

§ 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. 11-2011¹; 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

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. ² 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]**

§ 223-24.3. Artist live/work spaces. [Added 8-6-2001 by L.L. No. 12-2001]

- A. Development standards.
 - (1) An artist live/work space may exist on the first floor of a structure only if the appearance and use of the live/work space on the street side is consistent with the nature of the permitted uses in the surrounding area. For example, if the surrounding area is retail in nature at the first-floor level, the live/work space shall be restricted to retail on the street side of the first floor, and said street side space shall be large enough, in the opinion of the Building Inspector, to support a typical retail enterprise.
 - (2) Each artist live/work space and its various components shall be physically separate and distinct from other live/work

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.

spaces and other uses within a particular building. The sharing of artist live/work spaces by multiple tenancies, components thereof or utilities shall not be permitted. However, access to live/work spaces may be provided from common access areas, halls or corridors.

- (3) Each artist live/work space must be individually equipped with an enclosed bathroom containing a sink, toilet, shower or tub and appropriate venting.
- (4) Each artist live/work space must be individually equipped with a kitchen consisting of a sink, nonportable stove, oven and refrigerator.
- (5) Each artist live/work space must contain a floor area of no less than 800 square feet, of which a minimum area shall be devoted to the following: 35 square feet for an enclosed bathroom, 60 square feet for a kitchen, and 120 square feet for a sleeping area.
- (6) No more than 30% of the floor area of the artist live/work space may be devoted to residential space.
- (7) Direct access between living and working areas must be provided.
- (8) In order to ensure that the use is consistent with the other commercial uses, artist live/work spaces shall not be used for classroom instructional uses with more than two pupils at any one time; the storage of flammable liquids or hazardous materials; welding; or any open-flame work. Further, the work in the live/work space shall be so conducted as not to cause noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt or electrical disturbance which is perceptible by the average person located within any other residential or commercial unit within the structure or beyond any lot line.
- (9) Not more than one person who is 18 years of age or older may reside within an artist live/work space per 300 square feet of residential floor area. Further, not more than two persons who are at least 18 years of age, of which at least one of whom is an artist in residence, and not more than two children of said persons who are under 22 years of age may reside within a live/work space on a year-round basis.
- (10) Only one nonresident employee may be employed within an artist live/work space. This requirement may be waived for live/work spaces that provide retail space on the first floor.

- (11) Other than in a first-floor retail-oriented area, articles offered for sale within a live/work space must include those produced by the artist residing in said live/work space and may be offered with other like items.
- (12) One flush-mounted, nonilluminated sign, with a maximum area of two square feet, attached adjacent to or near the street entrance door to the live/work space may be used to identify the artist. This sign may list only the name of the artist with a one- or two-word description of the type of artwork or craft that is to be conducted within the live/work space. Where two or more live/work spaces occur within the same building, the signs must be placed in an orderly fashion in relation to each other and must be part of a coherent directory in which signs are ordered in a horizontal fashion. Where five or more live/work spaces are developed within one building, an interior directory sign shall be located in lieu of individual signs on the building exterior.
- (13) Residential space and work space shall not be rented separately or used by persons other than those people legally residing within the artist live/work spaces and permitted nonresident employees.
- (14) No artist live/work space shall serve as a place from which commercial vehicles are dispatched or operated.
- (15) All live/work spaces shall conform to all applicable building codes.³
- (16) For the purposes of this permitted use, artists shall only be those persons working exclusively with paint, paper, clay and/or other soft materials, and this use shall include photography, jewelry making, graphic arts and other similar relatively quiet endeavors as determined by the City Council in reviewing the proposed special use permit application. Tattoo appliers, body piercers and musicians shall not be considered artists for the purpose of this use.
- (17) Renewal inspections. Each artist live/work space shall be inspected by the Building Department every two years in order to determine whether the artist live/work space remains in compliance with this section. Upon a satisfactory inspection report, the artist live/work space owner shall be reissued a certificate of occupancy for two additional years.

3. Editor's Note: See Ch. 119, Uniform Fire Prevention and Building Code.

If the Building Inspector determines that the artist live/work space is not in compliance, the building owner or manager shall have 60 days in which to rectify all noncomplying elements and shall apply for reinspection with the Building Department, subject to an additional fee. If all such noncomplying elements are not rectified within the above-specified time frame, the certificate of occupancy for the use shall expire and the use as authorized by the special permit shall be terminated.⁴ **[Added 9-19-2005 by L.L. No. 11-2005; amended 3-18-2013 by L.L. No. 6-2013]**

(18)The owner of the live/work space shall file a certification with the Building Department every two years, and at any point in time when there is a change in ownership or a change in the use of the space, on a form provided by said Department, which certifies that the live/work space is in conformance with the Zoning Chapter and the special permit, and that the residential portion of the space has not been expanded beyond a maximum of 30% of the floor area of the live/work space, as required by Subsection A(6) above. **[Added 3-18-2013 by L.L. No. 6-2013]**

(19)The deed, offering plan, certificate of occupancy and/or rental agreement, as appropriate, for each artist live/work space shall contain language, satisfactory to the City Attorney in form and substance, which states that the subject dwelling is an artist live/work space as defined in § 223-63 of the Zoning Chapter of the Code of the City of Beacon, New York, and is subject to all restrictions and limitations as set forth in said chapter and the approval resolution(s), including the requirement for a certification with the Building Department in accordance with § 223-24.3A(18). Proof of recording of the deed shall be provided to the Building Department within 60 days after the conveyance. **[Added 3-18-2013 by L.L. No. 6-2013]**

4. Editor's Note: Former Subsection B, regarding procedures for special permits, which immediately followed this subsection, was repealed 3-18-2013 by L.L. No. 6-2013. Section 4 of this local law provided as follows: "Any artist live-work space that failed to comply with the prior language of § 223-24.3B shall have six months from the effective date of this local law to renew its special permit by complying with new § 223-24.3A(18) and (19) and existing Subsection A(17) and any other applicable provision of the City Code. Failure to do so shall result in the expiration of the special permit and the use as authorized by the special permit shall be terminated."