

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

Section 1. Section 17-13-0900 of the Municipal Code of Chicago is hereby amended by adding the language underscored, and deleting the language struck through, as follows:

17-13-0900 Special uses.

17-13-0901 Purpose. *Special uses* are uses that, because of their widely varying land use and operational characteristics, require case-by-case review in order to determine whether they will be compatible with surrounding uses and development patterns. Case-by-case review is intended to ensure consideration of the *special use*'s anticipated land use, site design, and operational impacts.

17-13-0902 Applications.

17-13-0902-A Filing. An application for a *special use* must be filed with the Zoning Administrator or the Zoning Board of Appeals, pursuant to Section 17-13-0903-A and Section 17-13-0903-B.

17-13-0902-B Contents.

1. General. Applications for *special use* approval must include such information required by the Zoning Administrator or the Zoning Board of Appeals, whichever entity is reviewing the application pursuant to Section 17-13-0903-A and Section 17-13-0903-B.
2. Waste-Related Uses. In addition to any other general information required to be submitted with a *special use* application, the following specific information must accompany any *special use* application for an *incinerator, hazardous waste treatment or storage facility, resource recovery facility, reprocessible construction/demolition material facility, transfer station, or liquid waste handling facility, or sanitary landfill*:
 - a. Surrounding land use report, including a description of the nature and intensity of surrounding land uses and the anticipated impact of the proposed *special use* upon surrounding land uses and property values. The report must also assess the number of existing and closed waste-related uses within a 3-mile radius of the proposed site and the proximity of the proposed facility to residential uses and *schools*.
 - b. Environmental assessment of facility siting, including a description of the physical, geographical, geological, and soil conditions of the site and surrounding area to assess the

- suitability of the site for the proposed *special use*. An analysis of the impact of the proposed *special use* upon the surrounding area and the dynamic physical environment, including but not limited to critical wildlife habitats, fluvial systems, natural wetlands, air quality, water quality, flora and fauna, and public health must be submitted. The assessment must also evaluate potential risk and effects of accidental releases, fires or explosions on surrounding communities, and must analyze alternatives to the proposed facility and address their costs and impact on the environment.
- c. An end-use plan describing the proposed use of the site after terminating use of the facility.
3. Business live/work units. In addition to any other general information required to be submitted with a special use application, the following specific information must accompany any special use application for a business live/work unit:
- a. Description of the nature of the work activities to be performed in the business live/work unit.
 - b. Floor plan that identifies those areas to be used as living space and those areas to be used as work space and a table showing the square footage devote to each.

17-13-0903 Zoning Administrator

17-13-0903-A Recommendation Determination – Zoning Administrator. The Zoning Administrator must review each proposed *special use* application and ~~forward a recommendation on the proposal to the Zoning Board of Appeals before the Board's public hearing~~ either grant or deny said special use permit, with the exception of the special use permit applications set forth in paragraph 17-13-0903-B.

Written, Published and Posted Notice of *special use* applications that will be determined by the Zoning Administrator will be in accordance with 17-13-0107-A, 17-13-0107B and 17-13-0107C. The public will have 30 days to provide comments regarding an application for *special use* to the Zoning Administrator in the manner established by the Zoning Administrator.

If the Zoning Administrator does not render a final decision on a *special use* application within 120 days after a complete application is filed, the application will be considered approved, provided that this limitation does not apply to periods of time during which consideration of the application has been delayed at the request or cause of the applicant.

17-13-0903-B Recommendation – Zoning Administrator. The Zoning Administrator shall review and make a recommendation to the Zoning Board of Appeals, but not a determination, for the following *special use* applications:

- a. Manufacturing and Planned Manufacturing districts
- b. Special uses requiring compliance with the Air Quality Ordinance
- c. Drive-throughs
- d. Waste-related uses
- e. Cannabis establishments
- f. Gas stations
- g. Liquor stores
- h. Adult uses

These applications for *special use* will be determined by the Zoning Board of Appeals in accordance with the it's policies, rules and procedures.

17-13-0904 Hearing. The Zoning Administrator and Zoning Board of Appeals ~~must~~ will hold a hearing to consider ~~the~~ a *special use* applications under Section 17-13-0903-B. Written, Published and Posted Notice of said ~~the Zoning Board of Appeals'~~ public hearing must be provided in accordance with Sec 17-13-0107-A, Sec. 17-13-0107-B and Sec. 17-13-0107-C.

17-13-0905 Approval Criteria.

17-13-0905-A General Criteria. Except as otherwise expressly provided in this Zoning Ordinance, no *special use* application may be approved unless the Zoning Administrator or the Zoning Board of Appeals, finds that the proposed use in its proposed location meets all of the following criteria:

- 1. complies with all applicable standards of this Zoning Ordinance;
- 2. is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;
- 3. is compatible with the character of the surrounding area in terms of site planning and building scale and project design;
- 4. 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; and
- 5. is designed to promote pedestrian safety and comfort.

17-13-0905-B Waste-Related Uses Approval Criteria.

