

# City of Rensselaer

## Planning and Development

### Process



Adopted September 2020

## Table of Contents

<u>Content</u>	<u>Page</u>
Section 1: Introduction	...5
Basic development process overview	...5
Section 2: Full Development Process Overview	...7
Phase I: Pre-development	...7
Phase II: Final Site plan review	...12
Phase III: Pre-construction	...14
Phase IV: Construction/development	...15
Phase V: Post-development	...16
Section 3: Appendices	
Appendix A: Type II SEQR Actions	
Appendix B: Type I SEQR Actions	
Appendix C: Zoning §179-75. Preliminary site plan approval	
Appendix D: Zoning §179-24. Special use permits	
Appendix E: Zoning §179-85. Zoning Board of Appeals	
Appendix F: SEQR Resources	
Appendix G: Zoning §179-76. Final detailed site plan approval	



THIS PAGE WAS INTENTIONALLY LEFT BLANK



THIS PAGE WAS INTENTIONALLY LEFT BLANK



# Section 1

## Introduction

The intention of this document is to guide residents and developers through the planning and development processes in the City of Rensselaer. The process outlined in this document is uniform and applies universally to all those whom develop, renovate, reconstruct, or rehabilitate a property or properties in the City of Rensselaer. This document provides information on zoning code, zoning compliance, and zoning variances, major versus minor site plan review and approval, special use permits, certificates of appropriateness, operating permits, certificates of use, subdivisions, the city's schedule of fees, and the New York State Environmental Quality Review Act (SEQR).

## Simple Development Process Overview

### PHASE I: PRE-DEVELOPMENT

- i. Zoning consultation, determination of compliance and project scale
- ii. Preliminary application development and submission
  - a. Sketch plan conference/pre-development meeting if necessary
  - b. Planning Department determination of complete or incomplete application
- iii. Preliminary application submission and review by Planning Commission
  - Request for Special Use Permit, if applicable
  - Request for Certificate of Appropriateness, if applicable
  - Request for SEQR Lead Agency coordination, if applicable
  - Referral to Zoning Board of Appeals (ZBA), if applicable
- iv. Preliminary application approval
  - a. Referral to Rensselaer County Bureau of Planning if necessary
  - b. ZBA review
    - ZBA approval: recommendation to advance to Phase II
    - ZBA denial: recommendation to revise preliminary application
  - b. Declaration of QR coordination with Lead Agency
  - c. Issuance of preliminary application approval or rejection with justification



## PHASE II: FINAL SITE PLAN REVIEW

- i. Submission of final detailed plans
- ii. Planning Commission review and issuance of SEQR declaration
  - Positive SEQR declaration: begin EIS
  - Negative SEQR declaration: proceed to Phase II, step iii
- iii. Planning Commission final approval
  - a. Issuance of site plan approval letter(also special use permits and certificates of appropriateness) by Director of Planning and referral to Building and Zoning Administrator for necessary permits
  - b. Final site plans signed and stamped by Director of Planning and Chair of Planning Commission

## PHASE III: PRE-CONSTRUCTION

- i. Consultation with Building and Zoning Administrator
- ii. Permit application
- iii. Permit approval and issuance

## PHASE IV: CONSTRUCTION/DEVELOPMENT

- i. Begin construction
  - a. Schedule regular construction inspections with Building and Zoning Administrator per New York State requirements, as necessary
  - b. Permit renewal or extension, as necessary
- ii. Final inspections
- iii. Permit close-out
- iv. Construction completion

## PHASE V: POST DEVELOPMENT

- i. Obtain necessary permits for operation
  - a. Operating Permit
  - b. Certificate of Use
- ii. Certificate of Occupancy
- iii. Project closeout



## Section 2

This section serves to provide a detailed outline of the process outlined in Section 1. This section will refer to the City of Rensselaer’s 2012 Zoning Code, SEQR, and other policies that are accepted as standard practice in development projects across the Capital Region and New York State.

### Full Development Process Overview

#### PHASE I: PRE-DEVELOPMENT

The pre-development phase addresses zoning compliance or variances and preliminary site plan design, review, and approval. The purpose of the pre-development phase is to determine if the best course of action to bring a project from conceptualization to construction. Only projects that are granted preliminary site plan approval will be considered for final site plan approval in Phase II.

#### Step 1: Zoning consultation

Zoning consultations are required for every project that is being considered for development in the city. Consultations will determine if your proposal is compliant or non-compliant with the current zoning regulations as well as whether or not your project is considered “minor” or “major”. To begin a zoning consultation, follow the steps below:

- i. Call or email the Planning Department to inquire about your proposed use and if directed, complete a Zoning Verification Request Form. Zoning Verification Request Forms are provided in person at City Hall or can be found at [www.rensselaerplanning.com/forms](http://www.rensselaerplanning.com/forms).

Lot Size (square feet)	Front setback (feet)	Building height (new construction, feet)
Lot width (feet)	Side and rear setbacks (feet)	Number of parking spaces (currently available)



- ii. The Planning Department will issue a zoning verification letter that determines if your current or proposed use is compliant or non-compliant, as is. This letter will also categorize your project as “minor” or “major”. Zoning verification letters are provided for a fee of \$50.
  - a. If your use is determined to be *compliant*, it is appropriate to move forward to step two of predevelopment, “Preliminary application development”.
  - b. If your use is determined to be *non-compliant*, you may be required to obtain a special use permit, certificate of appropriateness, or a zoning variance during the Planning Commission/site plan approval process.
- “Minor” projects will be those that do not prompt SEQR review and are consistent with Type II actions as defined in **6 CRR-NY 617.5 (Appendix A)**, unless otherwise specified by the Planning Department. Additional parameters for considering the scope of a project will be square footage and/or use of public infrastructure when considering subdivisions.
- “Major” projects will be those that do prompt SEQR review are consistent with Type I or Unlisted actions as defined in **6 CRR-NY 617.4 (Appendix B)**. Any project that requires a special use permit, certificate of appropriateness, or a zoning variance will be considered “major” unless otherwise specified by the Planning Department. Additional parameters for considering the scope of a project will be square footage and/or use of public infrastructure when considering subdivisions.

## Step 2: Preliminary application development

The process for preliminary development of an application will be different depending on whether your project was determined to be minor or major in nature. Projects determined to be minor in nature are not required to go through the Planning Commission’s site plan review and approval process. Projects determined to be “major” in nature are required to go through all necessary avenues of approval.

### For minor projects:

- i. Consult with Planning and Building Departments to determine what documents and plans you will need to submit in order to receive departmental approval.
- ii. Once you have submitted an application, you will receive a notice of complete or incomplete application from the Planning Department.
  - ***Only complete applications will be considered for approval.*** If your application is deemed incomplete, you must provide all required materials before your application may be considered for approval.
- iii. Complete applications will be reviewed and granted approval or rejected.



- If your application is granted approval, you will receive a letter with directions for the next steps to receive your building permits. Skip to Phase III: Pre-construction.
- If your application is rejected, you will receive a letter stating the reason(s) for rejection. *In order to move forward, it is the responsibility of all applicants to provide materials necessary for an application to be considered “complete”.*

**For major projects:**

- i. Consult with the city’s Development Advisory Committee (DAC) for a Sketch Plan Conference. The purpose of this meeting is to discuss:
  - Initial project proposal
  - Essential project elements per the City’s Zoning Ordinance
  - Develop a project scope and timeline that addresses the goals of city as well as the goals of the developer to optimize the use of the property in question
  - Development incentives such as PILOTs and NYS Real Property Tax Exemptions if they are being pursued by the developer
- ii. Preliminary site plan submission
  - Before applying for site plan approval, applicants must submit preliminary site plans to the planning commission with all documents deemed necessary by the DAC. All documents submitted must be consistent with the City of Rensselaer Zoning Code **Article VI § 179-75. Preliminary site plan approval. (AppendixC).**
- iii. Planning Department determination of complete or incomplete application
  - Upon submission of your preliminary site plan application, you will receive a letter from the Planning Department deeming your application complete or incomplete. Applications containing submissions that do not meet the standards referenced above will be considered incomplete.
  - ***Only complete applications will be considered for approval.*** If your application is deemed incomplete, you must provide all required materials detailed in your rejection letter before your application is forwarded for review by the Planning Commission.

