expire five (5) years from the date of issuance.

If certain approvals or permits are denied or conditionally approved, applicants may appeal these decisions. Applicants must file their appeals within later of: A) 20 days after the last individual permitting decision has been rendered or B) within 20 days after the conclusion of the 180-day period (plus extensions, if granted).

What Permits Are Included in the Expedited Permitting Process?

Local permits issued under the jurisdiction of the Expedited Permitting Process include all zoning Special Permits, Site Plan Review, or Variances issued by either the Planning Board or ZBA. [The City has determined that the Planning Board be the Special Permit Granting Authority for all zoning Special Permits issued for a Priority Development Site.]

Other local approvals include, if applicable:

- sewer construction and/or connection permits;
- determinations and/or permits for activities in the vicinity of protected wetlands;
- water use and/or water connection permits;
- licenses and/or permits related to fire safety; and
- street opening permits.

Local approvals that are *not* governed by the Expedited Permitting process include:

- Building Permits issued by the Inspectional Services Department;
- ANR Residential Plan Approvals; and
- Subdivision Approvals.

Concurrent State Permitting

It is the intent of the Expedited Permitting Process to encourage local permitting review concurrently with the necessary state environmental reviews. Any reviews that may be required under the Massachusetts Environmental Policy Act (MEPA) or the Massachusetts Historical Commission shall conclude within 120 calendar days of a State determination of completeness of required review materials as established by the Executive Office of Energy and Environmental Affairs (EOEEA).

These state reviews shall take place concurrently with the local 180-calendar day Expedited Permitting process. The Secretary of Energy and Environmental Affairs shall establish timeframes for all required filings by the applicant in order to comply with this schedule. In the event an applicant fails to comply with all relevant timeframes, the clock shall be stopped until the applicant files the required documents.

B. Local Expedited Permitting Process: Step-by-Step Description

Step 1: Determine Necessary Approvals

An Applicant, after informal but mandatory consultation about his/her development plans with the City's Economic Development Division and the City's IRT, shall determine all development approvals and information required to gain the necessary permits to develop property for his/her intended use(s). Once all required permits are identified, the City shall provide the applicant with all the necessary permit application forms. [Please note that simultaneously, the Applicant shall determine if any state reviews may be required or triggered and, if so, what information must be gathered and submitted to meet state permit submission requirements.]

Step 2: Prepare Required Information

Applicant shall prepare all necessary architectural, site development, and/or environmental data in sufficient detail and with sufficient information to complete all applications to the City's satisfaction.

Step 3: Submit Permitting Applications

Applicant shall submit all completed applications to the Planning and Regulatory Services Division.

Step 4: City Notification of Completeness

The City, within 20 business days of receipt of the Application, shall notify the applicant by certified mail if it has determined the application to be complete. If the City fails to notify the applicant within 20 business days of its determination, then the application shall be deemed complete.

If the application is determined to be complete, the City's 180-calendar day review process of the application commences the following day.

If the application is considered incomplete, the City shall notify the applicant of any deficiencies in information which must be corrected and then re-submitted in order to be considered complete.

Step 5: City Conducts 180-Day Review and Renders Decisions

The City, and all the necessary permitting boards, shall commence their 180-day project review of the proposed development once a submitted application has been determined to be complete. On or before the 180-calendar day review period expires, the City's various permitting boards must make a determination and then notify the applicant as to whether: 1) a permit, license or approval is granted, 2) a permit, license or approval is denied, or 3) a permit, license or approval is conditionally granted.

If any permit granting board fails to notify the applicant within this 180-day timeframe (or applicable extension) of its decision, the permit application pending before that board is automatically deemed approved.

Step 6: Applicant Files Affidavit Certifying a Grant of Approval if Decisions Are Not Rendered

As described in the previous step, if any permit granting board fails to notify the applicant within this 180-day timeframe of its decision, that specific permit application is deemed automatically approved. In such case, within 14 days after the expiration of the review period, the applicant shall file an affidavit with the City Clerk stating the facts giving rise to the grant approval and stating that notice of the grant has been mailed to all parties to the proceedings.

Step 7: Applicant Corrects Deficiencies and Re-files Application if Permits are Denied

If one or more permits are either denied or only conditionally approved, the applicant may seek to correct the application to meet the permitting board(s) objections, and then resubmit it for another round of reviews.

Step 8: Appeal of Denial

Alternatively, if an applicant believes that a denial or conditional approval is unjustified, the applicant may appeal that denial or conditional approval.

Step 9: Applicant Proceeds with Development Once All Permits and Approvals Are Granted

If all necessary permits, licenses and approvals are granted, the Applicant may proceed with planning and design.

