

Legal Alert—"Special Zoning" in the City of Chicago

Your small business or not-for-profit might be informed by City of Chicago staff that your current or proposed activity is a "Special Use." This can particularly come up when applying for building permits or businesses licenses. This does not necessarily mean have to shut your doors or abandon your proposed project. But, you will need to have your "special use" of your property approved by the City of Chicago Zoning Board of Appeals ("ZBA") to be in compliance with the Chicago Zoning Ordinance ("Ordinance").

This legal alert highlights the basic steps to apply for a special use permit from the ZBA. Special restrictions may apply depending on your type of business or organization, so you should also consult a local zoning attorney to ensure compliance.

Generally

Special Uses involve three essential steps, each of which is described further below: (1) submission of a completed Application, including required exhibits; (2) public notices; and (3) a public hearing before the ZBA, at which the ZBA decides that your application meets the required standards and should be approved. Since ZBA hearings only occur on the third Friday of every month, and spots fill up quickly, you should plan to apply as soon as possible.

If your use of a property depends on obtaining a Special Use, it is important that you wait to purchase or rent that property until after you know the Special Use will be approved.

The Special Use Application

To obtain special use approval from the ZBA, you must complete the City's Special Use Application ("Application"), which can be found online [here](#) or picked up from City zoning staff on the 9th Floor of City Hall, 121 N. LaSalle Street (the "Zoning Office").

Carefully follow the Application Checklist to make sure you submit every required supporting exhibit, including the Economic Disclosure Statements for your business or organization. Also note that if you don't own the property where you will operate the special use, the property owner must provide its own set of Economic Disclosure Statements and a written consent to the Application.

It may seem strange, but one of the required Application exhibits is an "Official Denial," which you will have to obtain from staff at the Zoning Office. Call in advance to find out the City's current policies and procedures for making appointments and obtaining Official Denials, because these frequently change.

You will need to submit your completed Application at the Zoning Office, together with all of the necessary exhibits and a check for the application fee. The current application fee is \$525.00, but this is subject to change.

Notices for Neighbors

Notice Letter. You must send notice letters to each property owner within a 250-foot radius of the property. The Application and Ordinance provide important details about who must receive notice and the required information that must be in the notice letter. At a minimum, your letter must include a detailed description of the proposed special use and location, the names of the applicant and underlying property owner, when the application is being filed, and where the neighbors can go for additional information. To be complete, your Application package will need to include a copy of your notice letter and a notarized affidavit verifying the notice letters were sent. A sample notice letter and affidavit are available [here](#).

Public Notice Sign. After your Application is accepted, the ZBA will issue you one or more public notice signs to install on the property so that they are plainly visible from each abutting street. Within five (5) days of filing your Application, you must post

the signs and submit to the ZBA: (i) photographs of the signs on the building and of the subject site and (ii) a notarized affidavit confirming the signs were posted. (A sample affidavit available here). The sign must remain posted on the property until the scheduled hearing date.

An Application will not be considered complete—and a public hearing will not be scheduled—until all of the above has been completed.

The Hearing

ZBA Hearings are typically held in the City Council Chambers at City Hall. As noted above, the ZBA only meets once a month, on the third Friday. There will typically be one session at 9:00 in the morning and an afternoon session at 2:00. The five-person ZBA will consider each special use application on a case-by-case basis to determine whether the applicant's business or organization will be compatible with surrounding land uses, properties, and development patterns. As special uses vary, the ZBA will consider the applicant's anticipated land use, site design, and operational impacts. Special use permits may be approved only if all of the following conditions are met:

1. The proposed use in the proposed location must meet all standards of the Ordinance.
2. The proposed use and location must be for the public convenience and not adversely affect the general welfare of the neighborhood or community.
3. The proposed use and location must be "compatible with the surrounding area in terms of site planning and building scale and project design."
4. The proposed use and location is "compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation."
5. The proposed site and location must "promote pedestrian safety and comfort."

All applicants must have an urban planner or certified real estate appraiser testify with them at their scheduled public hearing. The Chicago Department of Housing and Economic Development will also weigh in on all Applications. Applications are not likely to be approved unless the Alderman supports the request.

Can The Law Project Help?

The Community Law Project is a project of the Chicago Lawyer's Committee for Civil Rights under Law, Inc. The Community Law Project matches eligible small businesses and not-for-profits with pro bono legal counsel. For additional information about issues involving small businesses and not-for-profits, please contact us at clp@clccrul.org or 312.939.3638, or visit us online at www.clccrul.org/community-law-project.

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The Community Law Project thanks Danielle Meltzer Cassel of Vedder Price PC for her assistance with preparing this legal alert.