**Step 3: Preliminary site plan review by Planning Commission**

During this step, the Planning Commission will review your preliminary site plan and determine if your proposed plans conform to the City of Rensselaer Zoning Ordinance or if there are any minor changes that should be made before consideration for final site plan approval. If significant changes are needed, they Commission may request these changes are made and resubmitted prior to granting initial preliminary approval. If the proposed use is being called into question, you may be referred to the ZBA for a Zoning Interpretation or Zoning Variance. If there are no Special Use Permits or zoning variances, preliminary site plan approval will be granted at the same time a SEQR Lead Agency is established or a Type II determination is made.



If a Special use permit is required, it will be considered at this stage in the application process, but will not be granted or denied until final site plan review. However, a complete application for a special use permit *must* be provided at the same time a preliminary site plan application is submitted. Special use permits require public notice of at least 10 days and a public hearing before review and approval. If the Special use permit is not granted, the project cannot move forward. The Special use permit application shall follow the guidelines in **Article III § 179-24 (D) (Appendix D)**.

- The granting of Special Use Permits is subject to the criteria below:
  1. The use shall be so designed, located and operated to ensure protection of the public health, safety and welfare.
  2. The use shall not cause substantial injury to the economic value of other property in the neighborhood where it is to be located.
  3. The use shall be compatible with other adjoining development and the character of the zoning district where it is to be located.
  4. Adequate landscaping and screening shall be fully provided.
  5. Adequate off-street parking and loading shall be provided, and ingress and egress shall be designed to cause minimum interference with traffic on abutting streets.
  6. The use shall conform with all applicable regulations governing the zoning district where it is to be located.
- If the project is a Type I or Unlisted action (**see Appendix B**), applicants must submit a Short (unlisted) or Full (Type I) Environmental Assessment Form and Lead Agency must be coordinated at this time.
  - If, after 30 days, no external agencies request Lead Agency status, the Planning Commission will be the Lead Agency by default
- If, in Step 1 (Zoning Consultation), your use was determined to be non-compliant, the Planning Commission shall defer the application to the ZBA with a recommendation to approve or deny the variance being requested.
  - The zoning appeal process is outlined in Step 4 and more information is provided in the City of Rensselaer Zoning Code **Article VIII § 179-85. Zoning Board of Appeals. (Appendix E)**.



#### Step 4: Preliminary application approval

Preliminary site plan approval is the final step of the Pre-Development Phase. Complete applications will be reviewed and granted approval or rejected by the Planning Commission. Official decision records of the decision will be provided in the form of a letter from the Planning Department. Applications are eligible for review once they have completed the necessary steps including the issuance of a Special Use Permit, zoning variance, or the establishment of SEQR Lead Agency, if applicable. Special Use Permits and SEQR Lead Agencies are discussed in Step 3 and are issued or determined by the Planning Commission. Requests for zoning variances require public notice of at least 10 days and a public hearing before review and approval.

➤ ZBA Review

Applications that are referred to the Zoning Board of Appeals by the Planning Commission must be reviewed before preliminary site plan approval is granted. Step 1 of the Pre-development Phase will determine if you need a variance and if the nature of your request will be a use or an area variance.

➤ Use Variance:

➤ If requesting a use variance, that is, permission to establish a use of property not otherwise permitted in the zoning district, the applicant must prove "unnecessary hardship." To prove this, State law requires the applicant to show *all* of the following:

1. that the property is incapable of earning a reasonable return on initial investment if used for any of the allowed uses in the district (actual "dollars and cents" proof must be submitted)
2. that the property is being affected by unique, or at least highly uncommon circumstances
3. that the variance, if granted, will not alter the essential character of the neighborhood
4. that the hardship is not self-created.

***If any one or more of the above factors is not proven, State law requires that the ZBA must deny the variance.***

➤ Area Variance:

➤ If requesting an area variance, that is, permission to build in an otherwise restricted portion of the property (such as in the required front, side or rear yards, or above the required building height, or in excess of the lot coverage



regulations), then State law requires the applicant to show that the benefit the applicant stands to receive from the variance will outweigh any burden to health, safety and welfare that may be suffered by the community. State law requires the ZBA to take the following factors into consideration in making its determination:

1. 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;
2. whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;
3. whether the requested area variance is substantial;
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
5. whether an alleged difficulty is self-created.

*Unlike the use variance test, the ZBA need not find in favor of the applicant on every one of the above questions.* Rather, the ZBA must merely take each one of the factors into account. The ZBA may also decide that a lesser variance than the one requested would be appropriate, or may decide that there are alternatives available to the applicant which would not require a variance.

- If your application is granted approval, you will receive a letter with directions for the next steps to receive your final site plan approval. Approvals will begin Phase II: Site Plan Review.
- If your application is rejected, you will receive a letter stating the reason(s) for rejection and recommendations for revisions to your preliminary application.

## PHASE II: FINAL SITE PLAN REVIEW

The Final Site Plan Review phase is conducted when all preliminary work has been completed. Final site plan approval is issued to plans that have been determined to meet the requirements of the zoning ordinance during the preliminary review process. Final approval of stamped site plans will provide a final SEQR determination when necessary. Applications that receive positive SEQR declarations will be required to take the necessary steps required by the New York State Department of Environmental Conservation.



Helpful resources are provided in Appendix F. If applications are deemed incomplete or if an applicant was denied a special use permit or zoning variance, they are ineligible for formal site plan review.

### **Step 1: Submission of final detailed plans**

Applicants who have received preliminary site plan approval are eligible to submit final site plans to the Planning Commission. The final detailed site plan submitted by the applicant shall conform substantially to the preliminary site plan that has received preliminary site plan approval.

- It should incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission.
- If a landscape plan was not submitted on prior applications, such a plan must be submitted with the application for final approval.

### **Step 2: Planning Commission review and determination of SEQR declaration**

Projects which are classified at Type I or Unlisted Actions under NYS law must submit long or short Environmental Assessment Forms (EAF). EAFs will be reviewed as part of this step and will be issued a positive or negative declaration.

- Positive SEQR declaration: this project is determined to have a potential environmental impact. Applicant is responsible for submitting an Environmental Impact Statement before being considered for final site plan approval.
- If a project is issued a positive declaration by the Planning Commission, applicants must undergo all steps required by NYSDEC, which includes at least one public hearing.
  - Negative SEQR declaration: this project is determined to have a no significant environmental impact. Applicant may proceed to Phase II, step iii

### **Step 3: Planning Commission final approval**

Applicants who are issued negative declarations may receive final site plan approval in the same meeting. If an applicant's final site plan is approved by the Planning Commission, applicants may anticipate the following actions:

- Issuance of site plan and/or special use permit approval letter by Director of Planning and referral to Building and Zoning Administrator for necessary permits (Phase III: Pre-construction)
- Final site plans must be submitted in compliance **Article VI § 179-76. Final detailed site plan approval. (Appendix G)** in order to be signed and stamped by Director of Planning and Chair of Planning Commission and subsequently filed with the County.



- Projects with approved site plans will have one (1) year to obtain a building permit and make substantial progress on construction. Projects that do not obtain building permits and make substantial progress will expire.
  - *Projects that have not obtained building permits or made substantial progress will be notified when their projects are approaching expiration and will be allowed to apply for one (1) six month extension. Six (6) month extensions will be granted for 50% of the original cost of the fee for preliminary site plan approval, per the most recently adopted schedule of fees.*
  - *Projects that are allowed to expire by the applicant must be renewed through the Planning Commission. Site plan renewals will be considered by the Planning Commission for 100% of the original cost of the fee for preliminary site plan approval, per the most recently adopted schedule of fees.*

### **PHASE III: PRE-CONSTRUCTION**

The Pre-Construction phase ensures that all projects apply for and receive the required permits through the Building Department.

