

Chapter 10: Pre-Application Process: Submission and Meeting Participation Requirements Prior to Filing a Land Use Application or Application for Environmental Review

§ 10-01 Purpose.

These rules establish submission and meeting participation requirements ("Pre-Application Process") prior to the filing of land use applications pursuant to the Zoning Resolution and Sections 197-a, 197-c, 197-d, 199, 200, and 201 of the Charter or of applications for environmental review pursuant to 62 RCNY Chapter 5. The purpose of these rules is to:

- (a) assist potential applicants or their designated representatives ("Applicants") and the Department of City Planning ("Department") in identifying the land use and environmental issues related to a proposed project and the land use applications and applications for environmental review necessary to facilitate the proposed project; and
- (b) help the Department better allocate resources to assist Applicants in preparing land use applications and applications for environmental review, and to assist the City Planning Commission in considering these applications.

§ 10-02 Applicability.

- (a) An Applicant must follow the applicable requirements of this chapter prior to filing any land use application or application for environmental review.
- (b) *Exception.* Notwithstanding subdivision (a) of this section, an Applicant may be exempt from the requirements of this chapter to the extent provided under the following circumstances:
 - (1) where an Applicant has submitted a Pre-Application Statement ("PAS") to the Department prior to the effective date of these rules, the requirements of 62 RCNY § 10-03 shall not apply;
 - (2) where an Applicant has submitted a PAS to the Department and attended an Interdivisional Meeting ("ID Meeting") prior to the effective date of these rules, the requirements of 62 RCNY § 10-03 and 62 RCNY § 10-04 shall not apply;
 - (3) where an Applicant has submitted a Reasonable Worst Case Development Scenario Memorandum ("RWCDs Memorandum") and a draft land use application to the Department prior to the effective date of these rules, the requirements of 62 RCNY § 10-03, 62 RCNY § 10-04, and 62 RCNY § 10-05 shall not apply; and
 - (4) where an Applicant has submitted a draft City Environmental Quality Review Environmental Assessment Statement short/full form ("draft CEQR short/full form") and a draft land use application to the Department prior to the effective date of these rules, the requirements of 62 RCNY § 10-03, 62 RCNY § 10-04, 62 RCNY § 10-05, and 62 RCNY § 10-06 shall not apply.

§ 10-03 Informational Meeting.

- (a) Before filing a land use application or application for environmental review, an Applicant must contact the Department Borough Office in the borough where a proposed project is to be located in order to schedule an Informational Meeting with the Department.
- (b) Within forty-five (45) days of an Applicant contacting a Borough Office to schedule an Informational Meeting, the Department must hold an Informational Meeting subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the Informational Meeting as soon as practicable at a time at which both the Department and the Applicant are available.
 - (1) An Informational Meeting may be held in person, by telephone, or by other electronic means, including video teleconference, as the Department deems appropriate.
 - (2) An Applicant must submit to the Department before or at an Informational Meeting any materials identified by the Department before the meeting that are necessary to conduct the meeting. Such materials may include, but are not limited to, official zoning sectional maps, official tax maps, color aerial photos, land use maps, color site and area photographs, or site topographical surveys.
 - (3) An Applicant must participate in an Informational Meeting and present to the Department basic information about the proposed project and surrounding area. The Department may share with the Applicant information about zoning, the neighborhood, City policies potentially affecting the proposed project, and the relevant land use and environmental application review and public review processes.
- (c) At or after an Informational Meeting, an Applicant proceeding with filing a land use application or application for environmental review must request from the Department a Project ID number, which will be used by the Department to track proposed projects during the Pre-Application Process.
- (d) Within thirty (30) days of an Applicant's request for a Project ID number:
 - (1) the Department must:
 - (i) issue a Project ID number to the Applicant for the proposed project; or
 - (ii) notify the Applicant that the Department requires additional information or an additional Informational Meeting in order to adequately understand the basic information about the proposed project and surrounding area. Where an additional Informational Meeting is required, the Department must hold such meeting within thirty (30) days of notifying the Applicant, subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the Informational Meeting as soon as practicable at a time at which both the Department and the Applicant are available. Within thirty (30) days of receiving such additional information or holding an additional Informational Meeting, the Department must issue the Project ID number to the Applicant for the proposed project, or request additional information or Informational Meetings in accordance with the procedures set forth in this paragraph until such time that the Department has received sufficient information to adequately understand the basic information about the proposed project and surrounding area and issues a Project ID number.
 - (2) Upon issuing a Project ID number, the Department must also notify an Applicant that:
 - (i) the Applicant is subject to the procedures set forth in 62 RCNY § 10-04; or
 - (ii) the Applicant is not subject to the procedures set forth in 62 RCNY § 10-04, 62 RCNY § 10-05, 62 RCNY § 10-06, and 62 RCNY § 10-08, if the Department determines that the proposed project does not require more than one division to review the land use application material or coordination among the divisions to ensure that consistent and non-conflicting feedback is provided to Applicants, and that the project is classified as Type II pursuant to the regulations promulgated under the New York State Environmental Quality Review Act ("SEQR"). When providing notification pursuant to this paragraph, the Department must also notify the Applicant whether the Applicant is subject to the procedures set forth in 62 RCNY § 10-07 or may directly proceed to file a land use application pursuant to 62 RCNY § 10-09.
- (e) If the Department fails to hold a meeting pursuant to subdivision (b) of this section or fails to notify an Applicant pursuant to subdivision (d) of this

