

DRAFT SPECIAL USE PERMIT REGULATIONS

Village of Chatham – Zoning Review Update

Last Revised May 13, 2017

The following proposed Special Use Permit regulations (along with the proposed Site Plan regulations) will replace existing *Article VIII Special Permits and Site Plan Review*

Article VII Site Plan Review and Special Use Permits

§ 110-16 Special Use Permit Review

A. Purpose and Intent.

- (1) It is the policy of the Village of Chatham to allow a variety of uses of land, provided that such uses do not unreasonably and adversely affect neighboring properties, the natural environment, or the historical character and long-term development plans of the Village. Certain uses are therefore permitted only upon issuance of a special use permit by the Planning Board, in order to ensure that these uses are appropriate to their surroundings and consistent with the Comprehensive Plan.
- (2) This section sets forth the requirements and the procedures which shall apply to the land use activities designated as special use permit uses due to their characteristics, and/or the special characteristics of the area in which they are to be located, so that they may be properly located and planned with respect to the objectives of this Chapter, their effect on the surrounding properties and community character.
- (3) The primary purpose of special use permit review is to ensure that these designated uses are compatible with the surrounding properties and neighborhood; that adverse impacts are avoided or mitigated; and that such uses contribute to the long-term benefit of the Village.

B. Authority of Planning Board. Consistent with of § 7-725-b of Village Law and this article, the Planning Board is authorized to administer this article by conducting special use permit review and is authorized to issue, with or without conditions, or deny issuance of a special use permit in accordance with the procedures of this article for any use identified as requiring such review.

C. Applicability.

- (1) Construction, development, site preparation and/or the issuance of a building permit for any use requiring a special use permit shall not be undertaken unless and until the Planning Board has approved, with or without conditions, a special use permit for such use. No building permit for a use requiring a special use permit shall be valid without first being issued special use permit.
- (2) Special Use Permits are required for those uses identified in **Article V Use Regulations** of this Chapter.
- (3) Accessory uses or structures used in connection with a special permit use shall be subject to the same approval requirements as the principal structure or use.

- (4) Site plan review in accordance with the requirements and procedures of **§110-15 Site Plan review**, is required for all uses that require a special use permit. Such review shall occur in conjunction with the review of the special use application.

D. Required Plans and Submittals. Because the impact of Special Use Permit uses varies greatly, the information required to be submitted for a Special Use Permit may vary depending upon the scale, intensity, nature of the proposed use and its proposed location. An applicant for a Special Use Permit shall submit at least 1 original and 10 copies of the following together with any additional information the Planning Board deems appropriate:

- (1) A Village of Chatham Special Use Permit application form.
- (2) A site plan containing all elements listed under subsection **§110-15(F)(4) Application for Site Plan Approval Site Plan Review**.
- (3) A narrative describing the proposed use and operation.
- (4) A short-form or long-form SEQRA Environmental Assessment Form (EAF) with Part 1 fully completed by the applicant. A long-form EAF is required for all SEQRA Type I actions, but the Planning Board may require a long-form EAF for unlisted actions if the Board deems that the additional information contained on the long-form would be helpful and appropriate under the circumstances of the project proposal.
- (5) Multiple Uses. If an application is for a parcel or parcels on which more than one use requiring a Special Use Permit is proposed, the applicant may submit a single application for all such uses. The Planning Board may grant the application with respect to some proposed uses and not others. For purposes of reviewing an application (and for SEQRA compliance) all proposed uses on a single parcel or on contiguous parcels shall be considered together.
- (6) The application fee as established by the Village Board, and an escrow deposit for reimbursement of cost of Village consultants (if required) pursuant to **§110-75 Fees** of this Chapter.

E. Application Procedures

- (1) **Placement of Agenda.** In order for a Special Use Permit application to be placed on the Planning Board's meeting agenda, the required application materials shall be submitted to the Village of Chatham Clerk's Office at least 10 days prior to the date of the Planning Board's meeting. In order for the pre-application conference to be scheduled, a request for such conference shall be in writing identifying the subject property, its owner and the proposed use, and shall be submitted 7 days prior to the meeting at which the conference is requested to be scheduled.
- (2) **Pre-application Conference.**
 - (a) Prior to submitting a completed application, the applicant may attend a pre-application conference with the Planning Board. The purpose of the conference is to review the applicable regulations and application requirements, as well as the procedure for review and policies of the Planning Board.
 - (b) The pre-applicant conference for special use permits, if held, shall also address site plan review requirements.

