

## **§ 223-18. Special permit uses.**

- A. General provisions. The special uses for which conformance to additional standards is required by this chapter shall be deemed to be permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth herein, in addition to all other requirements of this chapter. All such uses are declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.
- B. Application for a special permit. **[Amended 12-20-1993 by L.L. No. 5-1993; 12-18-2000 by L.L. No. 22-2000; 6-17-2013 by L.L. No. 12-2013; 4-21-2014 by L.L. No. 1-2014]**
  - (1) Application for required special permits shall be made to the Planning Board as agent for the City Council, and the applicant shall appear before the Planning Board prior to appearing before the City Council. All application materials, including plans, shall be submitted in electronic file format acceptable to the Building Department, in addition to at least five paper copies (or such other format or amount as determined by the Building Department), at least two weeks prior to the regular Planning Board meeting at which it will be considered. The Planning Board shall, upon receiving such application, forward a copy of the application to the City Council for the Council's use in initiating the state environmental quality review process and for otherwise processing the application. The Planning Board shall render a report to the City Council on each application, which report shall be rendered within 45 days of the date such application is received by the Board. Each report shall be submitted to both the Building Inspector and the City Engineer. The City Council shall conduct a public hearing within 62 days from the day on which a complete application is received. Public notice of said hearing shall be provided by the applicant in accordance with § 223-61.3 of this chapter. The City Council shall decide upon the application within 62 days after the hearing, provided that the SEQR process has been concluded. The time in which the City Council must render its decision may be extended by mutual consent of the applicant and the Board. The City Council may authorize the issuance of a permit, provided that it shall find that all of the following conditions and standards have been met: **[Amended 5-2-2016 by L.L. No. 7-2016]**

- (a) The location and size of the use, the nature and intensity of the operations involved in or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it are such that it will be in harmony with the appropriate and orderly development of the district in which it is located.
  - (b) The location, nature and height of buildings, walls and fences and the nature and extent of the landscaping on the site are such that the use will not hinder or discourage the appropriate development use of adjacent land and buildings.
  - (c) Operations in connection with any special use will not be more objectionable to nearby properties by reason of noise, fumes, vibration or other characteristic than would be the operations of any permitted use, not requiring a special permit.
  - (d) Parking areas will be of adequate size for the particular use and properly located and suitably screened from adjoining residential uses, and the entrance and exit drives shall be laid out so as to achieve maximum safety.
- (2) The decision of the City Council on the application, after the holding of the public hearing, shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.
- C. A plan for the proposed development of a lot for a permitted special use shall be submitted with an application for a special permit. The plan shall show the location of all buildings, parking areas, traffic access and circulation drives, open spaces, landscaping, topography, type and location of exterior lighting, drainage improvements in accordance with § 223-25F of this chapter, special features and any other pertinent information, including information about neighboring properties, that may be necessary to determine and provide for the enforcement of this chapter. The Planning Board, in preparing its report, as required in Subsection B, shall give particular study to the plan and shall recommend any changes that should be made in the plan to meet the conditions enumerated in §§ 223-17D and 223-18B. **[Amended 3-1-1993 by L.L. No. 2-1993; 4-5-1993 by L.L. No. 3-1993]**
- D. A current certificate of inspection issued pursuant to § 179-6 of this Code shall be submitted prior to rendering a final decision on

an application for a special permit. **[Added 7-18-2011 by L.L. No. 11-2011<sup>1</sup>; amended 10-3-2011 by L.L. No. 12-2011]**

- E. Conditions and safeguards. The City Council shall attach such conditions and safeguards to the special permit as are necessary to assure continual conformance to all applicable standards and requirements.
- F. Expiration of special permits. **[Amended 10-18-1993 by L.L. No. 4-1993; 12-21-1998 by L.L. No. 16-1998; 4-18-2016 by L.L. No. 6-2016]**
  - (1) A special permit shall be deemed to authorize only the particular use or uses specified in the permit and shall expire if:
    - (a) A bona fide application for a building permit is not filed within one year of the issuance of the special permit; or
    - (b) If all required improvements are not made:
      - [1] For special permits that do not include construction of a new building or addition, within one year from the date of the issuance of the building permit.
      - [2] For special permits that include construction of a new building or addition, within two years from the date of issuance of the building permit.
    - (c) Said use or uses shall cease for more than six months for any reason.
  - (2) The City Council may grant one or more extensions, of up to six months each, to:
    - (a) Complete the conditions of approval for the special permit use, upon a finding that an applicant is working toward completion of such conditions with due diligence and has offered a reasonable explanation of its inability to complete such improvements and file a bona fide application for a building permit within one year of the issuance of the special permit. No further extensions may be granted if the conditions are not completed within two years following the issuance of the special permit; and

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1. Editor's Note: This local law also provided for the redesignation of former Subsections D through I as Subsections E through J, respectively.

- (b) Complete construction of the improvements, upon a finding that an applicant is prosecuting construction with due diligence and has offered a reasonable explanation of its inability to complete the project. No such extensions shall be granted unless the City Council finds that all appropriate erosion control measures to protect surrounding properties are in place.
- (3) The City Council may impose such conditions as it deems appropriate upon the grant of any extension. The granting of an extension of time under this section shall not require a public hearing.
- G. Existing violations. No permit shall be issued for a special use for a property where there is an existing violation of this chapter.
- H. <sup>2</sup> In the event that the improvements set forth in the special permit have commenced prior to the expiration date, but are not completed by that time, the applicant shall pay a daily fine of \$25 until a certificate of occupancy has been issued by the Building Department. **[Added 8-1-1994]**
- I. Revocation. The Building Inspector may revoke a special permit where it is found that the use of the premises does not conform with the limitations and conditions contained in the special permit. **[Added 5-2-1994]**

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2. Editor's Note: Former Subsection H, Notice of hearing, added 10-18-1993 by L.L. No. 4-1993, was repealed 6-17-2013 by L.L. No. 12-2013. This local law also provided for the redesignation of former Subsections I and J as Subsections H and I, respectively.