section, the Applicant may proceed to submit a Pre-Application Statement without a Project ID number pursuant to the provisions set forth in 62 RCNY § 10-04.

§ 10-04 Pre-Application Statement.

(a) Following the issuance of a Project ID number and notification pursuant to 62 RCNY § 10-03(d) that the provisions of this section apply, an Applicant must submit a Pre-Application Statement ("PAS") to the Department. If an Applicant submits a PAS without a Project ID number pursuant to 62 RCNY § 10-03(e), the Department must issue the Project ID number to such Applicant upon receipt of the PAS. A PAS consists of the PAS form and any accompanying materials required by the form. The PAS form is available on the Department's website or in hard copy from the Department. The completed PAS must be submitted to the division or office of the Department indicated on the form.

(b) Within twenty (20) days of receiving an Applicant's PAS, the Department must provide the Applicant with a confirmation of the receipt of the PAS, and:

(1) review the PAS to determine whether it has been submitted in the proper format and clearly and fully sets forth the information requested by the PAS form; and

(2) notify the Applicant that:

(i) the PAS is complete; or

(ii) additional or revised materials must be submitted to the Department. The Applicant must furnish any such additional or revised materials where the Department has made such a request. Within thirty (30) days of receiving such additional or revised materials, the Department must review such materials and notify the Applicant that the PAS is complete or that additional or revised materials must be submitted. The Department may continue requesting such materials in accordance with the procedures set forth in this paragraph until such time that the Department determines that the PAS is complete.

(3) upon notifying the Applicant that the PAS is complete, also notify the Applicant that:

(i) the Department will hold an ID Meeting pursuant to 62 RCNY § 10-05, if the proposed project requires more than one division to review the land use application or application for environmental review material, and the divisions must coordinate their respective reviews to ensure that consistent and non-conflicting feedback is provided to Applicants; or

(ii) the Department will not hold an ID Meeting and the project is:

(A) classified as Type I or Unlisted, pursuant to SEQR, and subject to the procedures set forth in 62 RCNY § 10-06; or

(B) classified as Type II, pursuant to SEQR, such that the procedures set forth in 62 RCNY § 10-06 and 62 RCNY § 10-08 do not apply. When providing notification pursuant to this paragraph, the Department must also notify the Applicant whether the Applicant is subject to the procedures set forth in 62 RCNY § 10-07 or may directly proceed to file a land use application pursuant to 62 RCNY § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in 62 RCNY § 10-09 or an application for environmental review as set forth in 62 RCNY § 10-10.

(Amended City Record 3/21/2018, eff. 4/20/2018)

§ 10-05 Interdivisional Meeting.

(a) Within ninety (90) days of notifying an Applicant pursuant to 62 RCNY § 10-04(b)(3)(i) that the Department will hold an ID Meeting, the Department must hold such a meeting with the Applicant subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the ID Meeting as soon as practicable at a time at which both the Department and the Applicant are available.

(1) An ID Meeting may be held in person, by telephone, or by other electronic means, including video teleconference, as the Department deems appropriate.

(2) An Applicant proceeding with filing a land use application or application for environmental review must participate in an ID Meeting and provide any information requested by the Department until such time that the Department has received sufficient information to determine the land use actions necessary to facilitate the proposed project and the type of environmental review that will be required.

