

LAND USE APPLICATION

Application for a Special Use Permit

137 Main Street, Penn Yan, NY 14527 | (315) 531-8042 | Fax: (315) 536-9760
codeofficer@townofmilo.com | townofmilony.gov

Use this application to request Planning Board approval of a special use listed in the applicable zoning district. Consult the Code Enforcement Officer about required submissions. A New York State licensed design professional can assist with the application and code analysis.

Submission checklist

- ☐ Completed application signed by all owners and applicable fee
- ☐ Environmental Assessment Form (EAF), unless the action is Type II under SEQRA
- ☐ Agricultural data statement, when applicable
- ☐ Site plan signed and sealed by a NYS licensed land surveyor or registered design professional
- ☐ Required construction documents signed and sealed by a NYS registered design professional
- ☐ Required erosion and stormwater plans, SWPPP, and other requested supporting documents

If required information is missing, the application will be deemed incomplete and will not proceed with approval. Attach additional sheets as needed and identify the applicable section.

1 Contact information

Property owner

Name

Mailing address

City, state and ZIP code

Telephone

Email

Registered design professional

Name

Mailing address

City, state and ZIP code

Telephone

Email

2 Property and use information

Property address _____ Tax map ID _____

Existing use _____ Proposed use _____

Use the classifications in the Town Zoning Law. A use not allowed in the district cannot be authorized by a special use permit; consult the Code Enforcement Officer about any required use variance.

3 Explanation of the proposed special use

Describe the use and explain how it meets the general and specific zoning standards and other applicable laws. Attach a detailed narrative and supporting professional analysis as needed.

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Infrastructure and building information

4 Access and utilities

Road access ☐ County ☐ Private ☐ State ☐ Town

Water supply ☐ Private ☐ Public

Sanitary sewage ☐ Private ☐ Public

Check all that apply. Obtain required water and wastewater approvals from the agency having jurisdiction, which may include NYSDOH, Yates County Soil and Water Conservation District or NYSDEC. New public water or sewer districts require Town Board approval. New private roads require the applicable Town highway and engineering approvals.

5 Building and operation details

Code occupancy group _____ Maximum occupant load _____

Total floor area (sq ft) _____ Stories above grade plane _____

Building height (ft) _____ Code construction type _____

Identify any special code requirements for the proposed use. Attach a design professional's code analysis where needed.

Hours and days of operation

Monday _____ Tuesday _____ Wednesday _____ Thursday _____

Friday _____ Saturday _____ Sunday _____

Parking loading and signs

Standard spaces _____ Car-accessible spaces _____ Van-accessible spaces _____

Loading spaces / docks _____ Loading location _____

Number of signs _____ Total sign area (sq ft) _____

Sign locations _____

Show exterior signs on the site plan. Obtain any required highway right-of-way and NYSDOT outdoor-advertising approvals; requirements depend on sign type and location.

Fire protection and other approvals

Is a code-compliant fire detection or alarm system proposed? ☐ Yes ☐ No

Is a code-compliant sprinkler system proposed to connect to Town water? ☐ Yes ☐ No

If yes, submit NFPA-compliant shop drawings and a hydraulic report signed and sealed by a NYS professional engineer for Town Engineer review of impacts on the public water system.

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Zoning and required plans

6 Zoning review

Zoning district _____

Use the Town's official zoning map at mi1633.zoninghub.com. Contact the Code Enforcement Officer for assistance. Explain any No or N/A response in an attachment.