C. Benefits of the Expedited Permitting Process for Priority Development Sites

Designation of a property by the City as a Priority Development Site (PDS) and the subsequent allowance of an Expediting Permitting Process for the property's owner or developer offer benefits to both the City and the Owner.

Benefits to the Municipality & Owners

PDSs are eligible for additional state assistance:

- Priority consideration for Public Works Economic Development (PWED) and Community Development Action Grant (CDAG) funding
- Priority consideration for other quasi-public funding
- Brownfield remediation assistance
- Enhanced online marketing
- Technical assistance from MassDevelopment or the Central Massachusetts Regional Planning Commission.

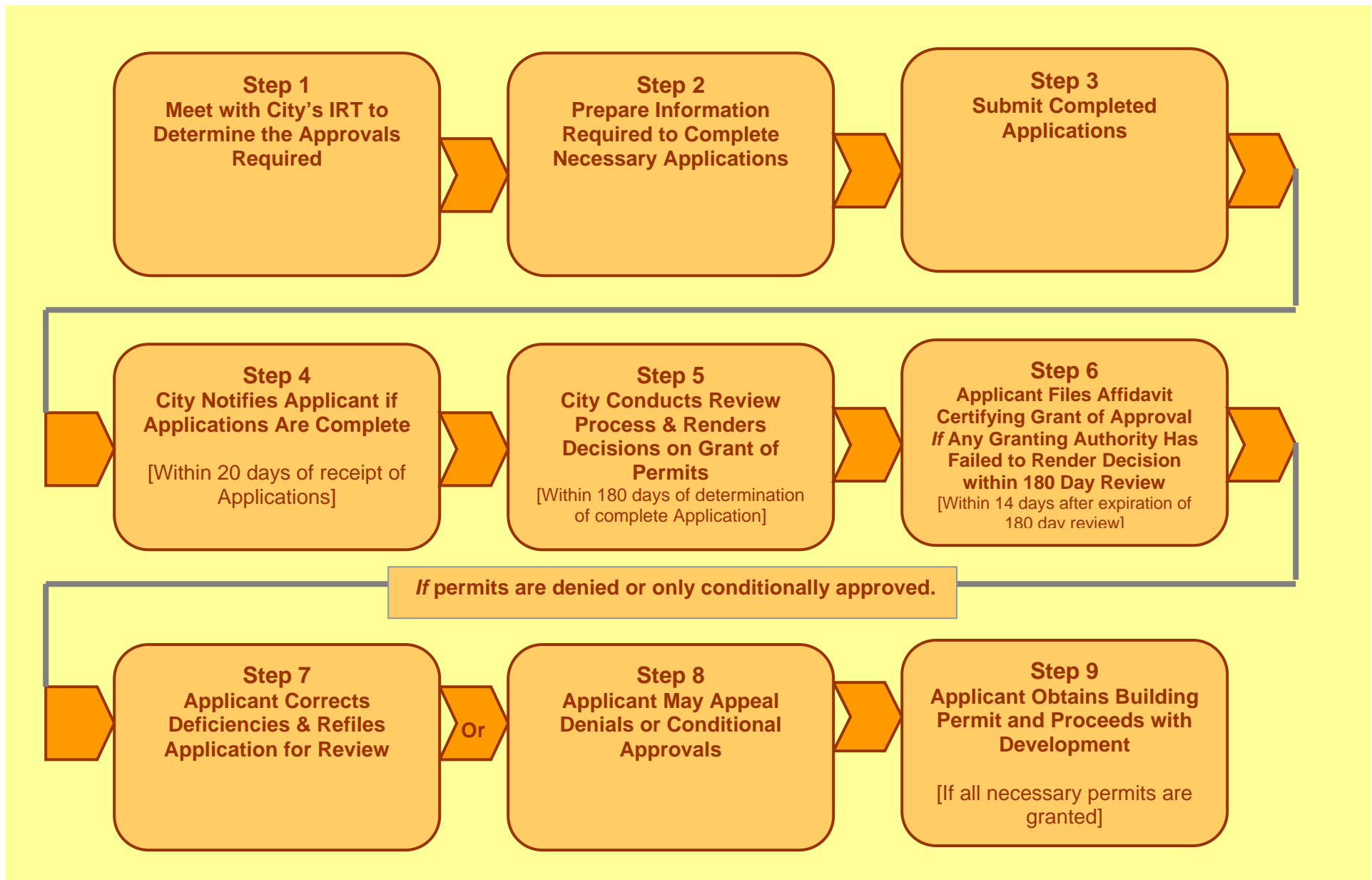
Benefits to the Owner or Developer of a Priority Development Site

Owners are guaranteed that the City's review and determination of zoning approvals (including Special Permits and Site Plan Review, if required) will be concluded within 180 calendar days from the date of submission of a complete application.