(b) Within ninety (90) days after an ID meeting:

(1) the Department must notify an Applicant that:

(i) the Department has received sufficient information to determine the land use actions necessary to facilitate the proposed project and the type of environmental review that will be required; or

(ii) the Department requires further information or an additional ID Meeting to determine the land use actions necessary to facilitate the proposed project and the type of environmental review that will be required. Where an additional ID Meeting is required, the Department must hold the meeting within thirty (30) days of notifying the Applicant, subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the additional ID Meeting as soon as practicable at a time at which both the Department and the Applicant are available. Within forty-five (45) days of receiving such additional information or holding an additional ID Meeting, the Department must notify the Applicant that it has received sufficient information to determine the land use actions necessary to facilitate the proposed project and the type of environmental review that will be required, or that additional information must be submitted or an additional ID Meeting must be held in accordance with the procedures set forth in this paragraph until such time that the Department may make such a determination.

(2) Upon notifying an Applicant that the Department has received sufficient information to determine the land use actions necessary to facilitate the proposed project and the type of environmental review that will be required, the Department must also notify the Applicant that the project is:

(i) classified as Type I or Unlisted, pursuant to SEQR, and subject to the procedures set forth in 62 RCNY § 10-06; or

(ii) classified as Type II, pursuant to SEQR, such that the procedures set forth in 62 RCNY § 10-06 and 62 RCNY § 10-08 do not apply. When providing notification pursuant to this subsection, the Department must also notify the Applicant whether the Applicant is subject to the procedures set forth in 62 RCNY § 10-07 or may directly proceed to file a land use application pursuant to 62 RCNY § 10-09.

(c) If the Department fails to hold an ID Meeting pursuant to subdivision (a) of this section or fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in 62 RCNY § 10-09 and an application for environmental review as set forth in 62 RCNY § 10-10.

§ 10-06 Reasonable Worst Case Development Scenario.

(a) Following notification to an Applicant pursuant to 62 RCNY § 10-04(b)(3)(ii)(A) or 62 RCNY § 10-05(b)(2)(i), as applicable, that the Applicant's project is classified as Type I or Unlisted, an Applicant proceeding with filing a land use application or application for environmental review must submit a

RWCDS Memorandum. The memorandum must be on a form provided by the Department that is available on the Department's website. The memorandum must set forth a description of, and the basis for, the RWCDS that may result from the land use actions that facilitate the proposed project. A RWCDS is a conservative projection of the development that may occur pursuant to a discretionary action and is used by the Department to make reasonable conclusions regarding a land use action's likely effects on the environment, consistent with the requirements of SEQR/CEQR and the guidance of the City's CEQR Technical Manual.

(b) Within ninety (90) days of receiving a RWCDS Memorandum, the Department must review the memorandum and:

(1) notify an Applicant that:

(i) the Department accepts the RWCDS Memorandum and the Applicant may proceed to submit, pursuant to the procedures set forth in 62 RCNY § 10-08, a draft CEQR short/full form as provided by the Mayor's Office of Environmental Coordination; or

(ii) the Department requires further information or a RWCDS Meeting in order to review and clarify the assumptions underlying the RWCDS Memorandum. Where a RWCDS Meeting is required, the Department must hold the meeting within thirty (30) days of notifying the Applicant that the Department requires a RWCDS Meeting, subject to the Applicant's availability. If the Applicant is not available within this period, the Department must hold the meeting as soon as practicable at a time at which both the Department and the Applicant are available. A RWCDS Meeting may be held in person, by telephone, or by other electronic means, including teleconference, as the Department deems appropriate. Within forty-five (45) days of receiving additional information or holding a RWCDS Meeting, the Department must notify the Applicant that it accepts the RWCDS Memorandum and the Applicant may proceed to submit a draft CEQR short/full form pursuant to the procedures set forth in 62 RCNY § 10-08, or that it requires further information or an additional RWCDS Meeting in accordance with the procedures set forth in this paragraph in order to review and clarify the assumptions underlying the memorandum until such time that the Department accepts the memorandum and the Applicant may proceed to submit a draft CEQR short/full form.

(2) upon notifying an Applicant that the Department has accepted the Applicant's RWCDS Memorandum and that the Applicant may proceed to submit a draft CEQR short/full form, also notify the Applicant whether the Applicant is subject to the procedures set forth in 62 RCNY § 10-07 or, if not subject the Applicant may directly proceed to file a land use application pursuant to 62 RCNY § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in 62 RCNY § 10-09 and an application for environmental review as set forth in 62 RCNY § 10-10.

(Amended City Record 3/21/2018, eff. 4/20/2018)

§ 10-07 Draft Land Use Application.

