

TOWN OF LOCKPORT  
SPECIAL USE PERMIT  
REQUIREMENTS  
&  
APPLICATION(S)



Town of Lockport, NY

## Article XIX. Special Use Permits

### § 200-133. Purpose and applicability.

The Town of Lockport allows a variety of uses of land, provided that such uses do not adversely affect neighboring properties, the natural environment, or the character of the Town and its neighborhoods. Many of the uses listed in this chapter are therefore permitted only upon issuance of a special permit by the Planning Board in order to ensure that these uses are appropriate to their surroundings and satisfy performance criteria. Accessory uses or structures used in connection with a special permit use shall be subject to the same special permit approval requirements as the principal structure or use. Special permits are found to be necessary for those uses which, though intended to be allowed when certain criteria are met, are not allowed as a matter of right. It is the intent of this article to determine whether such uses are compatible, desirable, and allowable on a case-by-case basis. Special uses are only allowed where the Planning Board makes findings that they meet the criteria of this article. The burden of establishing that the criteria set forth in this article have been met shall in all cases be on the applicant.

### § 200-134. Procedure.

#### A. Application and materials.

- (1) Application for a special use permit shall be made to the Planning Board, on forms prescribed by the Planning Board. The application shall be filed with the Building Inspector, and shall be reviewed by the Building Inspector for completeness prior to filing. No application for a special use permit shall be accepted for filing which is not complete, and which does not have all supportive documentation required by this chapter, or which is not accompanied by the required application fee.
- (2) The application shall include:
  - (a) All documents and information required for site plan approval.
  - (b) A narrative statement addressing each of the criteria set forth in § 200-137, Findings required.
  - (c) The name and address of the applicant, who shall be the individual, a partner, or a duly authorized corporate or LLC officer, accompanied by proof of authorization, or a trustee, where applicable.
  - (d) Whenever a premises adjoins or is in a residential area, or is within 500 feet of a residential area, a plan to eliminate and/or mitigate, to the maximum extent practicable, any adverse effect on such area.
  - (e) A full identification of each variance which will be necessary considering the underlying requirements of the zoning district in which the property is located.
  - (f) A detailed statement of ownership and agreements relating to the premises, accompanied by:
    - [1] A copy of the abstract of title.

- [2] A copy of each existing lease.
  - [3] A copy of the contract of sale, option to purchase or lease, or any other document relating to ownership use and control of the premises.
  - [4] A copy of each restriction, cross-access agreement, dual-use agreement, sublease, parking agreement for parking on or off the premises.
  - [5] All such documents shall be submitted whether recorded or not and whether executory or not.
  - [6] The consideration or purchase price may be redacted from such documents, and the name of lessees may be deleted where necessary to protect ongoing negotiations.
  - [7] A detailed description of each type of business which will be conducted on the premises.
- B. Special application materials. In addition to the application materials listed in Subsection A above, certain special use permits listed below will require additional materials to be submitted, to allow the Planning Board to properly review the proposed use and potential impacts to the Town.
- (1) Uses greater than 120,000 square feet in size as noted in the B-2 District. These uses, by their size alone, have an inherent potential to have a large impact on the community and more information is necessary for the Planning Board to meet the required findings listed in § 200-137. The following materials must also be submitted to the Town with the application:
    - (a) A traffic impact study meeting the requirements of the Town and other applicable regulatory agencies (i.e., Niagara County Highway or NYSDOT). This study must be completed by an independent traffic consultant and shall be reviewed by a consultant retained by the Town, and supplemented or redone by such consultant, if necessary, at the expense of the applicant. This study must include an analysis of internal traffic movements, public transportation, and nonautomotive transportation (pedestrians and bicycling). The study will also include an analysis of access management issues, cross connection, shared entrances, and service roads.
    - (b) Drainage study to Town and state standards that includes an analysis of downstream structures and drainage facilities identified by the Town.
    - (c) An area map illustrating the surrounding residential areas and studies illustrating how noise, odors, lighting and litter will affect these areas.
    - (d) Economic information to help the Town understand how the project fits into the economic conditions of the community and to assist the Town in future planning efforts; provided, however, the project cannot be denied based on competitive issues with other businesses.
    - (e) A visual assessment analysis depicting how the project will be viewed from the highway and any surrounding residential areas.
- C. Supplemental materials. At any stage of consideration, whenever the Planning Board determines that supplemental materials, analyses or studies are necessary to thoroughly evaluate an application, it shall notify the applicant, which shall provide such materials, analyses or studies in a timely manner.
- D. Joint review. If an application is for a parcel or parcels on which more than one use requiring a special permit is proposed, the applicant may submit a single application for all such uses.