Owners are also guaranteed that *other* City reviews related to the use or development of land, buildings or structures, with the exceptions set forth in G.L. c. 43D, will be concluded within this same 180 calendar day period.

If a Massachusetts Environmental Policy Act (MEPA) review or Massachusetts Historical Commission review is required, these reviews must be conducted concurrently with the 180-day municipal review period, although these state reviews may not be completed within the 180 day period.

**Expedited Permitting:
Process Flow Chart**



Chapter 9: Building Permit Application Process

A. What Is A Building Permit and How Do I Get One?

A Building Permit is documented permission issued by the City's Director of Inspectional Services to the owner or developer of a property to begin construction or alteration of a building project. To obtain a Building Permit, the applicant must submit completed plans and other technical documents so that the Director of Inspectional Services can review and verify that the plans and documents are in full compliance with local Zoning and Building Code requirements and that all necessary zoning approvals, Special Permits, Site Plan Review approvals and/or Subdivision approvals have been obtained, as may be applicable.

Prior to submitting completed plans to the Director of Inspectional Services for a final determination of compliance, the applicant shall have previously obtained, if applicable, a Variance, Special Permit and/or Site Plan Approval. If the project can be accomplished on a 'By-Right' basis, then only the approval of the Director of Inspectional Services is required to issue a Building Permit.

B. What Do I Have To Submit to Get a Building Permit?

An applicant for a Building Permit must submit plans, drawings, and other documents to the Director of Inspectional Services to determine compliance with the provisions of the Zoning Ordinance and the Building Code.

C. Building Permit Application and Approval Process: Step-by-Step Description

Step 1: Submit Building Permit Application

The developer should submit a Building Permit application form, together with all necessary plans and documents, to the City's Director of Inspectional Services.

Step 2: Inspectional Services Reviews Application for Compliance and Then Issues Decision on a Building Permit

Upon receipt of the Building Permit application, the Director of Inspectional Services will determine if the application materials are complete. If they are, he/she will review the submission for compliance with the Zoning Ordinance and Building Code and *may* distribute the plans to other various City departments for further review. The Director must make a determination of compliance within 30 days of the completed submission and then issue one of the two following determinations:

- 1) If the project is fully compliant and requires no additional zoning reviews by the Planning Board or Zoning Board of Appeals (or has already received those additional zoning approvals from either the Planning Board or Zoning Board of Appeals), the Director of Inspectional Services will issue the applicant a Building Permit; or
- 2) If the project is *not* compliant or requires additional reviews or permits, the Director of Inspectional Services will issue a denial indicating that the project requires additional zoning reviews or relief in the form of a Special Permit, Site Plan Review, or Variance.

Step 3: Applicant May Choose to Seek the Required Zoning Relief or Appeal the Denial

If the Building Permit is denied, the Applicant may then choose to seek zoning relief – whether a Special Permit, Site Plan Review, or Variance. The Applicant shall then follow the

