

ORDINANCE NO. 1334

**AN ORDINANCE APPROVING
A SPECIAL USE AMENDMENT FOR THE KENILWORTH ASSEMBLY HALL
(410 Kenilworth Avenue – Kenilworth Park District)**

Passed by the Board of Trustees this 20th day of March, 2023

Printed and published in pamphlet form by
authority of the President and Board of Trustees this 21st day of March, 2023

VILLAGE OF KENILWORTH, ILLINOIS

Village Clerk

ORDINANCE NO. 1334

**AN ORDINANCE APPROVING
A SPECIAL USE AMENDMENT FOR THE KENILWORTH ASSEMBLY HALL
(410 Kenilworth Avenue – Kenilworth Park District)**

WHEREAS, the Kenilworth Park District, an Illinois unit of local government (“**Applicant**”), owns the property commonly known as 410 Kenilworth Avenue (*f.k.a.* 410 – 493 Kenilworth Avenue), legally described in Exhibit A (“**Assembly Hall Property**”); and

WHEREAS, the Assembly Hall Property is currently located in the P Park and Playground District (“**P District**”) under the Kenilworth Zoning Ordinance, 1969, as amended (“**Zoning Ordinance**”), and is occupied by a structure commonly known as Assembly Hall (“**Facility**”) and related appurtenances; and

WHEREAS, the Village previously approved four ordinances granting special use approval for the Assembly Hall Property, including (1) Ordinance No. 972 approved on or about February 12, 2007; (2) Ordinance No. 1023 approved on or about August 10, 2009; (3) Ordinance No. 1176 approved on or about October 17, 2016; and (4) Ordinance No. 1311 approved on or about May 16, 2022; and (collectively, “**Prior Special Use Ordinance**”); and

WHEREAS, the Applicant seeks approval of an amendment to the Prior Special Use Ordinance to (a) allow the Applicant to extend the hours of a community based café at the Property (“**Café**”), and (b) expand the food offerings at the Café, all as set forth in the Special Use Application dated January 11, 2023, and consisting of 15 pages, a copy of which is attached as Exhibit B (collectively, the “**Application**”); and

WHEREAS, Zoning Ordinance Section 153.245 authorizes the Village to approve special uses for public agencies, uses traditionally affected with a public interest, and uses that are private in character but operated not for profit and of a nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities; and

WHEREAS, pursuant to notice published in the Wilmette Life on February 9, 2023, the Village of Kenilworth Zoning Board of Appeals (“**ZBA**”) held a public hearing on March 1, 2023 to consider the Applicant’s special use amendment and map amendment application; and

WHEREAS, the ZBA found and determined that the Application was consistent with and satisfied the Zoning Ordinance’s standards and criteria, and made a recommendation to approve the Application; and

WHEREAS, the President and Board of Trustees find and determine that the Application satisfies the standards set forth in Zoning Ordinance Section 153.245(G) and that approving the Application is in the best interests of the Village and the public, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Kenilworth, Cook County, Illinois, as follows:

SECTION 1. Recitals and Exhibits. The recitals listed above are incorporated in this Ordinance as the findings of the President and Board of Trustees. All exhibits attached to this Ordinance are incorporated as though fully set forth in this Section 1.

SECTION 2. Special Use Amendment Approved. Subject to and contingent upon the conditions, restrictions, and provisions set forth in Ordinance Section 3, the Applicant's application for an amendment to the Prior Special Use Ordinance to (a) extend operating hours for a Café on the property; and (b) to expand their food offerings to include breakfast and lunch is hereby granted in accordance with and pursuant to Zoning Ordinance Section 153.245.

SECTION 3. Special Use Conditions. The special use amendment approved in Ordinance Section 2 shall be, and is hereby, expressly subject to and contingent upon each of the following terms, conditions, and restrictions:

A. Compliance with Laws. The operation, use, and maintenance of the Property and all improvements located thereon shall comply with all Village codes, ordinances, and regulations, including, without limitation, the Village's standards regulating nuisances set forth in Kenilworth Village Code Chapter 94, the Zoning Ordinance, and the Prior Special Use Ordinance.

B. Compliance with Special Use Application. Except for minor changes and site work approved by the Building Commissioner in accordance with all applicable Village codes, ordinances and standards, the development, use, and maintenance of the Property must strictly comply with the Application; however, the Applicant may modify the menu to introduce other items beyond or in place of the menu items identified in the Application.

C. Location of Café. The Café will only be operated out of the Facility's commercial kitchen. The Café's customers will only occupy the Facility's Neighbors Room and, weather permitting, the outdoor patio located adjacent to the Facility.

D. Hours of Operation. The Café will open no earlier than 7:00 a.m. and close no later than 1:30 p.m. The Café may operate up to 7 days per week.