The Planning Board may grant the application with respect to some proposed uses and not others.

- E. Mediation. At any point in a project review process the Planning Board in its sole discretion may, if it deems appropriate and the parties consent, appoint a mediator to work informally with the applicant, neighboring property owners, and other interested parties to address concerns raised about the proposed special permit use. Such mediation may be conducted by a qualified and impartial person acceptable to the parties and the Planning Board. The mediator shall have no power to impose a settlement or bind the parties or the Planning Board. Such mediation shall be for the purpose of attempting to reconcile differences and address concerns. A mediator may make a recommendation to the Planning Board, but the Planning Board shall not be bound thereby, and need not consider the recommendation. The cost, if any, of such mediation shall be charged to the applicant as part of the cost of project review, with the applicant's written consent. Such cost may also be shared by other parties in interest with their written consent.
- F. The applicant shall reimburse costs actually expended by the Town to obtain consultants chosen by the Planning Board, to evaluate, review, supplement or redo any studies or analysis or material required under this article, other than initial review of the application and materials for processing purposes, provided such fees shall be reasonable, and audited by the Town Board, after preliminary audit by the Planning Board, which shall reject any excessive or unnecessary charges. The applicant shall be entitled to inspect all vouchers upon request. The fees shall be paid upon presentation to the applicant. Further review may be suspended until payment of fees, or, if a project is approved, permits shall not be issued until payment of all such fees.

**§ 200-135. Expiration; change of use; revocation; and enforcement.**

- A. A special permit shall expire if the special permit use or uses cease for more than 24 consecutive months for any reason, or if the applicant fails to obtain the necessary building permit within one year of the granting of a special use permit, or fails to comply with the conditions of the special permit within 18 months of its issuance, or if its time limit, if any, expires without renewal.
- B. A special permit shall apply to the use for which it has been granted, as well as to any permit (as determined by the Building Inspector), and which does not involve any new construction, enlargement, exterior alteration of existing structures, or changed use of outdoor areas. Any other change to a use allowed by special permit shall require the granting of a new special permit or a special permit amendment.
- C. Upon notice and hearing by the Planning Board, a special permit may be revoked by the Planning Board if the permittee violates the conditions of the special permit and fails to terminate such violation within 30 days of notice or engages in any construction or alteration not authorized by special permit.
- D. Any violation of the conditions of a special permit shall be deemed a violation of this chapter, and shall be subject to enforcement action as provided herein, and the New York State Town Law.

**§ 200-136. Amendments.**

The terms and conditions of any special permit may be amended in the same manner as required for the issuance of a special permit, following the criteria and procedures in this chapter. Any enlargement, alteration, or construction of accessory structures not previously approved shall require a special permit amendment.

**§ 200-137. Findings required.**

In granting or denying special permits, the Planning Board shall take into consideration the purposes of this article, the scale of the proposed project, the possible impact of the proposed project on the nearby properties and neighborhoods, architectural aesthetics of the area, and measures that will mitigate potential adverse impacts and preserve or enhance the character of the Town, and the welfare of its citizens.