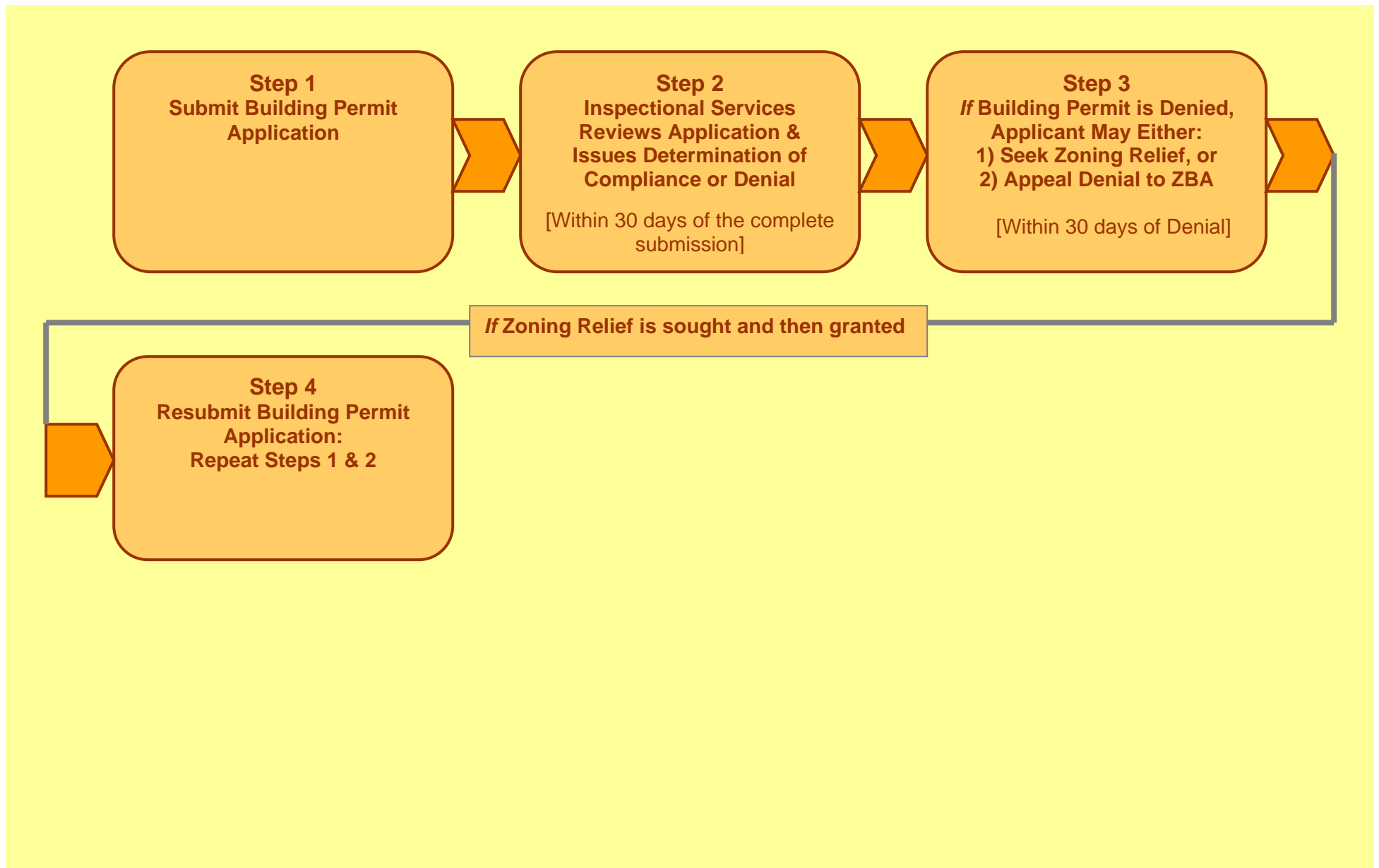
review process and obtain the necessary approval(s) for the applicable zoning relief mechanism as described earlier in Chapters 3 – 6 of this Guide.

Alternatively, an applicant may appeal the Director's denial of the Building Permit to the ZBA by filing a Notice of Appeal, within 30 days of the date of denial with the City Clerk, and copies of the Notice, including the date and time of filing certified by the City Clerk, with both the Director of Inspectional Services and the ZBA.

Step 4: Resubmission of Building Permit Application

Should an Applicant choose to obtain the zoning relief deemed necessary by the Director, the Applicant may resubmit his/her Building Permit Application and repeat Steps 1 and 2 above once all approvals have been obtained.

**Building Permit Application:
Process Flow Chart**



Glossary of Definitions

ANR Lot

ANR (Approval Not Required) Lots are building lots whose frontages directly adjoin and are accessible from either: (a) a public way or way maintained and used as such, (b) a way previously approved in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the City of Worcester and providing for the needs of vehicular traffic and the installation of municipal services, and whose frontages along such way(s) are dimensionally compliant with the requirements of the Zoning Ordinance.

Building Permit

A permit granted to a developer or property owner by the Director of Inspectional Services to commence construction or alteration of a building or structure after the Director ascertains that the proposed project conforms to all applicable zoning regulations, has received all required zoning approvals, and conforms to the Building Code.

Business Day

A business day is any day of the week that City offices are open for business. This includes week days except for declared holidays and emergency closures.

By-Right

A By-Right project is one that fully complies with the uses allowed, dimensional rules, parking requirements, and all other zoning requirements of the Zoning District within which it is located. Furthermore, to be considered a 'By-Right' project, it must not additionally require either a Variance, a Special Permit, or trigger a Site Plan Review.

Calendar Day

A calendar day includes every day of the year – including weekdays, weekends, and holidays.

Conservation Commission

The City's Conservation Commission has two main statutory responsibilities: enforcement of the Massachusetts Wetlands Protection Act as well as local enforcement of the City of Worcester Wetlands Protection Ordinance. The Commission is also a participating agency in the review process of the Massachusetts Environmental Protection Act.

