

## **ARTICLE IX        SPECIAL USE PERMITS AND PROCEDURES**

### **SECTION 900        PURPOSE**

It is the intent of this Local Law to use Special Use Permits to control the impact of certain uses upon areas where they will be incompatible unless conditioned in a manner suitable to a particular location. Special Use Permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

### **SECTION 901        ADMINISTRATION**

The Village Planning Board will administer the review and granting of Special Use Permits.

### **SECTION 902        PROCEDURE**

#### **A.        FILING OF SPECIAL USE PERMIT APPLICATION**

1. Applications for a Special Use Permit shall be filed with the Zoning Enforcement Officer. All applications shall be signed by the legal owner of the premises for which the Special Use Permit is sought.
2. Each application for a Special User Permit shall be accompanied by a proposed site plan depicting the information required for site plan approval as described in Article X of this Local Law. Any application for a special use permit or site plan approval for property within an agricultural district containing a farm operation or for property with boundaries within 500 feet of a farm operation located in an agricultural district, shall include an Agricultural Data Statement.
3. The Zoning Enforcement Officer shall refer the completed Special Use Permit application to the Village Planning Board within ten (10) days after receiving a completed application. The Zoning Enforcement Officer shall concurrently transmit a copy of the complete application and supporting documents to the County Planning Board for review when required under Article 12-B, 239-m of the General Municipal Law. The information required by an Agricultural Data Statement may be included as part of any other application form required by local law, ordinance or regulation.
4. No application shall be deemed complete if the Zoning Enforcement Officer shall determine that a variance would be required from the Zoning Board of Appeals in connection with the proposed use of the premises. The Zoning Enforcement Officer shall notify the applicant of the need for such variance.

#### **B.        PUBLIC HEARING AND NOTIFICATION**

1. Prior to taking action on an application for a special use permit, the Village Planning Board shall conduct a public hearing. Such hearing shall be conducted within sixty-two (62) days following the receipt of a complete application and supporting documents from the Zoning Enforcement Officer. Any such

application shall be deemed received when the completed application is first presented at a duly called Village Planning Board meeting.

2. The Village Planning Board shall publish a notice of the public hearing in the official newspaper, one of general circulation in the Village at least ten (10) days prior to the date of the public hearing. Such notice shall include sufficient information so as to identify the property involved and the nature of the proposed action. The Village Planning Board shall also mail a notice of the public hearing to the applicant and to the owners of property adjoining the subject property and, if required under Article 12-B, 239-m of the General Municipal Law, to the County Planning Board at least ten (10) days prior to the public hearing.
3. If an Agricultural Data Statement is required for the subject project, the Village Planning Board shall mail, via registered mail, written notice of such application to the owners of land as identified by the applicant in the Agricultural Data Statement. Such notice shall include a description of the proposed project and its location, and may be sent in conjunction with any other notice required by state or local law, ordinance, rule or regulation for the said project. The cost of mailing said notice will be borne by the applicant. An Agricultural Data Statement shall include:
  - a. the name and address of the applicant
  - b. a description of the proposed project and its location,
  - c. the agricultural district which land contains farm operations and is located within 500 feet of the boundary upon which the project is proposed; and
  - d. a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the Agricultural Data Statement.

#### **C. SPECIAL USE PERMIT DECISION**

1. The Village Planning Board may approve a Special User Permit for uses described in Article VII of this Local Law provided all requirements and conditions set forth in such Article are complied with.
2. The Village Planning Board shall render its decision, either approving, approving with conditions, or denying, within sixty-two (62) days after the hearing unless the time period is extended by the mutual consent of the Village Planning Board and the applicant. The Village Planning Board, however, shall not approve a special use permit until the site plan for the project has first been approved in accord with Article X. If the application is required to be referred to the County Planning Board under Article 12-B, 239-m of the General Municipal Law, the Village Planning Board shall not act within the first thirty (30) days following the referral

to the County Planning Board unless the County Planning Board provides a written reply to the Village Planning Board within the thirty (30) day period.

## **SECTION 903 FINDINGS**

- A. The Village Planning Board shall make a written factual record and findings of all its proceedings involving the granting of a Special Use Permit. Compliance with the requirements of Article VII shall be substantiated:
- B. The Village Planning Board shall make written findings for each special use permit decision. Findings shall state the reasoning behind, the basis for, and the evidence relied upon to reach the decision.

The following considerations shall apply to all special use permit applications:

- 1. Ingress and egress to the property and proposed structures thereon, with particular reference to vehicular and pedestrian safety, and convenience, traffic flow and control, and access in case of fire or catastrophe.
  - 2. Off-street parking and loading areas where required, and the noise, glare or odor effects of the special use permit use on adjoining properties, and properties generally in the district, and the economic impact of the proposed Special Use Permit use.
  - 3. Refuse and service areas.
  - 4. Utilities as appropriate, with reference to locations, availability and compatibility.
  - 5. Storm drainage, including potential impact on downstream properties.
  - 6. Screening and buffering, with reference to type, dimensions and character.
  - 7. Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district.
  - 8. Required yards and other open space.
  - 9. General compatibility with adjacent properties and other properties in the zone district.
  - 10. The Agricultural Data Statement, if any, shall be evaluated and considered as to the possible impacts of the special use on the agricultural district.
- C. The Village Planning Board may impose any additional conditions and requirements on the Special Use Permit it deems necessary to conform to the goals and objectives of the Village's Comprehensive Plan and its principles of land use and development, and to protect the health, safety and general welfare of the public. Such conditions and

requirements shall be clearly documented in the findings and reflected on the approved Special Use Permit.

#### **SECTION 904 SPECIAL USE PERMIT APPROVAL / DISAPPROVAL**

- A. If an application for a Special User Permit is approved by the Village Planning Board, the Board shall furnish the Zoning Enforcement Officer with a copy of the approving resolution with written direction to issue the applicant a zoning permit in accord with the conditions of the special use permit.

If any Special Use Permit issued under this Local Law shall remain unexercised for a period of one (1) year from the date of issuance or if any use permitted by a Special Use Permit shall be discontinued for a period of one (1) year, such permit shall be deemed revoked and the use shall not be commenced or continued until another new application shall have been made to the Village Planning Board therefore and approved.

- B. If an application is disapproved by the Village Planning Board, the reasons for such denial shall be set forth in the Village Planning Board resolution and a copy of such resolution shall be furnished to the Zoning Enforcement Officer with written direction to deny the zoning permit and to provide the applicant with a copy of the Village Planning Board resolution.

#### **SECTION 905 MAINTENANCE OF SPECIAL USE PERMIT CONDITIONS**

- A. The Zoning Enforcement Officer may inspect the premises of a use authorized and approved with a Special Use Permit annually. The inspection shall determine that the use is being operated consistent with the terms and conditions established by the Village Planning Board in approving the permit.
- B. If the Zoning Enforcement Officer shall determine that the use is not being operated in compliance with the permit, the Zoning Enforcement Officer shall find the owner or operator of the use in violation of the Zoning Local Law and shall issue a notice of violation to the owner or operator. If such violation is not corrected within sixty (60) days of issuance the notice of violation, the Special Use Permit shall become null and void, and the owner or operator shall cease use of the property until such time as a new Special Use Permit application is submitted and approved in accord with the provisions of this Article.