

Remove Section VIII. Zoning Board of Appeals, Section E. Special Use Permits (The ZBA will no longer be authorized to issue special use permits)

Replace Section V, Supplementary Regulations, Sub-Section (J), Conditional Uses Allowed by Special Use Permit from the Zoning Board of Appeals, with the following:

J. Special Use Permits

1. Authorization to grant or deny special uses. The Town Board authorizes the Planning Board to grant or deny special uses in accordance with the requirements set forth in this section. No special use listed in this ordinance may be permitted, enlarged or altered unless approved by the Planning Board.
2. Applications for special use. Any application for a special use permit shall be made in writing. The application and required information shall be delivered to the Zoning Enforcement Officer at least ten (10) days prior to the date of the next regular meeting of the Planning Board. Seven copies of the application and required information as set forth below shall be submitted.
 - a. The application must include an Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act, Part 617 (SEQRA). No application shall be deemed complete until a Determination of No Significance has been made, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
 - b. Fees. Fees for the special use permit application shall be in accordance with any fees established by the Town of Ancram. All application fees are in addition to any required escrow fees as may be established by the Town Board.
 - c. Expenses. The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6NYCRR Part 617.13. The Planning Board may also incur other extraordinary expenses in order to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred by the Planning Board for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application. All reasonable fees shall be charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit. The amount so determined by the Planning Board shall be deposited

by the applicant in escrow with the Town Clerk, in accordance with Local Law #1 of 2004 prior to the Planning Board's commencing any review of the application. If the amount so deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible pursuant to Local Law #1 of 2004, the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit be approved until such sums have been paid in full.

- d. Informal consultation. Prior to submission of a formal application, applicants are encouraged to meet with the Zoning Enforcement Officer to review submission requirements. Applicants are also encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any issues early in the application process.

3. Procedures

- a. Coordination with Site Plan. For any application that requires both site plan and special use approvals, the Planning Board shall review site plans and special use permit applications concurrently. All procedural and submission requirements shall be coordinated so as not to delay review and decision-making. In order to facilitate this coordination, any required information from Section XIII (Site Plan Review) shall accompany the special use permit application.
- b. Area variance. Where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to Section VIII, without the necessity of a decision or determination by the Zoning Enforcement Officer.
- c. Use variance. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.
- d. Waivers. The Planning Board may find that some requirements of this Section are not requisite in the interest of the public health, safety or general welfare as applied to a particular project or application or are inappropriate to a particular special use application. In such cases, the Planning Board may, in its sole discretion, waive any requirements for the approval, approval with modifications, or disapproval of proposed special uses submitted provided such a waiver does not prevent or circumvent the purposes and intent of any Town of Ancram law or regulation or the Comprehensive Plan. Waivers shall

be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. In granting waivers, the Planning Board may, in its sole discretion, incorporate such reasonable conditions as will in its judgment substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the special use permit application and supporting documents. Requirements of this ordinance may not be waived except as properly voted by the Planning Board.

- e. Public Hearing Required. Within sixty two (62) days of receipt of a complete application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing. The Planning Board shall send, or cause to be sent, notice of the Public Hearing to abutting property owners and those agricultural operators identified on the Agriculture Data Statement by certified mail, return receipt requested at least seven (7) days prior to the public hearing.
- f. Notice to Applicant and Columbia County Planning Board. At least ten (10) days before such hearing, the Planning Board shall mail such notices thereof to the applicant and to the Columbia County Planning Board as required by Section 239-m of the General Municipal Law, which shall be accompanied by a full statement of such proposed action. The County referral shall apply to real property within 500 feet of the following:
 - 1. The boundary of any village or town; or
 - 2. The boundary of any existing or proposed county or state park or other recreation area; or
 - 3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway; or
 - 4. 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; or
 - 5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated; or
 - 6. The boundary of a farm operation located in an agricultural district, as defined by Article 250aa of the Agriculture and Markets Law.