- Have you reviewed the zoning definitions for the intended use? ☐ Yes ☐ No
- Are new structures or additions included in the project? ☐ Yes ☐ No
- Do proposed structures or additions meet district bulk requirements? ☐ Yes ☐ No ☐ N/A
- Does the use comply with Part 4, Article V general standards? ☐ Yes ☐ No
- Does the use comply with Part 4, Article VI use-specific standards? ☐ Yes ☐ No ☐ N/A
- Do proposed signs comply with Part 5, Sign Control? ☐ Yes ☐ No ☐ N/A
- Is the use consistent with the Town Comprehensive Plan? ☐ Yes ☐ No
- Will the use overburden municipal services or infrastructure? ☐ Yes ☐ No
- Will the use be compatible with orderly district development and avoid significant adverse effects on public health, safety and welfare? ☐ Yes ☐ No

7 Site plan and construction documents

Is a signed and sealed site plan attached? ☐ Yes ☐ No

The site plan must be prepared by a NYS licensed land surveyor or registered design professional. Include the following applicable elements; identify and explain omitted items in an attachment.

- ☐ Drawing title; owner and preparer names and addresses; preparer signature and seal; north arrow, scale and date
- ☐ Scaled property boundaries and existing watercourses
- ☐ Building locations, designs, construction types, proposed uses and exterior dimensions
- ☐ Loading and parking areas, including construction, design, access and egress; outdoor storage
- ☐ Existing and proposed improvements, including drains, culverts, retaining walls and fences
- ☐ Water supply and sewage disposal methods; facility locations, designs and construction materials
- ☐ Fire apparatus access roads, emergency zones and hydrants
- ☐ Utility facilities, including electric, gas and renewable energy systems
- ☐ Sign locations, sizes, designs and construction types; buffer and screening areas; outdoor lighting
- ☐ Other elements integral to the use, including garbage and rubbish containers

Are signed and sealed construction documents attached? ☐ Yes ☐ No ☐ N/A

Required plans must be prepared by a NYS registered design professional and describe the project under the Uniform Code and Energy Code, including building plans, elevations, exterior materials and colors.

Are approvals required from other regulatory agencies? ☐ Yes ☐ No

Attach approval letters. If approval must follow the special use permit, identify each approval, agency and contact in an attachment so the Town can coordinate review.

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Environmental review and related approvals

8 Environmental review

Is an Environmental Assessment Form attached? ☐ Yes ☐ No ☐ N/A

An EAF is required unless the action is Type II under SEQRA. Use the NYSDEC EAF Mapper and attach supporting information.

Could the use have an unmitigated significant adverse environmental impact? ☐ Yes ☐ No

Describe potential impacts and proposed mitigation. The SEQRA lead agency determines significance and whether an environmental impact statement is required.

Is the property in a FEMA special flood hazard area? ☐ Yes ☐ No

Comply with Town floodplain requirements; an elevation certificate may be required.

Does the property contain or affect a state or federally regulated wetland? ☐ Yes ☐ No

Consult NYSDEC and/or the US Army Corps of Engineers about jurisdiction and required approvals.

Will work disturb a slope of 15% or greater? ☐ Yes ☐ No

Comply with Town steep-slope regulations and applicable Uniform Code requirements.

Does the project require NYSDEC SPDES stormwater permit coverage? ☐ Yes ☐ No

If yes, attach the required Stormwater Pollution Prevention Plan (SWPPP) and erosion-control plans.

Will the project affect a protected natural resource or environmental feature? ☐ Yes ☐ No

Identify the resource, impacts and other required agency approvals in the EAF or an attachment.

Is construction proposed lakeward of the mean high-water line of Keuka or Seneca Lake? ☐ Yes ☐ No

NYSDEC approval may be required; work on Seneca Lake may also require US Army Corps of Engineers approval.

Will the use be within 10 feet of a perennial stream or disturb a watercourse? ☐ Yes ☐ No

Submit required flood-control, stormwater or streambank-stabilization designs signed and sealed by a NYS professional engineer.

Is a stormwater-control facility proposed? ☐ Yes ☐ No

If yes, provide a maintenance agreement prepared by the Town Attorney and signed by the owner; reimburse the Town for incurred costs.

