

ARTICLE XI
Special Use Permits

§ 118-105. Purpose, application and procedure.

Special use permit review applies to those uses listed as requiring special use permit review in Schedule A: Permitted Uses.¹ The purpose of the special use permit review process is to ensure the compatibility of a proposed use with the neighborhood in which it is proposed to be located, and with the Town of New Hartford in general. The application shall contain those elements listed in § 118-92, Application for preliminary site plan approval, of this chapter. The Planning Board shall review and act on all special permit applications in accordance with the procedure set forth below. No building permit or certificate of occupancy or use shall be issued by the Code Enforcement Officer except upon authorization of and in full conformance with plans approved by the Planning Board.

- A. Public notice and hearing. The Planning Board shall conduct a public hearing within 62 days of receiving an application. The applicant shall, at least 10 days before such hearing, be given notice of the hearing and shall appear in person or by agent. Additionally, notice shall be provided as follows:
- (1) The Town shall publish, at least five calendar days prior to the date thereof, a legal notice in the official newspaper of the Town.
 - (2) The applicant shall provide notice of the public hearing and data regarding the application to the owners of all property abutting that held by the applicant and all other owners within 500 feet of the land involved in such application. Notice shall be provided by certified mail at least five calendar days prior to the hearing, with compliance with this notification procedure certified to by a United States Postal Service receipt. The names of owners notified shall be taken as such appear on the last completed tax roll of the Town.
- B. County Planning Board referral.
- (1) If applicable, at least 10 days before such hearing, the Planning Board shall mail notices thereof to the Oneida County Department of Planning in accordance with § 239-m of the General Municipal Law. Such notice shall be accompanied by a full statement of the proposed project.

1. Editor's Note: Schedule A is included as an attachment to this chapter.

- (2) Applicable uses include any special permit use within 500 feet of:
- (a) The boundary of any city, village or town;
 - (b) Any existing or proposed county or state park or other recreation area;
 - (c) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway;
 - (d) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines;
 - (e) The existing or proposed boundary of any county- or state-owned land on which a public building or institution is situated; or
 - (f) The boundary of a farm operation located within an Agricultural District or defined by Article 25-AA of the Agriculture and Markets Law.
- (3) No action shall be taken by the Planning Board on such application until an advisory recommendation has been received from the County Department of Planning or 30 calendar days have elapsed since the County Department of Planning received such full statement. If the Planning Board receives the county recommendation after the thirty-day period but two or more days prior to final action by the Planning Board, then a majority plus one vote is required if the Town Planning Board acts contrary to the County recommendation.

§ 118-106. Integration of other procedures.

Whenever the particular circumstances of a proposed development require compliance with either another procedure in this chapter, the requirements of the Town Subdivision Regulations² or the requirements of the State Environmental Quality Review Act, the Planning Board may integrate, if it deems appropriate, review as required by this article with the procedural and/or submission requirements for such other compliance. Such integration of procedures may require, upon mutual written consent of the Planning Board and the applicant, reasonable modification of the time schedules otherwise stated in this article.

2. Editor's Note: See Ch. 104, Subdivision of Land.

§ 118-107. Restrictions; expiration; revocation; enforcement.

- A. A special use permit shall pertain only to the specific property for which the application was made. Such granted permit does not apply to any other property the applicant may control.
- B. A special use permit shall be deemed to authorize only the particular special use or uses specified therein.
- C. A conditional special use permit approval shall expire at the end of six months if the conditions have not been satisfied. The Planning Board may, however, consent to an extension of up to six additional months.
- D. A special use permit may be issued as:
 - (1) Permanent, except where the permitted use is discontinued for any reason for a period of one year or more.
 - (2) Temporary, to cease on a specified date and not to be renewable.
 - (3) Renewable within a specified period of time set by the Planning Board.
- E. A special use permit may be revoked by the Planning Board if the conditions of the special use permit are violated.
- F. Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this article shall be deemed a violation of this chapter and shall be subject to enforcement action as provided herein.
- G. All special use permits shall run with the land and will be transferred to successive property owners, provided the permit has not expired and it is not revoked for failure to meet the permit conditions.
- H. Upon issuance of a special use permit, the applicant shall have two years within which to commence construction of the special use. If said period passes without commencement, the special use permit may be considered null and void.

§ 118-108. General special use permit standards.

In authorizing any special use, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and that of the immediate neighborhood in particular. The Planning Board shall also

take into strict account the specific conditions set forth in Article VIII for certain uses, applicable supplementary regulations required in Article IX of this chapter and the following general objectives for any use requiring Planning Board authorization:

- A. Adjacent land uses. The Planning Board shall not approve the special use unless, in its determination, the proposed use will not have a negative effect on adjacent land uses.
- B. Location and size of use. The nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site with respect to existing and future streets providing access shall be in harmony with the orderly development of the district.
- C. Location, nature and intensity of intended buildings, structures and operations. The location, nature and intensity of intended buildings, structures and operations should not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- D. Vehicular access and circulation. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, alignment, grade, pavement surfaces, channelization structures, visibility and traffic controls shall be considered. Accessways shall be adequate but not excessive in number and be located not less than 25 feet from street corners or other places of public assembly.
- E. Pedestrian circulation. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience shall be considered.
- F. Parking. Location, arrangement, appearance and sufficiency of off-street parking and loading shall be considered. The general landscaping of the site shall be compatible with plant species generally found in the area and serve to mitigate the visual impact of the parking area. Such landscaping shall include the preservation of existing natural screening and trees over eight inches in diameter to the maximum extent possible.
- G. Layout. The location, arrangement, size, design and general site compatibility of buildings, lighting and signage shall be considered. These shall be in general harmony with the character and appearance of the surrounding neighborhood.

- H. Drainage facilities/erosion control. Stormwater management plans and drainage facilities shall be in conformance with applicable regulations in § 118-85, Soil erosion, sedimentation and stormwater runoff control plan, of this chapter and the stormwater management requirements of Chapter 101.
- I. Water and sewer. Adequacy of water supply and sewage disposal facilities and their compliance with New York State and Oneida County Departments of Health requirements are required.
- J. Vegetation. The type and arrangement of trees, shrubs and other landscaping components, where possible, shall constitute, at all seasons of the year, a visual and/or noise deterring buffer, if necessary, between the applicant's land and adjoining lands. Existing vegetation shall be retained to the extent possible.
- K. Emergency access. Adequate provision for fire, police and other types of emergency vehicles shall be made.
- L. Flooding. Special attention shall be given to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion. See Article IX for applicable provisions.
- M. Lighting. The impacts of lighting on adjacent areas and areas within viewing distance shall be considered. Outdoor lighting shall be kept to the minimum intensity needed. All outdoor lighting fixtures or lamps shall be shielded in such manner that the edge of the lamp shield is below the light source, direct radiation (glare) from the light source is confined within the boundaries of the property and direct radiation is prevented from escaping toward the sky. (For the purposes of these provisions, light sources include any refractor, reflector, bulb, tube or globe.) High-intensity discharge lighting is prohibited.

§ 118-109. (Reserved)