The Columbia County Planning Board shall have thirty (30) days to review the full statement of the proposed action. If the County Planning Board fails to report within 30 days, the Planning Board may take final action on the

proposed action without such report. However, any county planning board report recommending modification or disapproval of a project and which is received after 30 days or such longer period as may have been agreed upon, but two or more days prior to final action by the Planning Board, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

- g. SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content and adequacy.
- h. Other Agency Review. In its review, the Planning Board may consult with the Town of Ancram Conservation Advisory Council and professionals such as, but not limited to, an engineer, attorney, surveyor, or land use/environmental planner and other Town and county officials and board, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be borne by the applicant as per Section V (J)(2) above.
- i. The Planning Board shall require proof that all permits required by other agencies have been applied-for prior to final approval. The Planning Board may approve a special use permit application contingent upon final approval of such application by other agencies. The Zoning Enforcement Officer shall ensure that all other agency approvals have been received and all conditions required by the Planning Board are met prior to issuing a zoning permit. Such zoning permit shall be approved prior to the Building Inspector issuing a building permit.
- j. Decisions
 - 1. Time of decision. The Planning Board shall decide upon the special use permit application within sixty two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
 - 2. Type of Decision. In rendering its decision the Planning Board shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special

use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said special use permit, any such conditions must be met before issuance of permits by the Zoning Enforcement Officer, Code Enforcement Officer or Building Inspector.

3. Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered and a copy thereof shall be mailed to the applicant.
4. A special use permit shall be deemed to authorize only the particular special use or uses permitted. Once a special use permit has been granted, it shall apply to the approved use on that parcel regardless of ownership, as well as to any subsequent use of the property in the same use category as per the Use Table, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.
4. Lapses and Expiration. Special use permits will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit, unless other provisions are set forth by the Planning Board in connection with its approval, three years after approval. A special use permit will expire if the special use or uses shall cease for more than three years for any reason. If a use subject to an approved special use permit had been in continual operation, but has since lapsed in operation for more than three years between Planning Board approval and re-initiation of such use, the Planning Board shall require a review of such use prior to reinstatement to ensure that all original conditions of the special use permit are still valid. In either case, the Planning Board may, after review, reinstate, or reinstate with conditions such lapsed use. Such Planning Board review shall be initiated through action by the Zoning Enforcement Officer.
5. Renewal of Permit. The Planning Board, as a condition of approval, may require that special use permits be renewed periodically. When the Planning Board has established such a condition of approval, at least ninety (90) days prior to the expiration of a special use permit, the applicant shall apply to the Zoning Enforcement Officer for renewal of the special use permit. The Zoning Enforcement Officer shall inspect premises, verify that conditions of the permit have been met, and renew the permit for a time equal to the original special use permit. Where the Zoning Enforcement Officer determines that the applicant has not complied with the special use permit, permit renewal shall require Planning Board approval.

6. Existing violation. No special use permit shall be issued for a property in violation of this Zoning Ordinance unless the granting of a special use permit and Site Plan approval will result in the correction of the violation.
7. Deemed to be conforming. Any use for which a special use permit may be granted shall be deemed a conforming use in the district in which the use is located, provided that the special use permit shall affect only the lot, or portion thereof, which is the subject of the special use permit application.
8. Expansion of special use. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Ordinance. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.
9. Factors for consideration.
 - a. In authorizing the issuance of a special use permit, the Planning Board shall take into consideration the public health, safety, and welfare of the community, the purposes of this zoning ordinance, the general considerations as per Section XIII (D) (1) and (2), and the Town of Ancram Comprehensive Plan, and shall prescribe appropriate conditions and safeguards to ensure the proposed use's scale and intensity are compatible with adjoining properties, and with the natural and built environment and character in the area and will accomplish the following objectives:
 1. Adequacy of parking for the proposed use, and its accessibility to fire, police and emergency vehicles.
 2. The proposed use shall protect natural environmental features, will not negatively impact traffic and will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare or any other nuisances.
 3. Consistency with the requirements for site plan approval established in Section XIII.
 4. Vehicular traffic access and circulation, including intersections, road widths, drainage channelization structures and traffic controls shall be adequate to serve the special use and not negatively impact the overall traffic circulation system of the neighborhood and the Town.

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5. Location, arrangement, size, nature, intensity of operations, and design of the special use, including all principal and accessory structures associated with that use, shall be compatible with the neighborhood in which it is located and with the rural and small town character of Ancram and shall safeguard the values of surrounding properties from noise, glare, unsightliness, or other objectionable features.
6. The special use shall not negatively impact historic or scenic features.
7. The special use shall be in harmony with the orderly development of the district.
8. Except for preexisting nonconforming lots of record, the use shall meet the prescribed area and bulk requirements for the district in which it is located.
9. The level of municipal and other services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use. This consideration shall include the suitability of water supply and sanitary sewage facilities to accommodate the intended use, and protection from pollution of surface water or groundwater.
10. The Planning Board shall impose additional conditions and safeguards to the special permit use as are directly related to and incidental to the proposed special use permit and which may be necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced. Restrictions and/or conditions may include those related to design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the resources of the Town.