9 Related improvements and private rights

Will the project create or extend a public highway? ☐ Yes ☐ No

Will it create or extend a private road? ☐ Yes ☐ No

Will it create or extend a driveway? ☐ Yes ☐ No

Will it create or extend a sewer or water district? ☐ Yes ☐ No

Will it violate a deed restriction, covenant or other private restriction? ☐ Yes ☐ No

Will it create an easement or other deed restriction? ☐ Yes ☐ No

Will the approved use commence within one year of permit issuance? ☐ Yes ☐ No

For new access or utility improvements, submit required plans and approvals from the highway authority, Town Engineer and/or Town Board. Provide proposed easements or restrictions, and an attorney's explanation of any potential conflict with existing private restrictions, for Town Attorney review. See the permit-duration terms on page 6.

APPLICATION TERMS

Application terms and responsibilities

By signing this application, the applicant and owner acknowledge and agree to these terms. The owner affirmation on page 7 applies to the full application and supporting materials.

1 Disclosure of interests. To the extent known, disclose the name and residence of, and nature and extent of any reportable interest held by, a covered state or municipal officer or employee under General Municipal Law § 809. Covered relationships include the official, spouse, and specified relatives who are applicants, officers, directors, partners, employees, owners or parties to agreements providing benefits contingent on approval. The statutory exclusion for ownership of less than 5% of stock listed on the New York or American Stock Exchanges applies. Attach full particulars of reportable interests and promptly supplement them. Knowing and intentional violations are misdemeanors.

2 Ownership and authority. Ownership information must be accurate and complete. The owner must authorize the application, and each signer must have authority to act for the applicant or owner. Identified representatives may communicate with the Town. If the applicant is not the owner, submit the owner's written authorization. Authorization does not relieve either party of responsibility.

3 Accuracy and continuing disclosure. Submitted statements, plans, surveys, reports, calculations, photographs and environmental documents must be true, accurate and complete to the best of the applicant's and owner's knowledge. The Town may rely on them. Promptly notify the Code Enforcement Officer in writing of material errors, omissions, changed circumstances, ownership changes, or changes in the proposal. False, misleading or materially incomplete information may result in suspended review, denial, revocation or other lawful action.

4 Completeness and additional information. Receipt of an application does not establish completeness or compliance. The Town may request information reasonably needed to evaluate review standards, environmental impacts, public health and safety, municipal services, adjoining property, agriculture, natural resources and required findings. Submit requested information within the specified time. An incomplete application will not proceed with approval; review may be suspended until required materials and payments are received.

5 Scope of Town review. Town review administers governmental requirements. It does not warrant accuracy, detect every defect or hazard, certify structural or engineering adequacy, environmental suitability or fitness, establish title or private property rights, authorize interference with another person's rights, or provide another agency's approval. The applicant and owner remain responsible for the submission, design, implementation and legal compliance.

6 Property inspections. The owner authorizes reasonable inspections related to review, verification of site conditions, evaluation of impacts or compliance. Town officials and authorized consultants may observe, photograph, measure and document site features. Coordinate access when practicable; disclose known hazards, animals, restricted areas and security measures. Exterior entry is subject to reasonable notice. Entry into an occupied dwelling or other nonpublic interior requires separate consent or lawful authority. Destructive testing requires separate permission or lawful authority.

7 Fees and refunds. Except as authorized by the Town Board or required by law, application fees are nonrefundable after filing, regardless of the outcome or withdrawal, suspension or abandonment. Withdrawal does not eliminate costs already incurred. Professional-review deposits are separate from application fees; unused balances are returned after completion, payment of audited charges and final reconciliation under Chapter 191.

8 Professional and administrative costs. Under Chapter 191, the applicant and owner jointly and severally agree to reimburse authorized costs reasonably necessary and attributable to the application. Services may include professional, legal, engineering, planning, environmental and agency review; documents; site and compliance inspections; and construction monitoring. Initial and supplemental deposits may be required, and review or approvals may be withheld when required amounts remain unpaid. Charges are subject to review and audit. Request invoice access from the Town Clerk in writing within the applicable period. Late amounts may incur lawful penalties, collection costs and reasonable attorney fees. Costs remain payable despite withdrawal, abandonment, approval or denial. Obtain the current fee schedule and consultant rates from the Town Clerk.

