

SPECIAL USE PERMIT REQUIREMENTS

Subject to §150-179

1. File application in **triplicate** with the Town Clerk and pay \$100 filing fee. Application must be entirely filled out by owner of the property. One Use Per Permit.
2. Three copies of plans as specified on Application, or current survey, if deemed necessary by the Town Board or Town Planning Board.
3. Three copies of location map as specified on Application.
4. If applicable, proof of liability insurance naming the Town as an additional insured.
5. If food is to be sold, proof of insurance by vendor naming the Town as an additional insured.
6. If applicable, have portable bathroom facilities and provide verification.
7. If applicable, proof of notification to local law agencies.
8. If applicable, Agricultural Data Statement.
9. If applicable, provide copies of beer and/or wine permits issued by NYS Liquor Authority and/or Erie County Alcoholic Beverage Control Board.
10. The Application and ALL required paperwork MUST BE FILED 90 days prior to any proposed Special Use activity.
11. Applicant must appear before the Town Board after all necessary paperwork has been submitted to the Town Clerk.
12. Once the Town Planning Board has recommended the Permit and the Town Board concurs, a Public Hearing must be held.
13. The Town Planning Board and Town Board may set other reasonable conditions, which protect the public welfare due to the unique nature of each application.
14. This Special Use Permit ceases if the event ceases or lapses for more than one year.
15. The Town Board may approve or deny the Special Use Permit.
16. Complete SEQR Form.

- (1) The harmonious relationship between the proposed uses and existing adjacent uses.
 - (2) The maximum safety of vehicular circulation between the site and street/road network.
 - (3) The adequacy of interior traffic circulation, parking and loading facilities with particular attention to vehicular and pedestrian safety.
 - (4) The adequacy of landscaping and setbacks in regard to achieving maximum compatibility with and protection to adjacent property and land uses.
- B. Should changes or additional facilities be recommended by the Concord Town Planning Board, recommended approval of the site plan shall be conditional upon satisfactory compliance by the property owner with the changes or additions.
- C. In cases where any action of the Concord Zoning Board of Appeals is required, the site plan shall be the subject of a preliminary review by the Concord Town Planning Board in accordance with the review procedure set forth above before action is taken by the Concord Zoning Board of Appeals. After such action by the Concord Zoning Board of Appeals, the Concord Town Planning Board shall conduct a final review of the site plan.

§ 150-177. Performance bond.

The Concord Town Board may require as a condition of site plan approval that the property owner file a performance bond in such amount as determined by the Town Attorney of the Town of Concord to insure that the proposed development will be built in compliance with accepted plans.

§ 150-178. Site plan revisions.

A property owner wishing to make any changes in an approved site plan shall submit a revised site plan to the Concord Town Planning Board for review and recommendation to the Concord Town Board for approval.

ARTICLE XXXIV
Special Use Permits

§ 150-179. General provisions.

Unless otherwise provided, the special uses for which conformance with additional standards is required 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 hereby declared to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

§ 150-180. Procedure.

- A. Definition of special use permit. As used in this article, the term "special use permit" shall mean an authorization of a particular land use which is permitted by this chapter subject to conditions imposed by this chapter to assure that the proposed use in harmony with this chapter and will not adversely affect the neighborhood if such conditions are met.
- B. The Town Board may, as part of a zoning ordinance or local law adopted pursuant to Article 16 of the Town Law or by local law adopted pursuant to other enabling law, authorize the Planning Board or such other administrative body that it shall designate to grant special use permits as set forth in such zoning ordinance or local law.
- C. Application for area variance. Notwithstanding any provision of law to the contrary, 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 § 267-b of the Town Law, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.
- D. Conditions attached to the issuance of special use permits. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon the granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Town.
- E. Waiver of conditions. The Town Board may further empower the authorized board to, when reasonable, waive any preestablished requirements for the approval, approval with modifications or disapproval of special use permits submitted for approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event that any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit.
- F. Public hearing and decision on special use permits. Applications for special use permits shall be acted on by the Concord Town Board after a public hearing. The public hearing shall be held within 62 days from the day an application is received. Notice of such public hearing shall be published in the official newspaper of the Town of Concord at least five days prior to the date thereof. Prior to such public hearing, the application shall be referred to the Concord Town Planning Board for report and recommendation. In the event that the Concord Town Planning Board shall fail to submit a report within 45 days after said referral, the Concord Town Board shall proceed with the public hearing. The Town Board shall decide upon the application within 62 days after the conduct of the hearing. The time within which the Town Board must render its decision may be extended by mutual consent of the applicant and the Town Board. The decision of the Town Board on the application after the holding of the public hearing shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.
- G. Notice to applicant and county, metropolitan or regional planning agency. At least 10 days before such hearing, the authorized board shall mail notices thereof to the applicant

and to the county, metropolitan or regional planning agency, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

- H. A plan for the proposed development of a site for a permitted special use shall be submitted with an application for a special use permit, and such plan shall show the location of all buildings, parking areas, traffic access and pertinent information that may be necessary to determine if the proposed special use meets the requirements of this chapter.
- I. In its review of a special use permit and application and plan therefor, the Concord Town Planning Board and/or the Concord Town Board may require additional information to be supplied by the applicant relating to, among possibly others, the relationship of the proposed special use to factors such as public safety, noise, glare, traffic impact, operational schedule of the special use and the public welfare.
- J. Compliance with State Environmental Quality Review Act. The authorized board shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations as codified in 6 NYCRR 617.
- K. Court review. Any person aggrieved by a decision of the Planning Board or such other designated body or any officer, department, board or bureau of the Town may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision by the Town Board in the office of the Town Clerk. The Court may take evidence or appoint a referee to take such evidence as it may direct, and report the same, with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter. The Court at special term shall itself dispose of the matter on the merits, determining all questions which may be presented for determination.
- L. Costs. Costs shall not be allowed against the Planning Board or other administrative body designated by the Town Board unless it shall appear to the Court that it acted with gross negligence, in bad faith or with malice in making the decision appealed from.
- M. Preference. All issues addressed by the Court in any proceeding under this section shall have preference over all civil actions and proceedings.

§ 150-181. Expiration. [Amended 6-11-2009 by L.L. No. 2-2009]

- A. All special use permits, excluding mining special use permits, shall be issued for as long as the activity permitted by said special use permit is ongoing. It will renew automatically on the anniversary of the granting of said permit without a renewal fee. The activity or activities permitted shall be specified on the permit itself, which shall be conspicuously posted at the premises where the special use is occurring. Only those activities shall be permitted. If any additional activities take place besides those specifically listed on the permit, the Code Enforcement Officer will issue a violation

citation. This could result in a revocation by the Town Board of the special use permit, after an appropriate hearing.

- B. However, if there is a one-year discontinuance of said permitted use, then § 150-181 of the Concord Town Code shall apply and any resumption of use shall require a new application process, including a public hearing and a permit fee and all other provisions as generally described in § 150-180 of the Concord Town Code shall apply.