#### **Step 1: Consultation with Building and Zoning Administrator**

All projects that have been through the final site plan approval process will be issued a site plan letter by the Planning Department that will direct successful applicants to the Building Department to obtain their necessary permits. If your project does not require Planning Commission or ZBA approval, this will be the first step in your development process. All those seeking a building permit must:

- Consult with the Building and Zoning Administrator to discuss necessary permits and additional parameters that may exist surrounding the permissibility of your permit request
  - This will help to determine the scope of work and the specific requirements necessary to conform to State and Local building codes. Substantial renovations to a building or new construction will require a set of plans signed and stamped by a design professional before a building permit can be issued.
- Provide the BZA a copy of your site plan approval letter if your site plan has received Commission approval

#### **Step 2: Permit application**

After consulting with the Building and Zoning Administrator, all applicants must provide the following documents as well as whatever else the BZA may request or require:



- Proof of insurances (liability, workers compensation, or CE-200 Certificate)
- Stamped site plans, unless otherwise indicated by the BZA
  - Once the Building Inspector has reviewed these drawings he will need to do a walkthrough of the property to ensure that the plans address all code requirements before issuing a building permit

### **Step 3: Permit approval and issuance**

Once all necessary documents have been submitted to and reviewed by the Building Department, the Building Inspector may issue a building permit. Upon receipt of a building permit, projects enter Phase IV: Construction/Development.

## **PHASE IV: CONSTRUCTION/DEVELOPMENT**

The Construction/Development phase breaks down the requirements that are enacted when a building permit is issued. This includes inspections, expiration dates, permit extensions, permit renewals, and all other requirements to be compliant with state and local building codes.

*Any work that requires a permit that is being done without the necessary permit will be issued a Stop Work Order and is subject to substantial fees.*

### **Step 1: Begin construction**

Once a building permit has been issued, construction may begin.

- Any projects that have been issued building permits MUST display their active permit on site.
- Unless otherwise indicated, permits will expire in 6 months.
  - Permits can be renewed or extended, as necessary, for half of the original fee

### **Step 2: Construction inspections**

Project managers must schedule regular construction inspections with Building and Zoning Administrator for each phase of construction. All phases must pass inspection before being able to move to the next phase.

- If anything has been completed in a manner that is not up to code, it must be remedied or redone to meet New York State and/or International Building Code before any additional work is done



### **Step 3: Final inspections**

Once the project is completed, it will need to undergo a final inspection by the Building Department to ensure all aspects of the project have been completed and are up to code. If the project does not pass its final inspection, anything that needs to be brought up to code must be completed before the permit is closed out.

### **Step 4: Permit close-out and construction completion**

Once the project has passed its final inspection, the Building and Zoning Administrator will close out the building permit. At this point, construction for the project will be deemed complete and the project may move forward to Phase V: Post Development.

## **PHASE V: POST DEVELOPMENT**

After construction has been completed and all permits have been closed out, projects must either apply for permits that are necessary for operation and obtain certificates of occupancy, as needed.

### **Step 1: Obtain necessary permits for operation**

Depending on the nature of the project, operating permits or certificates of use may be required by the Building or Planning Department.

- Operating Permit
  - Operating permits are issued by the Building Department and are required for all commercial uses. Operating permits include a commercial certificate of occupancy, an annual fire safety inspection, and a FOGG permit if applicable.
  - Operating permits must be renewed annually. Those which are not renewed will be fined.
- Certificate of Use
  - Certificates of Use are issued by the Planning Department and are required for all commercial uses. Certificates of Use are issued when a business has provided forms and copies of Planning/Zoning approvals, insurances, photo identification of business owners/operators/managers, and applicable business licenses and certifications.
  - Certificates of use must be renewed annually. Those who are not renewed will be fined.



## Step 2: Certificate of Occupancy

Certificates of Occupancy (CO) are issued to all residential dwelling units for rental properties upon inspection of the property by Code Enforcement Officers. They are valid for two years. If a new tenant is going to sign a lease, the Certificate of Occupancy for the corresponding dwelling unit must be renewed *before* the tenant is allowed to move into the property. If a tenant is allowed to move into a property without an up-to-date CO, the landlord may be subject to fines or orders to vacate until a current CO is issued.

## Step 3: Project closeout

A project will be deemed complete upon satisfaction of the requirements listed below:

- Zoning verification
- Sketch plan conference, if applicable
- Departmental Notice of Complete Application
- Preliminary site plan approval
- Special use permit, if applicable
- Zoning variances, if applicable
- Final site plan approval
- Site visit and completed application for building permits (including provision of insurances)
- Maintenance of valid building permits for duration of project
- Passed construction inspections at each phase of development
- Passed final construction inspections at conclusion of development
- Closure of building permit(s) by Building and Zoning Administrator
- Issuance of Operating Permit, if applicable
- Issuance of Certificate of Use, if applicable
- Certificate of Occupancy, if applicable

Once a project has checked all necessary boxes, the development process through the City of Rensselaer Planning and Development and Building Departments will be closed out. Completed projects will be issued the necessary permits to operate fully in the city and will be expected to display them in the public view if necessary.



THIS PAGE WAS INTENTIONALLY LEFT BLANK



## **APPENDICES**

THIS PAGE WAS INTENTIONALLY LEFT BLANK



**APPENDIX A**  
TYPE II SEQR  
ACTIONS

**6 CRR-NY 617.5**

**NY-CRR**

**OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK**

**TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

**CHAPTER VI. GENERAL REGULATIONS**

**PART 617. STATE ENVIRONMENTAL QUALITY REVIEW**

**6 CRR-NY 617.5**

**6 CRR-NY 617.5**

**617.5 Type II actions.**

(a) Actions or classes of actions identified in subdivision (c) of this section are not subject to review under this Part, except as otherwise provided in this section. These actions have been determined not to have a significant impact on the environment or are otherwise precluded from environmental review under Environmental Conservation Law, article 8. The actions identified in subdivision (c) of this section apply to all agencies.

(b) Each agency may adopt its own list of Type II actions to supplement the actions in subdivision (c) of this section. No agency is bound by an action on another agency's Type II list. The fact that an action is identified as a Type II action in an agency's procedures does not mean that it must be treated as a Type II action by any other involved agency not identifying it as a Type II action in its procedures. An agency that identifies an action as not requiring any determination or procedure under this Part is not an involved agency. Each of the actions on an agency Type II list must:

(1) in no case, have a significant adverse impact on the environment based on the criteria contained in section 617.7(c) of this Part; and

(2) not be a Type I action as defined in section 617.4 of this Part.

(c) The following actions are not subject to review under this Part:

(1) maintenance or repair involving no substantial changes in an existing structure or facility;

(2) replacement, rehabilitation or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 617.4 of this Part;

(3) retrofit of an existing structure and its appurtenant areas to incorporate green infrastructure;

(4) agricultural farm management practices, including construction, maintenance and repair of farm buildings and structures, and land use changes consistent with generally accepted principles of farming;

(5) repaving of existing highways not involving the addition of new travel lanes;

- (6) street openings and right-of-way openings for the purpose of repair or maintenance of existing utility facilities;
- (7) installation of telecommunication cables in existing highway or utility rights of way utilizing trenchless burial or aerial placement on existing poles;
- (8) maintenance of existing landscaping or natural growth;
- (9) construction or expansion of a primary or accessory/appurtenant, nonresidential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;
- (10) routine activities of educational institutions, including expansion of existing facilities by less than 10,000 square feet of gross floor area and school closings, but not changes in use related to such closings;
- (11) construction or expansion of a single-family, a two-family or a three-family residence on an approved lot including provision of necessary utility connections as provided in paragraph (13) of this subdivision and the installation, maintenance or upgrade of a drinking water well or a septic system or both, and conveyances of land in connection therewith;
- (12) construction, expansion or placement of minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density;
- (13) extension of utility distribution facilities, including gas, electric, telephone, cable, water and sewer connections to render service in approved subdivisions or in connection with any action on this list;
- (14) installation of solar energy arrays where such installation involves 25 acres or less of physical alteration on the following sites:
  - (i) closed landfills;
  - (ii) brownfield sites that have received a Brownfield Cleanup Program certificate of completion (COC) pursuant to ECL section 27-1419 and section 375-3.9 of this Title or environmental restoration project sites that have received a COC pursuant to section 375-4.9 of this Title, where the COC under either program for a particular site has an allowable use of commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;
  - (iii) sites that have received an inactive hazardous waste disposal site full liability release or a COC pursuant to section 375-2.9 of this Title, where the department has determined an allowable use for a particular site is commercial or industrial, provided that the change of use requirements in section 375-1.11(d) of this Title are complied with;
  - (iv) currently disturbed areas at publicly-owned wastewater treatment facilities;
  - (v) currently disturbed areas at sites zoned for industrial use; and
  - (vi) parking lots or parking garages;
- (15) installation of solar energy arrays on an existing structure provided the structure is not:

- (i) listed on the National or State Register of Historic Places;
  - (ii) located within a district listed in the National or State Register of Historic Places;
  - (iii) been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law; or
  - (iv) within a district that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law;
- (16) granting of individual setback and lot line variances and adjustments;
- (17) granting of an area variance for a single-family, two-family or three-family residence;
- (18) reuse of a residential or commercial structure, or of a structure containing mixed residential and commercial uses, where the residential or commercial use is a permitted use under the applicable zoning law or ordinance, including permitted by special use permit, and the action does not meet or exceeds any of the thresholds in section 617.4 of this Part;
- (19) the recommendations of a county or regional planning board or agency pursuant to General Municipal Law sections 239-m or 239-n;
- (20) public or private best forest management (silviculture) practices on less than 10 acres of land, but not including waste disposal, land clearing not directly related to forest management, clear-cutting or the application of herbicides or pesticides;
- (21) minor temporary uses of land having negligible or no permanent impact on the environment;
- (22) installation of traffic control devices on existing streets, roads and highways;
- (23) mapping of existing roads, streets, highways, natural resources, land uses and ownership patterns;
- (24) information collection including basic data collection and research, water quality and pollution studies, traffic counts, engineering studies, surveys, subsurface investigations and soils studies that do not commit the agency to undertake, fund or approve any Type I or Unlisted action;
- (25) official acts of a ministerial nature involving no exercise of discretion, including building permits and historic preservation permits where issuance is predicated solely on the applicant's compliance or noncompliance with the relevant local building or preservation code(s);
- (26) routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment;
- (27) conducting concurrent environmental, engineering, economic, feasibility and other studies and preliminary planning and budgetary processes necessary to the formulation of a proposal for action, provided those activities do not commit the agency to commence, engage in or approve such action;
- (28) collective bargaining activities;

- (29) investments by or on behalf of agencies or pension or retirement systems, or refinancing existing debt;
- (30) inspections and licensing activities relating to the qualifications of individuals or businesses to engage in their business or profession;
- (31) purchase or sale of furnishings, equipment or supplies, including surplus government property, other than the following: land, radioactive material, pesticides, herbicides, or other hazardous materials;
- (32) license, lease and permit renewals, or transfers of ownership thereof, where there will be no material change in permit conditions or the scope of permitted activities;
- (33) adoption of regulations, policies, procedures and local legislative decisions in connection with any action on this list;
- (34) engaging in review of any part of an application to determine compliance with technical requirements, provided that no such determination entitles or permits the project sponsor to commence the action unless and until all requirements of this Part have been fulfilled;
- (35) civil or criminal enforcement proceedings, whether administrative or judicial, including a particular course of action specifically required to be undertaken pursuant to a judgment or order, or the exercise of prosecutorial discretion;
- (36) adoption of a moratorium on land development or construction;
- (37) interpretation of an existing code, rule or regulation;
- (38) designation of local landmarks or their inclusion within historic districts;
- (39) an agency's acquisition and dedication of 25 acres or less of land for parkland, or dedication of land for parkland that was previously acquired, or acquisition of a conservation easement;
- (40) sale and conveyance of real property by public auction pursuant to article 11 of the Real Property Tax Law;
- (41) construction and operation of an anaerobic digester, within currently disturbed areas at an operating publicly-owned landfill, provided the digester has a feedstock capacity of less than 150 wet tons per day, and only produces class A digestate (as defined in section 361-3.7 of this Title) that can be beneficially used or biogas to generate electricity or to make vehicle fuel, or both;
- (42) emergency actions that are immediately necessary on a limited and temporary basis for the protection or preservation of life, health, property or natural resources, provided that such actions are directly related to the emergency and are performed to cause the least change or disturbance, practicable under the circumstances, to the environment. Any decision to fund, approve or directly undertake other activities after the emergency has expired is fully subject to the review procedures of this Part;
- (43) actions undertaken, funded or approved prior to the effective dates set forth in SEQR (see chapters 228 of the Laws of 1976, 253 of the Laws of 1977 and 460 of the Laws of 1978), except in the case of an action where it is still practicable either to modify the action in such a way as to mitigate potentially adverse environmental impacts, or to choose a feasible or less environmentally damaging alternative, the commissioner may, at the request of any person, or on his own motion, require the preparation of an environmental impact statement; or,

in the case of an action where the responsible agency proposed a modification of the action and the modification may result in a significant adverse impact on the environment, an environmental impact statement must be prepared with respect to such modification;

(44) actions requiring a certificate of environmental compatibility and public need under article VII, VIII, X or 10 of the Public Service Law and the consideration of, granting or denial of any such certificate;

(45) actions subject to the class A or class B regional project jurisdiction of the Adirondack Park Agency or a local government pursuant to sections 807, 808 and 809 of the Executive Law, except class B regional projects subject to review by local government pursuant to section 807 of the Executive Law located within the Lake George Park as defined by subdivision one of section 43-0103 of the Environmental Conservation Law; and

(46) actions of the Legislature and the Governor of the State of New York or of any court, but not actions of local legislative bodies except those local legislative decisions such as rezoning where the local legislative body determines the action will not be entertained.

## **6 CRR-NY 617.5**

**Current through February 29, 2020**

**APPENDIX B**  
TYPE I SEQR  
ACTIONS

## **6 CRR-NY 617.4**

### **NY-CRR**

## **OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK**

### **TITLE 6. DEPARTMENT OF ENVIRONMENTAL CONSERVATION**

#### **CHAPTER VI. GENERAL REGULATIONS**

#### **PART 617. STATE ENVIRONMENTAL QUALITY REVIEW**

### **6 CRR-NY 617.4**

#### **6 CRR-NY 617.4**

#### **617.4 Type I actions.**

(a) The purpose of the list of Type I actions in this section is to identify, for agencies, project sponsors and the public, those actions and projects that are more likely to require the preparation of an EIS than Unlisted actions. All agencies are subject to this Type I list.

(1) This Type I list is not exhaustive of those actions that an agency determines may have a significant adverse impact on the environment and requires the preparation of an EIS. However, the fact that an action or project has been listed as a Type I action carries with it the presumption that it is likely to have a significant adverse impact on the environment and may require an EIS. For all individual actions which are Type I or Unlisted, the determination of significance must be made by comparing the impacts which may be reasonably expected to result from the proposed action with the criteria listed in section 617.7(c) of this Part.

(2) Agencies may adopt their own lists of additional Type I actions, may adjust the thresholds to make them more inclusive, and may continue to use previously adopted lists of Type I actions to complement those contained in this section. Designation of a Type I action by one involved agency requires coordinated review by all involved agencies. An agency may not designate as Type I any action identified as Type II in section 617.5 of this Part.