APPLICATION TERMS

Approval conditions and permit duration

9 Environmental review. Submit a complete EAF and supplemental information when required, cooperate with coordinated review, reimburse authorized reasonable environmental-review costs, and comply with mitigation incorporated into an approval. Processing periods may be suspended or extended as provided by law while environmental review proceeds. Final action requires completion of the Town's SEQRA obligations.

10 Other approvals and private rights. A special use permit authorizes only the approved land use. Obtain all other required permits, approvals, licenses, easements and certificates before regulated site work, construction, alteration, occupancy or operation. This includes applicable governmental, utility, highway, fire-protection, water and sewer approvals. Town approval does not override laws, permits, easements, covenants, leases, deed restrictions or another person's property, riparian or access rights.

11 Approved plans and conditions. Establish, construct, operate and maintain the use in accordance with the permit, approved plans and supporting documents, approval conditions and applicable law. Conditions may protect health, safety and welfare and further the Zoning Law. Inform contractors, tenants, operators, successors and purchasers of relevant limitations. Oral statements, informal communications and preliminary staff reviews do not amend an approval.

12 Amendments. Submit proposed material changes to the Code Enforcement Officer before implementation, with supporting information. Changes may concern the use, plans, intensity, hours, access, parking, drainage, lighting, signs or landscaping. The officer determines whether the Town Code permits administrative action or requires further approval. Unauthorized material changes may result in enforcement, suspension or revocation.

13 Transfer and revocation. A special use permit runs with the land and is transferable under the Town Code. Successor owners and operators remain subject to its plans, conditions and limitations. Material misrepresentations, use on an unauthorized property or for an unauthorized use, unmet conditions, failure to comply with a lawful order, or other grounds authorized by the Town Code may result in revocation.

14 Indemnification and defense. To the fullest extent permitted by law, the applicant and owner jointly and severally agree to defend, indemnify and hold harmless the Town and its officers, boards, employees, consultants and representatives from third-party claims, damages, losses, judgments, costs and reasonable attorney fees arising from their material errors or misrepresentations; acts or omissions of their agents, contractors, employees, tenants, operators or invitees; construction, operation or maintenance of the project; violations of approvals or law; or known or reasonably discoverable hazards not disclosed before inspection. This does not apply to the extent a court finally determines that a claim resulted solely from the Town's gross negligence or willful misconduct. Rights to lawful administrative or judicial review are preserved.

15 Public records and communications. Application materials may be public records subject to disclosure. Submit confidential, proprietary, personal or security-sensitive information only when required; identify it clearly and submit it separately. Such identification does not guarantee an exemption from disclosure. Promptly report changes in contact information, ownership or representatives to the Code Enforcement Officer in writing.

16 Unpaid amounts. Under Town Code § 350-219, unpaid fees, Town expenses, penalties or other amounts due in administering or enforcing Chapter 350 are assessed against the subject lot and levied and collected in the manner provided by Town Law for Town taxes or special ad valorem levies. This is in addition to other lawful collection remedies. Withdrawal, abandonment, denial, expiration, suspension or approval does not extinguish amounts incurred or imposed.

17 Commencement continuous operation and abandonment. The authorized use must commence within one year after permit issuance or the permit becomes null and void. A use that ceases continuous operation for one year is deemed abandoned and the permit becomes null and void. The Code Enforcement Officer may grant written extensions, each no longer than one year, upon the owner's written request demonstrating justifiable cause. An extension is ineffective without written approval. The use remains a specially permitted use subject to continuing conditions; it does not become permitted as of right, prohibited or nonconforming. Reestablishment after expiration or abandonment requires a new approval unless otherwise authorized by law. See Town Code §§ 350-177 and 350-179.

SIGNATURES AND TECHNICAL GUIDANCE

Owner affirmation

10 Owner affirmation under penalties of perjury

Each owner signing below affirms the following for the property identified in this application. A person signing for an entity also affirms that they are authorized to bind the owner.