- (c) In order for the pre-submission conference to be scheduled, a written request for such conference shall be submitted to the Code Enforcement Officer a minimum of 10 days prior to the meeting at which the conference is requested to be scheduled.
 - (d) The applicant shall provide the required materials pursuant to the submission requirements of a sketch plan conference set forth in *§110-15(E)(4)* of this Chapter.
- (3) Completeness Review.** At the first meeting at which an application is first presented as an agenda item (except a pre-application conference), the Planning Board shall determine whether the application is complete for purposes of commencing the review process. If an application is determined to be incomplete, the Planning Board shall notify the applicant in writing as to what aspects of the application submittal are lacking or otherwise insufficient to start the process. The time-frames for Planning Board action during the review process shall not commence until the submission of a fully complete application with supporting documents and materials and the determination of the Planning Board that the application is complete.
- (4) Waving of Application Requirements.** The Planning Board may add or waive any requirement for a complete application submission if it deems such waived or added requirements are appropriate in order to accomplish the purposes of this article and this chapter.
- (5) Application for Area Variance.** Where a proposed Special Use Permit application contains one or more features which do not comply with the dimensional regulations of this Chapter, application may be made to the Zoning Board of Appeals for an Area Variance pursuant to this Chapter without a decision or determination of the Code Enforcement Officer. Depending upon the variance required and its implications on the requested special use, the Planning Board shall decide whether such area variance application and Zoning Board of Appeals decision on the same must occur as a condition to the Special Use Permit, as a prerequisite for a complete Special Use Permit application, or in conjunction with the Special Use Permit process.
- (6) SEQR Compliance.** The Planning Board shall not render a decision on a special use permit application until SEQR review is completed.
- (7) Referral to County Planning Department.**
- (a) **County Referral.** Unless otherwise agreed to between the Village of Chatham and Columbia County, the Planning Board shall comply with the requirements of §239-m of the General Municipal Law and forward all Special Use Permit applications, when applicable, to the County Planning Department.
 - (b) **Recommendations of County Planning Department.** No action shall be taken by the Planning Board on applications referred to the County Planning Department until its recommendation has been received, or 30 days have elapsed after its receipt of the complete application, unless the County and Village agree to an extension beyond the 30-day requirement.

- (c) **County Disapproval.** A majority-plus-one vote of the Planning Board shall be required to grant any Special Use Permit which receives a recommendation of disapproval from the County Planning Department because of the referral process specified above, along with a resolution setting forth the reasons for such contrary action.

(8) Notice and Hearing.

- (a) The Planning Board shall hold a public hearing on a complete Special Use Permit application within 62 days from the determination of the Planning Board that the application is complete. The time in which a public hearing shall begin may be lengthened only upon mutual consent of the applicant and Planning Board.
- (b) At least 10 days before such hearing, the Planning Board shall mail notices thereof to the applicant and to the County Planning Board as required by §239-m of the General Municipal Law, (unless otherwise agreed to between the Village and Columbia County) which notice shall be accompanied by a full statement of the matter under consideration, as defined by subdivision one of §239-m of the General Municipal Law.
- (c) The Applicant shall provide notice of the public hearing and information regarding the project to the owners of all property abutting the subject property and all other owners within 100 feet, or such additional distances that the Planning Board may deem advisable, of the land involved in the application. Notice shall be provided by the Applicant via certified mail at least ten (10) calendar days prior to the hearing, with compliance to this notification procedure certified by a U.S. Postal receipt. The names of the owners notified shall be taken from the last completed tax roll of the Village.
- (d) At least 5 days prior to the date of such hearing, the Planning Board shall give public notice by causing the publication of a notice of such hearing in the official newspaper. The cost of giving such public notice shall be charged to the applicant.

F. Review Criteria. In considering and acting on uses requiring a Special Use Permit, the Planning Board shall consider the public health, safety, and general welfare. The Board shall also consider potential environmental impacts and the comfort and convenience of the public in general, the residents of the proposed development, and the residents of the immediate surrounding area. The Board may prescribe such appropriate conditions and safeguards as may be necessary in order that the results of its action shall, to the maximum extent possible, further the accomplishments of the criteria set forth below. A Special Use Permit shall not be granted until the Planning Board finds that the following criteria, as well as any special criteria, if any, for the particular type of use set forth as a Special Use Permit Condition have been met.

- (1) The proposed use will comply with all applicable provisions and requirements of this Chapter and of all other applicable local laws and regulations.