DPW & P / Department of Public Works & Parks

The Department of Public Works and Parks maintains: 1) the City's water, sewer, and street and traffic systems; 2) all City parks, playgrounds, beaches and street trees; and, 3) the cemetery and public buildings.

Planning & Regulatory Services Division

A Division of the Executive Office of the City Manager charged with coordinating zoning functions. Such zoning coordination functions include, but are not limited to, Keeper of the Records of the Zoning Board of Appeals and Planning Board, and coordinating the Interdepartmental Review Team (IRT) process.

Director of Inspectional Services

The Director of Inspectional Services is assigned the responsibility to interpret, administer and enforce the Zoning Ordinance.

Economic Development Division

A Division of the Executive Office of the City Manager, the City's Economic Development Division coordinates and facilitates other public and private entities to build a city that attracts new businesses and residents, encourages the creation of retail, entertainment, and cultural opportunities, and generates land value that draws private investment to vacant and underutilized properties.

Interdepartmental Review Team (IRT)

The IRT is comprised of staff from the City's Planning and Regulatory Services and Economic Development Divisions, Inspectional Services Division, the Department of Public Works and Parks, and the Conservation Commission. IRT meets every Thursday afternoon, as needed, in informal project review sessions. At a developer's request, at any stage of his/her project, a developer may attend an IRT session so that the IRT can answer questions about proposed projects, point out possible issues, and inform project proponents about what types of approval may be needed. IRT is coordinated by the Planning and Regulatory Services Division and is mandatory for PDS projects.

Massachusetts Historical Commission (MHC)

The Massachusetts Historical Commission identifies, evaluates, and protects the significant historic and archaeological assets of the Commonwealth.

Overlay Zone

Areas designated by the City of Worcester in the Zoning Ordinance for the purpose of preserving the resources of the area while simultaneously promoting development there, including, but not limited to Mixed Use, Floodplain and Water Resources Protection.

Planning Board

The agency established by the City authorized to: 1) grant certain Special Permits not granted by the Zoning Board of Appeals; and 2) review and approve site plan applications. It is also the SPGA for Priority Development Site / PDS projects. The Planning Board also establishes zoning.

Priority Development Site / PDS

A Priority Development Site is a privately or publicly-owned parcel or set of parcels that are: 1) designated and approved by the Worcester City Council, and subsequently by the state's Interagency Permitting Board; 2) zoned for commercial, industrial and/or mixed uses; and 3) eligible for the development or redevelopment of a building of at least 50,000 gross square feet. Once designated as a PDS, the review and approvals of a project on such sites are

guaranteed to be undertaken in an expedited manner within a 180 calendar day period that commences after submission of all necessary application materials to the City.

Site Plan Review

Site Plan Review is a detailed review by the Planning Board of certain projects that are deemed, by virtue of their use or size, to potentially have impact upon either: 1) the natural and built environments; 2) the provision of public services such as transportation, utilities, ways, public safety, and education; and/or 3) the character of the City. Site Plan Review is triggered when a specific project exceeds certain use or scale *thresholds* defined in the Zoning Ordinance. Site Plan Review of projects are judged against defined performance criteria or standards also defined in the Zoning Ordinance.

Special Permit

A permit issued by the Planning Board or Zoning Board of Appeals (ZBA), known as a Special Permit Granting Authority (SPGA) that authorizes the recipient to make use of property in accordance with provisions of the Zoning Ordinance as well as any additional requirements imposed by the SPGA. The need for a Special Permit signifies that the use, nature, location, or size of the project requires detailed review and scrutiny by the SPGA because of the project's potential impact on the site and/or the larger community.

Special Permit Granting Authority (SPGA)

The SPGA is a generic term for a specific Board empowered to grant Special Permits. In Worcester, certain types of Special Permits are granted by the Planning Board while others are granted by the Zoning Board of Appeals.

Subdivision

The division of a single parcel of land into two (2) or more lots provided those lots do not qualify as Approval Not Required (ANR) Lots.

Variance

A Variance is a unique exception, departure or relief granted by the Zoning Board of Appeals (ZBA) from certain terms of the Zoning Ordinance, upon petition or appeal by a property owner.

Zoning Board of Appeals (ZBA)

A body authorized as the Special Permit Granting Authority (SPGA) to grant Special Permits, except for those expressly assigned to the Planning Board, under the terms of the Zoning Ordinance. Also, the body authorized to hear appeals by any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under MGL c. 40A and the Zoning Ordinance.