I am the lawful owner or authorized signatory for the owner. I have reviewed and consent to this application and its plans, surveys, reports and other supporting materials. They are true, accurate, complete and current to the best of my knowledge and belief. I have not knowingly concealed, omitted or misrepresented a material fact. I understand that the Town may rely on these submissions.

I have read, understand and agree to the application terms on pages 5 and 6 and all applicable laws and approval conditions. These obligations continue during review and operation and apply to successors and assigns as authorized by law. I authorize identified representatives to communicate with the Town and authorize site access subject to the limits stated in the application terms. I remain responsible for compliance and authorized professional-review expenses.

I will promptly correct inaccurate information and report material changes in writing. I will obtain required approvals before commencing the use or regulated work and before implementing material changes. Approved materials may become conditions of the permit. Failure to comply, material omissions or false statements may result in denial, enforcement, suspension, revocation or other lawful remedies.

I affirm on the date entered beside my signature, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters stated on information and belief, and as to those matters I believe them to be true. I understand that this document may be filed in an action or proceeding in a court of law.

All owners must sign. Attach additional signature sheets if needed.

Printed name _____ Date _____

Owner signature _____ Entity title, if any _____

Printed name _____ Date _____

Owner signature _____ Entity title, if any _____

Printed name _____ Date _____

Owner signature _____ Entity title, if any _____

Agricultural assessment conversion payments and penalties

Changing land that received an agricultural assessment to a nonagricultural use may trigger a conversion payment. This generally applies within 5 years after the last assessment benefit for land inside an agricultural district, or 8 years for land outside a district, subject to statutory exceptions. The payment generally equals 5 times the taxes saved in the last benefit year on the converted portion, plus 6% interest compounded annually for each benefit year, up to 5 years.

Notify the Town Assessor within 90 days after conversion begins. Failure to notify may result in an additional penalty of up to twice the conversion payment, capped at \$1,000. The Assessor determines whether conversion occurred and calculates the amount due. Mere sale, subdivision or idling alone is not conversion. Contact the Assessor before changing the land use; a special use permit does not waive these obligations.

References: Town Code Chapters 191 and 350 | NYS guidance on conversion of agricultural lands

SUPPORTING FORMS

Authorized representative and agricultural data

11 Authorized representative

Complete this section if an owner appoints a representative. Use additional copies for other owners.

Owner

Name

Mailing address

City, state and ZIP code

Telephone

Representative

Name

Mailing address

City, state and ZIP code

Telephone

I authorize the representative above, who is at least 18 years old, to act for me in review and determination of this special use permit application, including receiving, inspecting and providing confidential information; presenting facts or arguments; signing documents; and entering into agreements. I may revoke this authority by written notice to the Town. Consult your attorney before signing; the Town cannot provide legal advice.

Owner signature _____ Date _____

Notarial acknowledgment

State _____ County _____

On the _____ day of _____, _____, before me, the undersigned, personally appeared _____, personally known to me or proved by satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to this instrument and acknowledged executing it in his/her/their capacity(ies), and that the individual(s), or the person on whose behalf the individual(s) acted, executed the instrument.

Notary signature _____ Commission expires _____

12 Agricultural data statement

Required if the project is on property in an agricultural district containing a farm operation, or its boundaries are within 500 feet of a farm operation in an agricultural district. See Agriculture and Markets Law § 305-b. Attach additional sheets as needed.

Applicant name and address _____

Owner name and address, if different _____

Project description _____

Project address and tax map number _____

Is the property in an agricultural district? ☐ Yes ☐ No

District number _____

Is the property actively farmed? ☐ Yes ☐ No

Attach: names and addresses of owners of land in the agricultural district containing farm operations within 500 feet; identify each farm location and whether it is actively farmed. Include a tax map or other map showing the project relative to those farms.

Applicant signature _____ Owner signature, if different _____

Municipal reviewer _____ Date _____

Include the agricultural data statement with any required County Planning Board referral.