- A. Before granting or denying a special permit the Planning Board shall make specific written findings as to whether the proposed project:
- (1) Will comply with all provisions and requirements of this and other local laws and regulations, and will be in harmony with the purposes of the land use district in which it is located and with the general intent and purposes of this chapter.
  - (2) Will be detrimental to adjacent uses.
  - (3) Will cause undue traffic congestion, unduly impair pedestrian safety, or overload existing roads considering their current width, surfacing, and condition and will have appropriate parking and be accessible to fire, police and other emergency vehicles.
  - (4) Will overload any public water, drainage, or sewer system, or any other municipal facility, or degrade any natural resource or ecosystem.
  - (5) Will be suitable for the property on which it is proposed, considering the property's size, location, topography, vegetation, soils, natural habitat, and hydrology, and, if appropriate, its ability to be buffered or screened from neighboring properties and public roads, and its existing and proposed use.
  - (6) Will result in excessive noise, dust, odors, solid waste, or glare, or create any other nuisances, and will satisfy the general land use performance standards of this chapter.
  - (7) Will adversely affect the aesthetics of the premises and adjacent properties and the neighborhoods.
  - (8) Will cause the site to be unduly congested, dangerous, unattractive to visitors, or unfriendly to pedestrians.
- B. The Board shall further find whether the adverse impacts of the proposed special use can be mitigated to such an extent that the special use permit should be granted and, if so, what conditions need be required to achieve such mitigation.

**§ 200-138. District requirements.**

The granting of a special permit shall not supersede the requirements of the underlying districts in which the premises is located, including any overlay districts.

**§ 200-139. Site plan review.**

Any consideration of a special use permit application shall be in addition to, and not in lieu of, site plan review. Where appropriate, the two procedures may be conducted simultaneously, and public hearings may be held simultaneously.

**§ 200-140. Action of Planning Board.**

The Planning Board shall hold a public hearing as required by Town Law § 274-b. Thereafter, the Planning Board may approve a special use permit application, may approve a special use permit application in part, and disapprove in part, approve a special use permit application with conditions as set forth in its decision, or may deny a special use permit application. The Planning Board may base a

denial of a special use permit upon inability or failure to prevent or sufficiently mitigate adverse effects as demonstrated by the findings of the Board.

**§ 200-141. Conflict with Town Law.**

This article shall be governed by the provisions of Town Law § 274-b, except that as to any provision of this chapter which is in conflict with said law, this chapter shall supersede said law pursuant to §§ 10(1)(ii)(a)(1) and (10)(1)(ii)(d)(3) of the Municipal Home Rule Law.

**§ 200-142. Fees.**

Fees for special use permit applications shall be established, from time to time, by the Town of Lockport Town Board.

TOWN OF LOCKPORT  
SPECIAL USE PERMIT APPLICATION

Property Location: \_\_\_\_\_ Property Owner: \_\_\_\_\_  
\_\_\_\_\_ Owner Address: \_\_\_\_\_  
Owner Phone #: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant (Developer): \_\_\_\_\_  
Applicant's Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Applicant's Phone #: \_\_\_\_\_  
Applicant's Fax: \_\_\_\_\_  
Applicant's Representative: \_\_\_\_\_  
Representative's Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Representative's Phone #: \_\_\_\_\_  
Representative's Fax: \_\_\_\_\_

Applicant's Representative must specify whether it is a corporation, partnership, individual or other entity.

(By executing this application, Applicant's Representative represents he/she is fully authorized to act on behalf of the Applicant).

The undersigned hereby applies for a Special Use Permit pursuant to Local Law No. 4 of the year 2005, Article XIX, Section 200 of the Town of Lockport Zoning Law. By submitting this application, applicant acknowledges receipt of said law. Submitted with this application are all requirements specified by said law. **NOTE: Failure to submit all required materials may result in rejection of application by the Building Inspector.**

Date: \_\_\_\_\_  
\_\_\_\_\_ Applicant/Representative Signature