(b) The following actions are Type I if they are to be directly undertaken, funded or approved by an agency:

(1) the adoption of a municipality's land use plan, the adoption by any agency of a comprehensive resource management plan or the initial adoption of a municipality's comprehensive zoning regulations;

(2) the adoption of changes in the allowable uses within any zoning district, affecting 25 or more acres of the district;

(3) the granting of a zoning change, at the request of an applicant, for an action that meets or exceeds one or more of the thresholds given elsewhere in this list;

- (4) the acquisition, sale, lease, annexation or other transfer of 100 or more contiguous acres of land by a State or local agency;
- (5) construction of new residential units that meet or exceed the following thresholds:
- (i) 10 units in municipalities that have not adopted zoning or subdivision regulations;
  - (ii) 50 units not to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
  - (iii) in a city, town or village having a population of 150,000 persons or less, 200 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
  - (iv) in a city, town or village having a population of greater than 150,000 persons but less than 1,000,000 persons, 500 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works; or
  - (v) in a city or town having a population of 1,000,000 or more persons, 1,000 units to be connected (at the commencement of habitation) to existing community or public water and sewerage systems including sewage treatment works;
- (6) activities, other than the construction of residential facilities, that meet or exceed any of the following thresholds; or the expansion of existing nonresidential facilities by more than 50 percent of any of the following thresholds:
- (i) a project or action that involves the physical alteration of 10 acres;
  - (ii) a project or action that would use ground or surface water in excess of 2,000,000 gallons per day;
  - (iii) parking for 500 vehicles in a city, town or village having a population of 150,000 persons or less;
  - (iv) parking for 1,000 vehicles in a city, town or village having a population of more than 150,000 persons;
  - (v) in a city, town or village having a population of 150,000 persons or less, a facility with more than 100,000 square feet of gross floor area;
  - (vi) in a city, town or village having a population of more than 150,000 persons, a facility with more than 240,000 square feet of gross floor area;
- (7) any structure exceeding 100 feet above original ground level in a locality without any zoning regulation pertaining to height;
- (8) any Unlisted action that includes a nonagricultural use occurring wholly or partially within an agricultural district (certified pursuant to Agriculture and Markets Law, article 25-AA, sections 303 and 304) and exceeds 25 percent of any threshold established in this section;

(9) any Unlisted action (unless the action is designed for the preservation of the facility or site), that exceeds 25 percent of any threshold established in this section, occurring wholly or partially within, or substantially contiguous to, any historic building, structure, facility, site or district or prehistoric site that is listed on the National Register of Historic Places (volume 36 of the Code of Federal Regulations, parts 60 and 63, which is incorporated by reference pursuant to section 617.17 of this Part), or that is listed on the State Register of Historic Places or that has been determined by the Commissioner of the Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places pursuant to sections 14.07 or 14.09 of the Parks, Recreation and Historic Preservation Law;

(10) any Unlisted action, that exceeds 25 percent of any threshold in this section, occurring wholly or partially within or substantially contiguous to any publicly owned or operated parkland, recreation area or designated open space, including any site on the Register of National Natural Landmarks pursuant to 36 CFR part 62 (which is incorporated by reference pursuant to section 617.17 of this Part); or

(11) any Unlisted action that exceeds a Type I threshold established by an involved agency pursuant to section 617.14 of this Part.

#### **6 CRR-NY 617.4**

**Current through February 29, 2020**

**APPENDIX C**

ZONING

SECTION

179.75

**§ 179-75. Preliminary site plan approval.**

A. Application for preliminary site plan approval. The preliminary site plan application process, as outlined in this section, is not a requirement for site plan approval. The applicant may consult with the Building and Zoning Administrator and/or Planning Commission to determine if this preliminary step is advisable in order to ensure the applicant is adequately prepared to move into the final detailed site plan application process, as outlined in § 179-76. Any preliminary application for site plan approval shall be made in writing to the Building and Zoning Administrator and shall be accompanied by 12 hard copies and one electronic copy of the following information, prepared by an engineer, architect, landscape architect or surveyor duly licensed by the State of New York according to each person's particular discipline. Said application shall include drawings needed to define the project, at the discretion of the Building and Zoning Administrator, including but not limited to the following:

- (1) Site plan.
- (2) Grading plan.
- (3) Utilities plan.
- (4) Building plans.
- (5) Detail plans.
- (6) Landscape plans.
- (7) Color renderings.
- (8) Stormwater prevention pollution plan for all site plans disturbing more than one acre of land.

B. Requirements. The drawings to be provided and the information to be identified on each of the drawings is identified below:

- (1) Site plan. Requirements for site plans shall be as follows:
  - (a) The title of the drawing, including the address of the project site(s) and the name and address of the applicant and person responsible for preparing said plan. Project plans that have undergone multiple iterations and submittals to the Planning Commission shall be distinguishable from previous submittals via amendments to the drawing title to denote a new version.

- (b) Unless otherwise allowed by the Planning Commission, a scale of one inch equals 50 feet, with two-foot contours showing the topography of the lot and areas within 50 feet of the lot.
- (c) A North arrow, scale and most recent date for which the drawings were prepared.
- (d) Boundaries of the property and adjoining properties within 200 feet plotted to scale; current zoning classification of property, including the exact zoning boundary, if in more than one district.
- (e) Existing watercourses and freshwater wetlands, as identified by the New York State Department of Environmental Conservation and the United States Army Corps of Engineers. (Refer to City of Rensselaer Comprehensive Plan for locations.)
- (f) Locations and widths of all ingress, egress and circulatory drives and access points to existing roads and highways; locations of all parking and/or truck loading areas.
- (g) Locations and dimensions for pedestrian and bicycle access, along with existing and proposed circulation patterns and stops for local/regional transit service.
- (h) Locations for outdoor storage, including refuse, if any.
- (i) Locations and dimensions of all existing or proposed site improvements, including drains, culverts, retaining walls, sidewalks and fences.
- (j) Locations of all proposed site and building mounted signs.
- (k) The location and amount of building area proposed for various uses of the site, including all points of ingress and egress.
- (l) The location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use on the site(s) and property (properties).
- (m) Location of vehicle, equipment, and material staging areas, storage and stockpile areas, and other areas to be utilized and disturbed during construction, including the location of portable restroom facilities.

- (n) Proposed routes and access points for construction traffic.
- (2) Grading plan. Requirements for grading plans shall be as follows:
- (a) A grading plan showing existing and proposed contours, including spot elevations along structures and site improvements where appropriate to determine the flow of surface runoff. The inclusion of arrows denoting surface flow direction is also preferred where appropriate.
  - (b) Line(s) denoting limits of disturbance, clearing, grubbing, and grading as appropriate. Protective fencing for areas and vegetation to be preserved and undisturbed throughout construction shall also be shown.
  - (c) Documents and plans pursuant to the requirements of the New York State Pollution Discharge Elimination System (SPDES), including a completed stormwater pollution prevention plan (SWPPP) for Planning Commission review.
  - (d) Construction management plan and an inspection schedule as required by a licensed engineer.
- (3) Utilities plan. Requirements for utilities plans shall be as follows:
- (a) The locations and size of water, sanitary sewer and storm sewer lines and appurtenances and connections to utility services, including all invert and grate elevations. Where possible, the inclusion of arrows denoting the flow of storm and sanitary sewers is preferred.
  - (b) Locations of fire and other emergency zones, including the location of fire hydrants and building sprinkler system connection points.
  - (c) Locations of all fuel and energy exploration, generation, transmission, distribution and storage facilities, including but not limited to electricity, natural gas, propane, motor vehicle fuels, and wind, solar and geothermal energy systems.
  - (d) Locations of outdoor lighting facilities, including the locations of poles, bollards, and building-mounted fixtures. Where appropriate and upon request, a

photometric plan shall also be prepared and submitted for review and approval by the Planning Commission and Building and Zoning Administrator.