E. Scope of Operation. The Café will only serve breakfast and lunch items, including coffee, tea, smoothies, and similar beverages, as well as pre-prepared and prepared food items.

F. No Third Party Delivery Service. The Café will not offer or allow food or beverage delivery service by third party providers, including, without limitation, DoorDash, Uber Eats, or similar entities, as determined by the Village Manager. Nothing in this Section prohibits the Applicant's employees or contractors from providing delivery service in accordance with applicable law.

SECTION 4. Failure to Comply with Conditions. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions or provisions of this Ordinance, the approval granted in Section 2 of this Ordinance will, at the sole discretion of the Village Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village Board of Trustees may not so revoke the granting of the special use permit unless it first provides the Applicant with 60 days advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the P District, as the same may, from time to time, be amended. Further, in the event of such revocation of the approval of the special use permit, the Village

Manager and Village Attorney are hereby authorized and directed to bring such zoning enforcement action as may be appropriate under the circumstances.

SECTION 5. Amendment to Special Use Permit. Any amendment to the special use permit granted in Section 2 of this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Ordinance.

SECTION 6. Recordation; Binding Effect. The privileges, obligations, and provisions of each and every section of this Ordinance are for the benefit of and bind the Applicant, unless otherwise explicitly set forth in this Ordinance or as approved by the Village Board. Nothing in this Ordinance will be deemed to allow this Ordinance to be transferred to any person or entity other than the Applicant without the approval of the Village Board. A copy of this Ordinance will be recorded with the Cook County Clerk, Recordings Division.

SECTION 7. Effective Date.

A. This Ordinance will be effective only upon the occurrence of all of the following events:

1. Passage by the Board of Trustees of the Village of Kenilworth by a majority vote in the manner required by law;
2. Publication in pamphlet form in the manner required by law; and
3. The filing by the Applicant with the Village Clerk, for recording in the Office of the Cook County Clerk, Recordings Division, along with a copy of this Ordinance, of an executed unconditional agreement and consent, in the form of Exhibit C attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance, and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

B. In the event that the Applicant does not file with the Village Clerk a fully executed copy of the unconditional agreement and consent referenced in Section 7.A.3 above within 90 days after the effective date of this Ordinance, the Village Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

SECTION 8. Superseder. In the event a conflict exists between the terms of this Ordinance and any other ordinance or resolution of the Village, the terms of this Ordinance shall govern.

Passed this 20th day of March, 2023.

AYES: Shadek, Winslow, Ransford, Ottsen, Hannus, Kelly

NAYS: None

ABSENT: None

ABSTAIN: None

Approved this 20th day of March, 2023.

Village President

ATTEST:

Village Clerk

Exhibit A

Legal Description of Assembly Hall Property

Parcel 1:

LOT 2 AND THE NORTHWESTERLY 3/4 OF LOT 4, IN BLOCK 3 IN KENILWORTH, BEING A SUBDIVISION OF PARTS OF FRACTIONAL SECTIONS 22 AND 27, AND PART OF SECTION 28, ALL IN TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 05-28-222-020-0000

Address: 410 Kenilworth Avenue, Kenilworth, Illinois

Parcel 2:

LOT 1 AND THE NORTHWESTERLY 3/4 OF LOT 3 IN BLOCK 3 IN KENILWORTH, BEING A SUBDIVISION OF PART OF FRACTIONAL SECTIONS 22 AND 27 AND PART OF SECTION 28, ALL IN TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N.: 05-28-222-019-0000

Address: 493 Kenilworth Avenue, Kenilworth, Illinois

Exhibit B
Application
[Attached]

Exhibit C

Unconditional Agreement and Consent

TO: The Village of Kenilworth, Illinois ("**Village**");

WHEREAS, the Kenilworth Park District, an Illinois unit of local government ("**Applicant**"), is the owner of that certain property commonly known as 410 Kenilworth Avenue in Kenilworth, Illinois ("**Property**"); and

WHEREAS, Ordinance No. 1334, adopted by the Village President and Board of Trustees on March 20, 2023 ("**Ordinance**"), grants approval of a special use amendment for the Property; and

WHEREAS, Section 7 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant files, within 90 days following the passage of the Ordinance, its unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to, accepts, consents to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's granting of special use permits for the Property or its adoption of the Ordinance, and that the Village's approvals do not, and will not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant does hereby agree to hold harmless and indemnify the Village, the Village's corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village's adoption of the Ordinance granting the special use permits for the Property.

[SIGNATURE PAGE FOLLOWS]

ATTEST:

KENILWORTH PARK DISTRICT, an Illinois
unit of local government

By: _____

By: _____

Its: _____

Its: _____

SUBSCRIBED and **SWORN** to
before me this _____ day of
_____, 2023.

Notary Public