

## **7.1 SPECIAL USE PERMIT**

### **7.1.1 INTENT AND DELEGATION TO PLANNING BOARD**

The intent of this Article is to set forth requirements that shall apply to certain land uses which, due to their particular characteristics and potential impacts, require special consideration to ensure the protection of public health, safety and welfare and to mitigate any adverse impacts on surrounding properties and community character. The Planning Board is hereby authorized to administer and carry out the intent established in this Article.

### **7.1.2 APPLICABILITY AND EXEMPTIONS**

The Planning Board shall conduct Special Use Permit Review for any use so required by Article 2.2 with the following exemption. Special use permit review shall not be required if the following two conditions are met:

1. The action does not result in an increase in the required number of parking spaces as set forth in Article 6.2
2. The action does not alter, either individually or in combination, the impermeable or building coverage by more than 2% or 1200 s.f., whichever is less, from the most recent, approved site plan.

Neither of these exemptions shall permit the alteration of any specific approval conditions of prior Special Use Permits without Planning Board approval.

### **7.1.3 EVALUATION CRITERIA FOR SPECIAL USE PERMITS**

A. To ensure that the proposed use will not adversely affect surrounding properties and community character, the Planning Board's evaluation of Special Use applications shall include the following:

1. The extent to which the use is in harmony with and promotes the general purposes and intent of the Comprehensive Plan and this Chapter.
2. The density, intensity and compatibility of the use with the neighborhood and community character.
3. Safe and efficient pedestrian and vehicular access, circulation and parking.
4. Existing and future demand on infrastructure, public facilities and services.
5. [The environmental and natural resources of] the site and neighboring lands including any potential erosion, flooding or excessive light, noise, vibration and the like.
6. The long-term economic viability of the site, neighboring properties and districts.

B. The approval of a special use permit shall be limited to its own facts, site conditions and circumstances and shall have no precedential effect entitling or implying that a similar use would be approved elsewhere.

### **7.1.4 APPLICATION PROCEDURES**

A. For all uses that require a special use permit, as identified in Article 2.2, application may be made directly to the Planning Board, or as a referral by the Zoning

Officer.

B. The Planning Board shall not accept any application for review that includes a parcel for which there is an outstanding, unresolved written violation from the Zoning Officer that is not the subject of the application.

C. An eligible applicant for a special use permit must be the owner, lessee or purchaser under contract for involved parcel. A lessee and purchaser under contract must have written permission of the current property owner(s) to submit an application.

D. Applications for Special Use Permit shall be on forms prescribed by the Planning Board and shall be accompanied by a fee as established by the City Council.

#### **7.1.5 PUBLIC HEARING NOTICE**

A. Within 62 days of the submission of a complete application, the Planning Board shall conduct a public hearing on that application.

B. The Planning Board shall advertise the hearing in a Saratoga Springs newspaper of general circulation at least five days prior to the date thereof. The applicant shall be responsible for payment for this notice. Prior to the hearing, the applicant shall be responsible for filing with the Planning Board an affidavit from the newspaper confirming such publication and payment.

#### **7.1.6 PROPERTY OWNER NOTIFICATION**

The applicant shall provide notice of a hearing to neighboring property owners as follows.

A. The applicant shall obtain from the City the names and addresses of property owners within a 250 foot geographic radius from the applicant's subject property boundary.

B. The applicant shall receive from the Planning Board a property owner notification notice and shall send only this notice to the identified property owners by first class mail. This notice shall be postmarked no less than 7 days but not more than 20 calendar days prior to the scheduled hearing.

C. Prior to the public hearing, the applicant shall submit to the Planning Board confirmation of the property owner notification by obtaining a "certificate of mailing" from the U.S. Postal Service.

D. Failure to provide notice in exact conformance with these provisions shall not invalidate a Planning Board determination provided the Planning Board finds that substantial compliance has occurred and the public has been fairly apprised of the fundamental character of the proposed action.