- (e) Locations of telephone, cable and other telecommunications devices and facilities.
- (4) Building plans. Requirements for building plans shall be as follows:
- (a) Floor plans showing the location of all building ingress and egress points.
  - (b) Elevation plans denoting the type of construction and construction materials, and exterior dimensions of all building elements and facades. Building elevations shall include structures on adjoining lots to indicate the scale and massing of the proposed structure in relation to the neighborhood.
- (5) Detail plans. Requirements for detail plans shall be as follows:
- (a) The design dimensions and type of construction of all driveways, parking areas and/or loading areas.
  - (b) The design and construction materials of all proposed site improvements, including drains, culverts, retaining walls and fences.
  - (c) The design and construction materials to be used for all water and sewer lines and appurtenances.
  - (d) The design of all fire hydrants.
  - (e) The design and construction materials of all fuel and energy exploration, generation, transmission, distribution and storage facilities.
  - (f) The design dimensions, type of construction materials, including illumination, of all proposed signs.
  - (g) The design and construction, including dimensions, of outdoor lighting facilities and the area of illumination on subject and adjacent properties.
- (6) Landscaping plan. Requirements for landscaping plans shall be as follows:

- (a) The location and dimensions of proposed buffers, screening and fence areas specifying materials and vegetation; include existing vegetative cover and proposed areas of lawn and groundcover.
  - (b) A general landscaping plan and planting schedule specifying types and size of vegetation. The size of vegetation at installation and upon maturity shall be noted on the plans.
- (7) Required additional information. In addition to the aforementioned drawings, an applicant must submit the following information:
- (a) An estimated project construction schedule which includes start-up and completion dates and any interim dates of significance.
  - (b) State Environmental Quality Review (SEQR) information and forms.
  - (c) A description of all existing or proposed deed restrictions or covenants applying to the property must be submitted.
  - (d) Stormwater pollution prevention plan (SWPP) for all site plans disturbing more than one acre. Refer to Chapter 145 of the City Code for SWPP requirements.
- C. Standards for approval or disapproval. The Planning Commission's review of the site plan documents shall include, as appropriate, but is not limited to the following general considerations:
- (1) The location, arrangement, spacing, massing, height, size, architectural design and general site compatibility of buildings, lighting and signs.
  - (2) The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  - (3) The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience and safety.
  - (4) The location, arrangement, appearance and sufficiency of off-street parking and loading.

- (5) The adequacy of stormwater and drainage facilities.
  - (6) The adequacy of water supply and sewage disposal facilities.
  - (7) The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  - (8) In the case of an apartment complex, townhouses, condominiums, cooperatives or other multiple dwellings, the adequacy of usable open space for recreation.
  - (9) The protection, buffering, and/or screening of adjacent or neighboring properties against noise, glare, unsightliness or other objectionable elements of the proposed land use's performance within the community.
  - (10) The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  - (11) Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
  - (12) The adequacy of setbacks in regard to achieving maximum compatibility and protection to adjacent properties and residential districts.
  - (13) The structure or structures, to be aesthetically compatible with existing and planned uses of adjacent properties and districts and promote the protection of existing neighborhood character.
  - (14) Consistency with the City's Comprehensive Plan.
- D. Modifications. The Planning Commission may require such additional provisions and conditions that appear necessary for the public health, safety and general welfare, and it may waive, in appropriate circumstances, any of the above requirements which it deems not applicable to a particular application.
- E. Action on preliminary application.
- (1) Within 62 days of the receipt of a complete application for preliminary site plan approval, the Planning Commission may hold a public hearing which shall be advertised in a newspaper of general circulation in the City at least five days before its scheduled date. In addition to the public notice of

hearing, notice shall be given by first-class mail to all property owners of land immediately adjacent, extending 500 feet from and directly opposite thereto, a property which has a site plan review pending before the Planning Commission, at least five days in advance of the hearing. Additionally, same said notice shall be mailed to property owners of land immediately adjacent, extending 500 feet from and directly opposite thereto, an institutional or municipal boundary of if a special use permit has also been requested.

- (2) If no Planning Commission decision is made and noticed to the applicant within 62 days following the hearing, the preliminary site plan shall be considered approved. The Planning Commission's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is conditionally approved. A copy of the decision of the Planning Commission shall be sufficient notice.
  - (3) The Planning Commission's statement may include recommendations as to desirable revisions to be incorporated in the final site plan, conformance with which shall be considered a condition of approval. If the preliminary site plan is disapproved, the Planning Commission's statement will contain the reasons for such findings. In such case the Planning Commission may recommend further study of the site plan and resubmission of the preliminary site plan to the Planning Commission after it has been revised or redesigned.
- F. Compliance with SEQR. The Planning Commission shall not take final action on any site plan proposal until all SEQR requirements have been addressed in accordance with 6 NYCRR 617.

**APPENDIX D**

ZONING

SECTION

179.24

## **§ 179-24. Special use permits.**

- A. Purpose and intent. The purpose of this section is to provide greater flexibility in the placement of certain kinds of uses when, because of their unique characteristics, these uses are such that they can be compatible with and complementary to the uses now permitted in the zone, provided that appropriate safeguards are imposed. Additionally, this section intends to provide the framework for adequate review and tighter control of certain uses which have a marked effect on the surrounding area due to their unusual design, operational characteristics, or the amount of traffic they generate.
- B. Authorization to grant or deny special uses. The special uses listed in this chapter may be permitted, enlarged, or otherwise altered upon authorization by the Planning Commission in accordance with the standards and procedures set forth in this section and such additional standards as may be set forth for such special uses elsewhere in this chapter. The zoning variance procedure before the Zoning Board of Appeals shall not be used to acquire authorization to enlarge, modify or otherwise alter a special use or to amend a special use permit. Such authorization may be granted by the Planning Commission, only. In permitting a special use or the modification of a special use, the Planning Commission may impose, in addition to those standards and requirements expressly specified by the chapter, any additional conditions the Planning Commission considers necessary to protect the best interests of the surrounding properties or the City of Rensselaer as a whole. These conditions include, but are not limited to, controlling the location and number of vehicle access points, limiting the number, size and location of signs, and required diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property. In the case of uses existing prior to the effective date of this chapter and classed in this chapter as special use, any change in use, lot area or an alteration of structure shall conform with the requirements dealing with special uses.
- C. General standards. The following general standards apply to all special permit uses:
  - (1) The use shall be so designed, located and operated to ensure protection of the public health, safety and welfare.

- (2) The use shall not cause substantial injury to the economic value of other property in the neighborhood where it is to be located.
- (3) The use shall be compatible with other adjoining development and the character of the zoning district where it is to be located.
- (4) Adequate landscaping and screening shall be fully provided.
- (5) Adequate off-street parking and loading shall be provided, and ingress and egress shall be designed to cause minimum interference with traffic on abutting streets.
- (6) The use shall conform with all applicable regulations governing the zoning district where it is to be located.

D. Procedure for application and review.

- (1) Application requirements. If a use is only permitted by special use permit, as set forth in the Bulk and Use Tables, the applicant shall make a written application for review and approval to the Planning Commission on official forms provided by the Planning Commission. At a minimum, the application shall include the following:
  - (a) The applicant's name, address and interest in the subject property.
  - (b) The owner's name and address, if different than the applicant, and the owner's signed consent to the filing of the application.
  - (c) The street address and legal description of the subject property.
  - (d) An application for site plan approval, as required by Article VI.
  - (e) A written statement addressing the standards relevant to the proposed use and other regulations outlined in this article pertaining to specific uses, and stating specifically how the proposed special use permit relates to and meets each standard.
  - (f) A map showing the property and all properties within a radius of 500 feet to the exterior boundaries thereof.

- (g) Plans and elevations necessary to show the proposed development and other drawings or information necessary to an understanding of the proposed use and its relationship to surrounding properties as required by this chapter.
  - (h) Any additional information which may be required to demonstrate compliance with any additional standards imposed on the special use permit by the particular provision of this article authorizing the special use.
- (2) Fee. Every application for a special use permit shall be accompanied by a fee, which shall be set from time to time by the City of Rensselaer City Council and posted in the City Clerk's office.
- (3) Public hearing on special use. Before a special use is permitted, the proposed special use shall be considered by the Planning Commission at a public hearing.
- (a) The Planning Commission shall set a time and place for a public hearing on any such application for special use permit, and shall provide public notice at least five days prior to the date on the official newspaper of the City of Rensselaer.
  - (b) The City shall also, insofar as practicable, mail notices of the hearing to all property owners, as appearing on the latest tax roll of the City, within a five-hundred-foot radius regardless of whether or not the owner resides therein, unless the City Clerk has definite knowledge of other addresses of absentee owners. Compliance with this subsection shall not be a condition precedent to proper legal notice, and no hearing or action taken thereon shall be deemed invalid or illegal because of any failure to mail the notices provided for in this section.
  - (c) The Planning Commission may deny, approve or approve with conditions a special use permit. Reasonable conditions or safeguards may be imposed upon approval of a special use to reduce to a minimum any detrimental effect.
- (4) Required referral. A full statement on any application for special use permit that meets the referral requirements of § 239(l) and (m) of the General Municipal Law shall also be referred to the Rensselaer County Bureau of Planning for its

review. No action shall be taken by the Planning Commission on such application until an advisory recommendation has been received from the Bureau of Planning or 30 days have elapsed since the Bureau received such full statement.

