

## **ARTICLE X SPECIAL PERMITS**

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### **SECTION 1000 - POLICY**

It is the intent of this Ordinance to use special permits to control the impact of certain land uses designated in Article VII of this Ordinance upon areas where they would be incompatible, unless conditioned in a manner suitable to a particular location. Special permits provide flexibility and individuality to the otherwise rigid controls of the zoning regulations.

### **SECTION 1001 - ADMINISTRATION**

- A. Pursuant to Town Law, the Town Planning Board will administer the review and granting of special permits. Site plan review and approval will be conducted as part of the special permit review process, pursuant to Article IX of this Ordinance.
- B. Performance bonds, reclamation bonds, letters of credit, or some other financial guarantee may be required to assure that the conditions stipulated in the approval of all special permits are carried out.

### **SECTION 1002 - PROCEDURE**

- A. After the Planning Board receives a special permit application, the applicant and the Planning Board shall meet for an informal discussion of site plan review and approval procedures.
- B. No special permit may be issued until site plan approval, as set forth in Article IX of this Ordinance, has been granted and attached to the special permit application.
- C. The Town Planning Board shall designate a date for a public hearing on the special permit, within a period of time not to exceed sixty-two (62) days. A notice of the public hearing shall be published in a newspaper of general circulation in the town.
- D. The notice of the public hearing shall be sent and published at least five (5) calendar days prior to the date of the public hearing and shall contain sufficient information so as to identify the property involved and the nature of the proposed action.
- E. The Planning Board shall make a factual record of all its proceedings involving the granting of a special permit. The minutes of the Planning Board shall contain the reasons for its decision.

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- F. The Planning Board shall render its decision, approving the special permit, approving the special permit with modifications or conditions, or denying the special permit, within sixty-two (62) days after the close of the public hearing. This time period may be extended by mutual consent of applicant and the Planning Board. The Planning Board shall inform the applicant in writing of its decision. A copy of the appropriate written minutes may suffice for this notice.

### **SECTION 1003 - INTERPRETATION**

General findings are a prerequisite prior to the issuance of any special permit in this Ordinance. Special findings are separate from, but in addition to, the general findings.

### **SECTION 1004 - GENERAL FINDINGS**

- A. Before granting a special permit, the following general findings shall be made:
1. The proposed use is in compliance with all other applicable regulations of this Ordinance inclusive of specific district controls and controls applicable to all districts, and all other applicable Local, State and Federal regulations.
  2. The proposed use is physically and visually compatible with, and will not discourage the appropriate development of, the general area or adversely affect the character of existing land uses within close proximity of the subject site.
  3. The proposed use will be provided with adequate supporting services such as fire and police protection, public and private utilities, and all other supporting public services necessary and appropriate to the proposed use.
  4. Access facilities are adequate for the estimated traffic volumes on the fronting streets or highways, and are designed to ensure public safety and to avoid traffic congestion and hazards. Furthermore, that vehicular entrances and exits are clearly visible from the street and situated away from street or highway intersections, except under unusual circumstances.
  5. There are an adequate number of off street parking and loading spaces provided for the anticipated number of occupants, employees, attendants, and patrons or visitors, and that the layout of the spaces and driveways is convenient and conducive to safe operation.
  6. Adequate buffer areas and screening are provided where necessary to protect adjacent properties and land uses.
  7. Controls for pedestrian movement are designed to ensure the safety of the general public and the employees, occupants, attendants, patrons, and visitors for whom the proposed use is intended.
  8. Adequate provisions are made for the collection and disposal of storm water runoff from the site, sanitary sewage, refuse or other waste, whether liquid, solid, gaseous, or of other character.

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9. That the lot area is appropriate and adequate for the proposed use, and the reasonable anticipated operation and expansion thereof.

### **SECTION 1005 - SPECIAL FINDINGS**

The Planning Board may grant a special permit for those special permit uses specified in Article VII of this Ordinance, provided that the requirements and conditions set forth in that Article are complied with in full.

### **SECTION 1006 - RENEWAL OF SPECIAL PERMITS**

- A. Any Special Use Permit granted by the Planning Board shall be effective for a one (1) year period. Special Use Permits shall be renewable on an annual basis provided the use is continuously operated in a manner consistent with the terms and conditions of the original permit.
- B. Renewal of a Special Use Permit is the sole responsibility of the permit holder. Failure to renew in a timely manner will result in the revocation of the Special Use Permit.
- C. Not less than sixty (60) days before the expiration date of a Special Use Permit, the Code Enforcement Officer shall inspect the premises to determine if the use is being operated in a manner consistent with the terms and conditions of the original permit. The Code Enforcement Officer shall notify the Planning Board as to whether the use is being operated in compliance or in non-compliance with the terms and conditions of the permit.
- D. If the use is operating in non-compliance, the Code Enforcement Officer shall notify the Special Use Permit holder in writing specifying the issues of non-compliance, and shall set forth those procedures necessary to bring the use into compliance and shall notify the Planning Board. All use of the Special Use Permit shall be suspended unless corrective action has been completed within the permit expiration timeframe and the CEO has been notified by the permit holder requesting a re-inspection. The permit use shall remain suspended until compliance verification is received by the Planning Board. The permit holder is responsible for all corrective action necessary to bring the permit into compliance and for scheduling a re-inspection with the Code Enforcement Officer. Failure to take corrective action within the permit expiration timeframe will result in revocation of the permit.
- E. A Special Use Permit shall terminate and become ineffective upon the occurrence of any of the following:
1. Failure to renew the Special Use Permit within the permit expiration timeframe.
  2. The sale or transfer of the premises for which the Special Use Permit was granted.  
*Exception:* Special permits that have been reviewed, approved and re-issued under the name of the new owner/applicant by the Planning Board.
  3. The transfer, or attempted transfer, of the Special Use Permit to anyone other than the original permit holder without Planning Board approval.
  4. The failure of the permit holder to strictly comply with all conditions imposed by the Planning Board at the time the special permit was granted.

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5. Any enlargement, modification, or alteration in the use for which the Special Use Permit was initially granted.

### **SECTION 1007 - MODIFICATION OF SPECIAL PERMITS**

- A. Once issued, no modifications shall be permitted to any Special Use Permit unless approved by the Planning Board.
- B. Applications for modifications to a Special Use Permit shall be made in writing to the Planning Board.
- C. The Planning Board shall follow the procedures outlined in Article X, Section 1002 when reviewing any request for modification to a Special Use Permit.