#### **7.1.7 SARATOGA COUNTY PLANNING BOARD REFERRAL**

A. Any application for a special use permit that meets the referral requirements of General Municipal Law Section 239-m shall be referred to the Saratoga County Planning Board for its review prior to the public hearing. No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Planning Board or 30 calendar days have passed from when the County Planning Board received the full statement.

B. If the Saratoga County Planning Board recommends modification or disapproval of a proposed action, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members thereof.

#### **7.1.8 INTERMUNICIPAL NOTIFICATION**

Pursuant to General Municipal Law Section 239-nn, if the land involved in an application for a special use permit lies within 500 feet of the boundary of another municipality, the Planning Board shall submit a copy of the official notice of the public hearing to the municipal clerk of the other municipality at least 10 days prior to the public hearing.

#### **7.1.9 ADVISORY OPINION**

The Planning Board may request an advisory opinion of the Design Review Commission or any administrative department or agency in its evaluation of a special use permit.

#### **7.1.10 DECISIONS**

A. In rendering its decision on any application, the Planning Board shall comply will all applicable provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

B. The Planning Board shall issue a written decision on an application within 62 days of the close of the public hearing. This time frame may be extended by mutual consent of the applicant and Planning Board.

C. Four affirmative votes are required to pass a motion regarding an application before the Planning Board.

D. The Planning Board may grant one of three types of permits:

1. A PERMANENT SPECIAL USE PERMIT allows a specific use to continue indefinitely until the specific use ceases for any reason for a period of 12 consecutive months.
2. A TEMPORARY SPECIAL USE PERMIT allows a specific use to continue until a specific date at which time the special use permit shall automatically terminate and the use shall be permanently discontinued. A temporary permit shall not be renewed nor extended.
3. A RENEWABLE SPECIAL USE PERMIT allows a specific use to continue until a

specific date unless renewed by the Planning Board for an additional period of time. A request for renewal shall be submitted prior to the expiration of the renewable special use permit. If not renewed, the use shall be permanently discontinued.

E. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related, and incidental, to the proposed special use permit. Upon its granting of said special use permit, any such condition must be met in connection with the issuance of permits by the City.

As a condition of approval of a special use permit, the Planning Board may require a letter of credit or equivalent security approved by the City to guarantee satisfactory performance of all required improvements or conditions.

F. **Administrative Approval**

The Chairperson shall have the authority to approve minor modifications to existing special use approvals if the Chairperson deems the changes are not material, substantial or substantive in nature and are not contrary to the intent of the original decision. The Chairperson shall issue all administrative approvals in writing and report them to the Planning Board [in a timely manner].

G. Every special use permit decision shall be signed and dated by the Chairperson and shall document the circumstances of the application and the findings on which the decision is based.

H. Every special use decision shall be filed in the Office of the City Clerk within five business days thereof and a copy provided to the applicant and to the Building Department.

**7.1.11 SITE PLAN REVIEW**

A. An application subject to special use permit may also be subject to site plan review as indicated in Article 2.2.

B. The Planning Board may waive site plan review as a condition of a special use permit if the Planning Board determines that considerations customarily evaluated under site plan review have been appropriately considered as part of the special use permit process.

**7.1.12 EXPIRATION**

Unless otherwise specified or extended by the Planning Board, a decision on any request for a special use permit shall expire 18 months following the filing date of such decision if the applicant has not complied with any required conditions and started actual construction, or otherwise implemented this approval. Actual construction is defined as the fastening or placing of construction materials in a permanent manner, the excavation of a basement, or the demolition or removal of any existing structure if no

new construction is approved.

**7.1.13 EXTENSIONS**

The Planning Board may grant up to two 18-month extensions for an approved special use permit provided that the application was properly submitted prior to the expiration date of either the original special use permit or the first extension. When requesting an extension, it shall be the applicant's responsibility to prove that there have been no significant changes to the site or neighborhood and that the circumstances and findings of fact by which the original approval was granted have not significantly changed.

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