- (5) Decisions. Every decision of the Planning Commission shall be recorded in accordance with the standard forms adopted by the Commission. Every decision shall be by resolution of the Commission, by majority vote thereof, and notification shall be provided to the applicant within five days after the decision has been rendered. Each such decision shall be filed in the office of the City Clerk within 10 calendar days thereof.
- (6) Expiration of approval. Unless construction or use is commenced and diligently pursued within six months of the date of issuance of the special use permit, such special use permit shall become null and void.

THIS PAGE WAS INTENTIONALLY LEFT BLANK



**APPENDIX E**  
ZONING  
SECTION  
179.85

## **§ 179-85. Zoning Board of Appeals.**

- A. Creation, appointment and organization. A Zoning Board of Appeals is hereby created in accordance with § 81 of the General City Law. Said Board shall consist of seven members, appointed by the Mayor for a term of three years and subject to removal for cause after public hearing. The Mayor shall designate the Chairman of the Board of Appeals, while the Board of Appeals shall designate its Secretary and shall prescribe reasonable rules for the conduct of its affairs.
- B. Powers and duties. The Board of Appeals shall have all the powers and duties prescribed by law and this chapter, which are specified below:
- (1) Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, or on request by an official, board or agency of the City, to decide any of the following questions:
    - (a) Determination of the meaning of any portion of the text of this chapter or of any conditions or requirement specified or made under the provisions of this chapter.
    - (b) Determination of the exact location of any district boundary shown on the Zoning Map.
  - (2) Use variances.
    - (a) The Zoning Board of Appeals, on appeal from the decision or determination of the Code Enforcement Officer, shall have the power to grant use variances, as defined herein.
    - (b) No such use variance shall be granted by a Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
      - [1] The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

- [2] The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - [3] The requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - [4] The alleged hardship has not been self-created.
- (c) The Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (3) Area variances.
- (a) The Board of Appeals shall have the power, upon an appeal from a decision or determination of the Code Enforcement Officer, to grant area variances as defined herein.
  - (b) In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
    - [1] 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;
    - [2] Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;
    - [3] Whether the requested area variance is substantial;
    - [4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
    - [5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

- (c) The Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem 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.
  - (4) Imposition of conditions. The Board of Appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- C. Procedure. The Zoning Board of Appeals shall act in strict accordance with the procedure specified by law and this chapter.
- (1) Meetings. Meetings shall be held at the call of the Chairman or at such other times as the Board of Appeals may determine. A quorum shall consist of four members, but in order to reverse a decision of the enforcement official or authorize a variance, an affirmative vote of at least four members shall be required. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, and shall keep records of its examinations and other official actions.
  - (2) Application and fee. All appeals and applications made to the Board shall be in writing, on forms prescribed by the Board, and shall be accompanied by a fee of \$40. Every appeal or application shall refer to the specific provisions of this chapter that is involved and shall precisely set forth either the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that such variance should be granted.
  - (3) Public notice and hearing. The Board shall fix a time and place for a public hearing on any such appeal or application, and shall provide notice as follows:
    - (a) By publishing at least 10 calendar days prior to the date thereof a notice in the official newspaper of the City.
    - (b) By requiring the Director of Planning and Development to give notice at least five days prior to the date thereof the substance of every appeal for a variance together with a

notice of hearing thereon by mailing such to the owners of all property abutting that held by the applicant and all other owners within 500 feet, or such additional distances as the Board of Appeals may deem advisable, from the boundaries of the land involved in such appeal. Compliance with this notification procedure shall be certified to by the Director of Planning and Development.

- [1] The names of owners notified shall be taken as such appear on the last completed tax roll of the City.
  - [2] Provided that there shall have been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Board of Appeals in connection with granting or denying of an appeal for a variance.
- (c) By requiring the Secretary of the Board of Appeals to transmit to the Secretary of the Planning Commission a copy of the notice of such hearing at least 20 calendar days prior to the date thereof. The Board of Appeals shall request that the Planning Commission submit to the Board of Appeals an advisory opinion prior to the date of such hearing. Upon failure of the Planning Commission to submit such report, the Board of Appeals may act in absence of an advisory option from said Commission.
  - (d) If the land involved in the appeal lies within 500 feet of the boundary of any other municipality, the Secretary of the Board of Appeals shall also submit at least 10 calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the notice of such public hearing.
- (4) Required referral. A full statement of any appeal that meets the referral requirements of § 239(1) and (m) of the General Municipal Law shall also be referred to the Rensselaer County Bureau of Planning for its review. No action shall be taken by the Board of Appeals on such appeal until an advisory recommendation has been received from the Bureau of Planning or 30 calendar days have elapsed since the Bureau received such full statement.
  - (5) Decisions. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case

and shall contain a full record of the findings on which the decision is based. Every decision shall be by resolution of the Board, with each such decision being filed in the Office of the City Clerk within 10 calendar days thereof. The Board shall notify the Building and Zoning Administrator, the Secretary of the Planning Commission, and the Municipal Clerk of any affected municipality given notice of hearing of its decision in each case.

- (6) Attachment of conditions. In all cases where the Board of Appeals grants a variance from the strict application of the requirements of this chapter, it shall be the duty of such Board to attach conditions and safeguards as may be required in order that the result of its action shall be as nearly as possible in accordance with the spirit and intent of this chapter.
- (7) Expiration of approval. Unless construction or use is commenced and diligently pursued within six months of the date of the granting of a variance, such variance shall become null and void.
- (8) Strict construction. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed; the Board, as a body of limited jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein; provided, however, that if the procedural requirements set forth in this chapter have been substantially observed no applicant or appellant shall be deprived of the right of application or appeal.

**APPENDIX F**  
SEQR  
RESOURCES

August 19, 2020 | 2:23 pm

# Information on Novel Coronavirus

Coronavirus is still active in New York. We have to be smart. Wear a mask and maintain 6 feet distance in public.

[GET THE FACTS](#) 



[Services](#) [News](#) [Government](#) [Local](#)

Department of Environmental Conservation

[Recreation](#)

[Nature](#)

[Prevent & Control Pollution](#)

[Regulatory](#)

[News & Learning](#)

[Search](#)

## Stepping Through the SEQR Process

[Follow the SEQR Path](#)

[Step 1. Classifying the Action](#)

[Step 2. Complete the Correct Environmental Assessment Form](#)

[Step 3: Coordinate Review](#)

[Step 4: Determine Significance](#)

[Step 5: Scope the Draft EIS](#)

[Step 6 Preparation of the Draft EIS](#)

[Step 7 Determine the Adequacy of the Draft EIS for Public Review \(Accept or Return for Revision\)](#)

[Step 8: Publish Notice that an EIS is Accepted for Public Review](#)

[Step 9 Public Comment](#)

[Step 10 Decide Whether to Hold a Public Hearing](#)

[Step 11 Preparation of the Final EIS](#)

[Step 12 SEQR Findings](#)

[Home](#) » [Permits, Licenses, and Registrations](#) » [SEQR](#) » Stepping Through the SEQR Process

## Stepping Through the SEQR Process

**Steps toward satisfying SEQR:** Step through the process by clicking the Step 1 link and after reading each page, click on the link for the next step which you will find at or near the bottom of each page. Or you may click on the links that follow. While the image maps a branching path between steps 4 and 5 and between step 6 and 7, this text version makes a linear representation. You do not go on to step 5 unless you are faced with impacts that cannot be avoided or mitigated through conditions placed on a permit. At step 6 you may review the Draft EIS and determine that it must be returned for revision rather than proceeding to step 7.