(a) The Department may request a draft land use application where a high degree of technical expertise is necessary to produce the land use application materials for an Applicant's proposed project. Following notification to an Applicant pursuant to 62 RCNY § 10-03(d)(2)(ii), 62 RCNY § 10-04(b)(3)(ii)(B), 62 RCNY § 10-05(b)(2)(ii), or 62 RCNY § 10-06(b)(2), as applicable, that the Applicant is subject to the procedures set forth in 62 RCNY § 10-07, an Applicant proceeding with filing a land use application must submit a draft land use application to the Department for review. The Applicant must submit the draft land use application to the Department. Such application must include all required forms, documents, and exhibits as required by instructions for submitting a land use application which are set forth on the Department's website and available upon request in hard copy from the Department.

(b) Within ninety (90) days of receiving a draft land use application, the Department must review the draft application and:

(1) notify an Applicant that the draft application includes all such required forms, documents, and exhibits as required by the instructions for submitting a land use application, such that the Applicant may proceed to file a land use application pursuant to 62 RCNY § 10-09; or

(2) notify an Applicant that the draft land use application is missing one or more required forms, documents, or exhibits, or is not submitted as required by the instructions for submitting a land use application. The Applicant must submit a revised draft land use application to the Department. Within forty-five (45) days of receiving the revised draft land use application, the Department must review it and notify the Applicant that the Applicant may proceed to file a land use application pursuant to 62 RCNY § 10-09, or that additional or revised materials must be submitted. The Department may continue requesting such materials in accordance with the procedures set forth in this paragraph until such time that the Department determines that the Applicant may proceed to file a land use application pursuant to 62 RCNY § 10-09.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing a land use application as set forth in 62 RCNY § 10-09.

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§ 10-08 Draft City Environmental Quality Review.

(a) Following notification to an Applicant pursuant to 62 RCNY § 10-06(b)(1) that the Applicant may proceed to submit a draft CEQR short/full form, an Applicant proceeding with filing an application for environmental review must submit a draft CEQR short/full form to the Department for review. The Applicant must submit the draft CEQR short/full form to the Department and notify the Environmental Assessment Review division project manager handling the Applicant's project. Such application must include all required forms, documents, and exhibits as required by instructions for submitting a CEQR short/full form as provided by the Mayor's Office of Environmental Coordination.

(b) Within ninety (90) days of receiving a draft CEQR short/full form, the Department must review the draft and:

(1) notify an Applicant that the draft CEQR short/full form is substantially complete in form and substance such that the Applicant may proceed to file an application for environmental review pursuant to 62 RCNY § 10-10; or

(2) provide comments to an Applicant on the draft CEQR short/full form, which the Applicant must address to the Department's satisfaction before the Applicant may proceed to file an application for environmental review pursuant to 62 RCNY § 10-10. Within forty-five (45) days of receiving a revised draft CEQR short/full form, the Department must review the revised draft and notify the Applicant that the revised draft is substantially complete in form and substance such that the Applicant may proceed to file an application for environmental review pursuant to 62 RCNY § 10-10, or that the revised draft does not address, in whole or in part, the comments previously provided by the Department to the Applicant, in which case the review process must continue in accordance with the procedures set forth in this paragraph until the Department determines that the draft is substantially complete in form and substance and the Applicant may proceed to file an application for environmental review pursuant to 62 RCNY § 10-10.

(c) If the Department fails to notify an Applicant pursuant to subdivision (b) of this section, the Applicant may proceed with filing an application for environmental review as set forth in 62 RCNY § 10-10.

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§ 10-09 Filing of Land Use Application.

(a) After an Applicant receives notification pursuant to 62 RCNY § 10-03(d)(2)(ii), 62 RCNY § 10-04(b)(3)(ii)(B), 62 RCNY § 10-05(b)(2)(ii), 62 RCNY § 10-06(b)(2), or 62 RCNY § 10-07(b), as applicable, that it may proceed to file a land use application, the Applicant may file such application with the Department in accordance with 62 RCNY § 2-02(a)(1).

(b) Notwithstanding subdivision (a) of this section, an Applicant may proceed with filing a land use application where otherwise provided in this chapter.

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§ 10-10 Filing of Application for Environmental Review.

(a) After an Applicant receives notification pursuant to 62 RCNY § 10-08(b) that it may proceed to file an application for environmental review, the Applicant may file such application pursuant to 62 RCNY Chapter 5.

(b) Notwithstanding subdivision (a) of this section, an Applicant may proceed with filing an application for environmental review where otherwise provided in this chapter.