- (2) The proposed use shall be in harmony with and promote the goals and objectives of the Comprehensive Plan, shall be consistent with the community's goals of concentrating retail uses in the village core, avoiding strip commercial development and protecting residences from negative impacts of nonresidential uses, and shall promote the health, welfare and safety of the public.
- (3) The proposed use shall be compatible with the character of the neighborhood, the area, the zoning district and the community surrounding the location of the proposed use along with the historic character and scenic resources of the Village, and furthermore, will not unduly prohibit or discourage future planned growth in the area.
- (4) The proposed use will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat and hydrology and, if appropriate, its ability to be screened from neighboring properties and public roads.
- (5) The proposed use will comply with the Site Plan Review Criteria set forth in **§110-15(H)** of this Chapter, with any design guidelines or standards as well as applicable restrictions of the Historic Overzone.
- (6) The proposed use shall have safe and efficient access for pedestrians and vehicles, shall provide for appropriate off-road parking and loading areas, where practical and required. The interior circulation system must be adequate to provide safe accessibility to all parking spaces and that adequate and safe integration of pedestrians and vehicular movement is provided.
- (7) There shall be sufficient infrastructure and services, including utilities, public facilities and services, available for the proposed use or that the project extends or provides infrastructure and services for the area where the proposed use is located. There shall also be facilities and services implemented by the applicant to appropriately control the litter or trash, loitering and crime prevention, and any other features or aspects of the operation of the proposed use that may affect the public safety, health and general welfare.
- (8) The proposed use shall not adversely affect the availability of affordable housing in the village.
- (9) The proposed use is compatible with and appropriately protects environmental resources, including the environmental and physical suitability of the site for development and that the general landscaping, screening and buffering is in character with the surrounding areas, and that the risk of fire, flood or erosion and impacts such as emissions of electrical charges, dust, light, vibration or noise detrimental to the public health, safety and welfare is minimized to the maximum extent practical.
- (10) The proposed use provides positive or beneficial effects on the long-term economic stability, environmental integrity and community character of the Village and surrounding properties, district and uses.
- (11) The proposed use is compliant with any supplemental regulations.

G. Action

- (1) The Planning Board shall grant, deny, or grant subject to conditions the application for a Special Use Permit within 62 days after the hearing. Any decision by the Planning Board shall contain written findings explaining the rationale for the decisions in light of the general criteria contained in this Article as well as any special criteria for the particular type of use as established by this Chapter.
- (2) In granting a Special Use Permit, the Planning Board may impose conditions that it considers necessary to protect the health, safety, and welfare of the Village and to achieve the purposes contained in this Chapter and the Village's Comprehensive Plan. These conditions may include increasing dimensional or area requirements, specifying location, character and number of vehicle access points, requiring landscaping, planting and screening, requiring clustering of structures and uses in order to minimize the burden on public services and facilities and protect open space, requiring the protection of open space of conversation value using conservation easements, and requiring action by the application (including the posting of performance bonds and furnishing of guarantees) to insure the completion of the project in accordance with the terms and conditions applicable thereto.
- (3) The Planning Board may require in its approval that a special use permit be renewed periodically. Such renewal may be withheld only after public hearing and upon determination by the Planning Board that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been or are no longer being complied with. In such case, a period of 60 days shall be granted for full compliance by the applicant prior to revocation of the special use permit. New conditions may be imposed by the Planning Board in its review of a previously issued special use permit.

H. Expiration

- (1) A special use permit shall expire if the Applicant fails to obtain the necessary building permit(s) and the special use is not commenced and diligently pursued within twelve (12) months of the date of issuance of the special use permit and the Applicant fails to obtain an extension as set forth below.
- (2) A special use permit shall expire if the applicant fails to comply with the conditions of the special use permit within twelve 12 months of its issuance and the Applicant fails to obtain an extension as set forth below.
- (3) A special use permit shall expire if the approved use ceases for more than twelve (12) consecutive months for any reason.
- (4) The Planning Board reserves the right to set a more restrictive time period of revocation as a condition of the issued special use permit.

- (5) A use approved by an expired special use permit shall not commence or continue without first obtaining a new special use permit, following the criteria and procedures of this Article.

I. Extensions.

- (1) Renewal. Upon written request by the Applicant and at least 30 days prior to the expiration of the special use permit, the Planning Board may grant up to two (2) – twelve (12) month extensions. No further extensions will be permitted.
- (2) The Applicant's request must demonstrate that the project is the same project originally approved and 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.
- (3) The request for a renewal shall be considered by and at a meeting of the Planning Board and must be received by the Code Enforcement Officer a minimum of ten (10) days prior to the meeting at which the renewal is to be considered.
- (4) The Planning Board reserves the right to hold a public hearing prior to granting any extension.

J. Change of Use. A Special Use Permit shall apply to the use for which it has been granted, as well as to any subsequent similar use of the property which complies with all terms and conditions of the Special Use Permit (as determined by the Code Enforcement Officer) and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by a Special Use Permit shall require the granting of a new Special Use Permit or a Special Use Permit amendment.

K. Revocation, and Enforcement.

- (1) A Special Use Permit may be revoked by the Code Enforcement Officer if the permittee violates the conditions of the Special Use Permit or engages in any construction or alteration not authorized by the Special Use Permit.
- (2) Any violation of the conditions of a Special Use Permit shall be deemed a violation of this Chapter, and shall be subject to enforcement action as provided herein.

L. Amendments. The terms and conditions of any Special Use Permit may be amended in the same manner as required to grant a Special Use Permit, following the criteria and procedures of this Article. Any enlargement, alteration, or construction of accessory structures subject to a valid Special Use Permit shall require a Special Use Permit amendment.

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