## More about Stepping Through the SEQR Process:

[Follow the SEQR Path](#) - Mapping of the SEQR path

[Step 1. Classifying the Action](#) - The first step in classifying the action is to decide whether it is subject to SEQR

[Step 2. Complete the Correct Environmental Assessment](#)

### Contact for this Page

NYS DEC  
Division of  
Environmental  
Permits  
4th Floor  
625 Broadway  
Albany, NY 12233-  
1750  
518-402-9167  
[Send us an email](#)

### This Page Covers



[Form](#) - NYSDEC SEQR Process - Step 2 Environmental Assessment

[Step 3: Coordinate Review](#) - NYSDEC SEQR Process - Step 3 Coordinate Review

[Step 4: Determine Significance](#) - The lead agency has 20 calendar days to make its determination of significance

[Step 5: Scope the Draft EIS](#) - Scoping is the process by which the issues to be addressed in the draft EIS are identified

[Step 6 Preparation of the Draft EIS](#) - The applicant always has the right to prepare the draft EIS. If the applicant refuses to prepare the draft EIS, the lead agency has the option of preparing the draft EIS, having it prepared by a consultant, or terminating its review of the action

[Step 7 Determine the Adequacy of the Draft EIS for Public Review \(Accept or Return for Revision\)](#) - Upon receipt of a submitted draft EIS, the lead agency has 45 days to determine whether the document is adequate for public review in terms of scope and content

[Step 8: Publish Notice that an EIS is Accepted for Public Review](#) - Publish Notice

[Step 9 Public Comment](#) - The filing of the Notice of Completion of a Draft EIS starts the public comment period

[Step 10 Decide Whether to Hold a Public Hearing](#) - After the lead agency accepts the draft EIS, it must decide whether to hold a public hearing [see 617.9(a)(4)]

[Step 11 Preparation of the Final EIS](#) - The lead agency is responsible for the adequacy and accuracy of the final EIS, regardless of who prepares it

[Step 12 SEQR Findings](#) - Part 617.11 requires that each involved agency must prepare its own written SEQR findings statement, after a final EIS has been filed and before the agency makes a final decision

## Department of Environmental Conservation

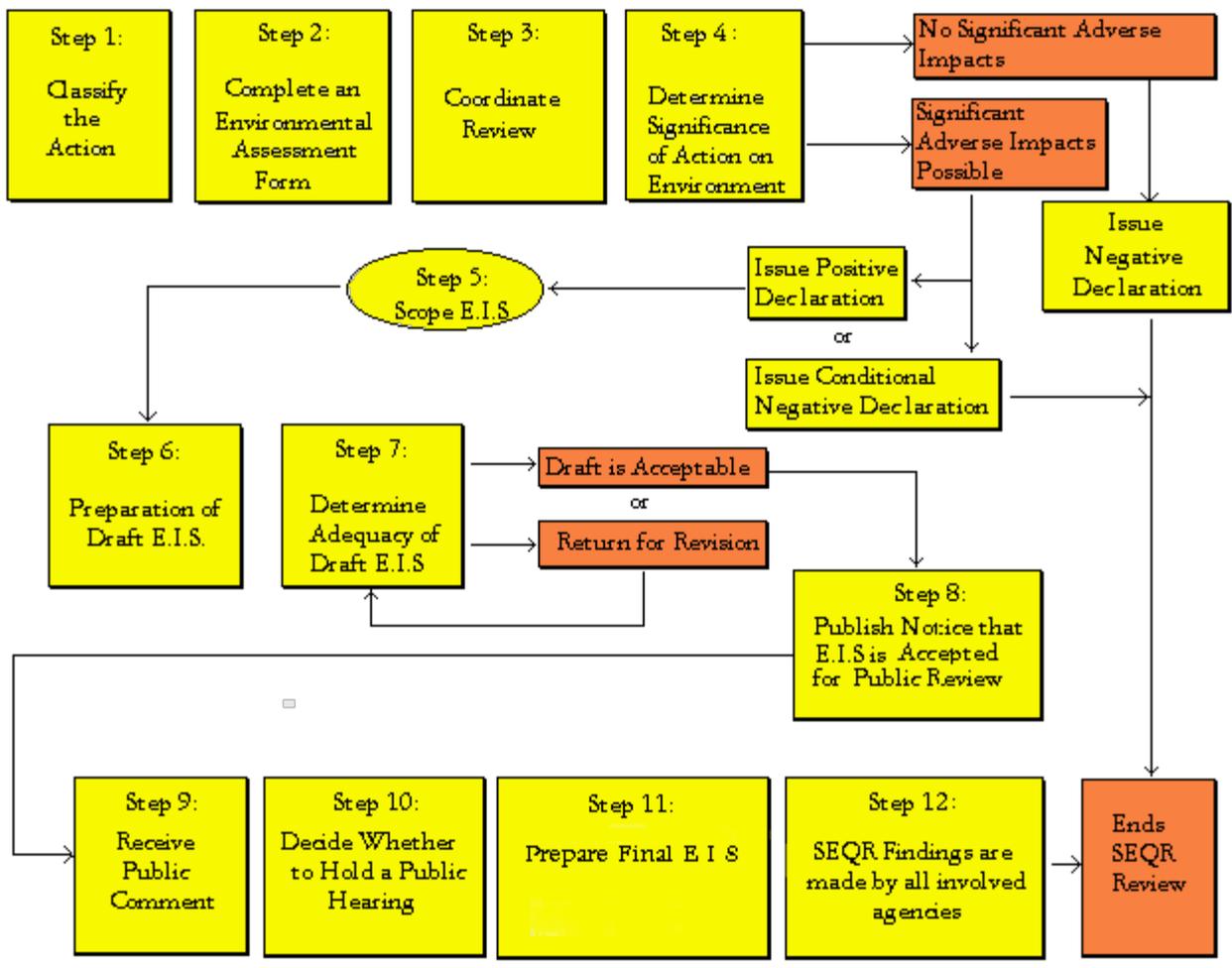
### Programs

---

Outdoor Activities

Animals, Plants, Aquatic Life

Chemical and Pollution



## Department of Environmental Conservation

### Programs

---

Outdoor Activities

Animals, Plants, Aquatic Life

Chemical and Pollution Control

Energy and Climate

Lands and Waters

### Services

---

Education

Permit, License, Registration

Public Involvement and News

Regulations and Enforcement

Publications, Forms, Maps

### Agency Information

---

About DEC

Employment

Events Calendar

**APPENDIX G**

ZONING

SECTION

179.76

## **§ 179-76. Final detailed site plan approval.**

### **A. Application.**

- (1) After receiving conditional approval from the Planning Commission on a preliminary site plan, and approval for all necessary permits and curb cuts from state and county officials, the applicant may prepare his final detailed site plan and submit it to the Planning Commission for approval, except that if more than six months has elapsed since the time of the Planning Commission's report on the preliminary site plan or if the Planning Commission finds that conditions have changed significantly in the interim, the Planning Commission may require a resubmission of the preliminary site plan for further review and possible revision prior to accepting the proposed final site plan for review.
- (2) The final detailed site plan shall conform substantially to the preliminary site plan that has received preliminary site plan approval. It should incorporate any revisions or other features that may have been recommended by the Planning Commission at the preliminary review. All such compliances shall be clearly indicated by the applicant on the appropriate submission. If a landscape plan was not submitted on prior applications, such a plan must be submitted with the application for final approval.

### **B. Action on the final detailed site plan application.**

- (1) If the application for final site plan approval is complete and satisfactory, the Planning Commission shall schedule a public hearing to be held within 62 days from the time of submission of the complete application, unless, however, the Planning Commission deems the final site plan to be in substantial agreement with the preliminary plat previously submitted and approved, in which case the public hearing may be waived. The hearing, if required, shall be advertised in a newspaper of general circulation in the City at least five days before its scheduled date. In addition to the public notice of hearing, notice shall be given by first-class mail to all property owners of land immediately adjacent, extending 500 feet from and directly opposite thereto, a property which has a site plan review pending before the Planning Commission, at least five days in advance of the hearing.
- (2) Upon approving an application, the Planning Commission shall prepare a written decision on an application for site plan

review and shall have such decision immediately filed in the office of the City Clerk and the Building and Zoning Administrator and a copy thereof mailed to the applicant. The Building and Zoning Administrator shall then issue a building permit to the applicant if the project conforms to all other applicable requirements.

- (3) Upon disapproving an application, the Planning Commission shall so inform the Building and Zoning Administrator, and he shall deny a building permit to the applicant. The Planning Commission shall also notify the applicant in writing of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.