- 1. Specific Criteria. No *special use* application for a waste-related use may be approved unless the Zoning Board of Appeals finds that the *special use* meets the General Criteria of Sec. 17-13-0905 and all of the following specific criteria:
 - a. Is necessary to accommodate the waste removal needs of the area it is intended to serve;
 - b. Is located outside the boundary of the 100-year flood plain as determined by the Illinois Department of Transportation, or the site is flood-proofed to meet the standards and requirements of the

Department of Transportation and is approved as flood-proofed by said Department;

- c. is designed to minimize the danger to the surrounding area from fires, spills or other operational accidents;
 - d. is so designed and located as to minimize the impact on existing traffic flow in the surrounding area;
 - e. is designed and proposed to be operated so as to minimize adverse impacts on air, land and water quality by using the best commercially available pollution control technology;
 - f. is located and operated so as to minimize adverse affects on the economic development potential of the area, and on the value of surrounding property; and
 - g. is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.
2. Review Factors. In reviewing an application for a *special use* for any *sanitary landfill, liquid waste handling facility, resource recovery facility* or *incinerator*, the Zoning Board of Appeals must consider the following factors:
- a. the impact of the proposed facility on air, land and water pollution levels in the area;
 - b. the physical characteristics of the land on which the facility is to be located;
 - c. the number of existing and closed waste treatment facilities and disposal sites within a 3-mile radius of the proposed site; and
 - d. the proximity of the facility to residential uses and *schools*.
3. In reviewing an application for a *special use* for a *sanitary landfill*, the Zoning Board of Appeals must evaluate whether the facility would meet the following criteria:
- a. The operation of the proposed facility would not increase noise beyond levels permitted in Chapter 11-4 of the Municipal Code.
 - b. The site must be designed to provide a *buffer zone* of at least 500 feet from the interior of the liner to the *property line*. Natural barriers, such as highways, rail lines or manufacturing uses may be included in the measurement.
 - c. The site must be located in areas with fine grain soil or with soil of relatively low permeability.
4. In reviewing an application for a *special use* for an *incinerator* or *resource facility*, the Zoning Board of Appeals must evaluate whether the facility would meet the following criteria:
- a. The operation of the proposed facility would not increase noise beyond levels permitted in Chapter 11-4 of the Municipal Code.
 - b. The operation of the proposed facility provides adequate monitoring and control of emissions of hazardous substances.
 - c. The site must be designed to provide a *buffer zone* of at least 100 feet.

17-13-0905-C Special Uses in PMDs. In acting on any *special use* application within a *planned manufacturing district*, the Zoning Board of Appeals must apply the General (approval) Criteria of Sec. 17-13-0905 and make specific findings on the probable effects of the proposed use on:

1. existing manufacturing activities, including the potential for land use conflicts and nuisance complaints; and
2. efforts to market other property within the *planned manufacturing district* for industrial use.

17-13-0905-D Adult Uses.

1. Approval Criteria. No *special use* application for an *adult use* may be approved unless the Zoning Board of Appeals finds that the *special use* complies with all of the following criteria:
 - a. the use will not increase crime in the neighborhood in which it is located;
 - b. the use will not adversely affect other commercial or industrial enterprises in the surrounding area;
 - c. the use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
 - d. the use will not have an adverse effect on traffic-flow or parking within the surrounding area;
 - e. the use will not generate noise levels that would disrupt the peace and enjoyment of surrounding areas;
 - f. the use will not have an adverse effect on the character of the surrounding neighborhood because of the hours of operation of use;
 - g. the use will not be inconsistent with the exterior appearance of other commercial establishments;
 - h. the use will conform to the applicable regulations of the district in which it is to be located; and
 - i. the use complies with all other applicable city standards, including those of Sec. 17-9-0101.
2. Basis for Decision-Making.
 - a. The decision of the Zoning Board of Appeals to approve or deny a *special use* application for an *adult use* must be based solely on the approval criteria set forth in this section, and all such considerations must be applied consistently with the applicant's constitutional rights, as contained in the First, Fifth and Fourteenth Amendments of the United States Constitution, and Sections 2 and 4 of Article I of the Illinois Constitution. The Zoning Board of Appeals must approve any such application unless substantial evidence is presented that demonstrates that the application fails to meet at least one of the criteria set forth in Sec. 17-13-0905-D1.
 - b. For purposes of this section, the phrase "substantial evidence" means more than a de minimis quantum of evidence. If substantial evidence is adduced, this section may not be construed to impose a

burden of proof on any party objecting to an application other than proof by a preponderance of the evidence.

3. Time-Frame for Decision-Making. If the Zoning Board of Appeals does not render a final decision on a *special use* application for an *adult use* within 120 days after the application is filed, the application will be considered to be approved, provided that this limitation does not apply during any period of time during which consideration of the application has been delayed at the request of the applicant.

17-13-0905-E Business live/work units. No special use application for a business live/work unit may be approved unless the Zoning Administrator or the Zoning Board of Appeals, whomever is responsible as indicated in Section 17-13-0903-A and Section 17-13-0903-B, finds that the special use meets the general criteria of Section 17-13-0905 and all of the following specific criteria:

1. The floor plan for the business live/work unit provides a functional and open area for a bona fide commercial use.
2. The business live/work unit is easily identified as a business and conveniently accessible by clients, employees and other business visitors.
3. The establishment of the business live/work unit will not impair the retention or creation of commercial uses in the surrounding neighborhood.
4. Each business live/work unit has been designed to ensure that the residential space meets basic habitability requirements in compliance with Section 14B-4-419 of the Municipal Code and any other applicable codes, ordinances, laws, rules, and regulations.
5. The residents of the business live/work unit will not be subject to unreasonable noise, odors, vibration or other potentially harmful environmental conditions.

17-13-0905-F Reserved.

17-13-0905-G Community Meeting. Before a public hearing is held by the Zoning Board of Appeals, as provided for in Section 17-13-0904, to consider a *special use* application for a *cannabis business establishment*, the applicant must hold at least one community meeting in the ward in which the *cannabis business establishment* is proposed to be located for the purpose of explaining the proposal and soliciting comments on it. Such community meeting must be held no later than two weeks prior to the date of the anticipated *special use* hearing before the Zoning Board of Appeals; notice for such community meeting must be issued, pursuant to this Section, no later than two weeks prior to such community meeting. The applicant must notify the Chairman of the Zoning Board of Appeals and the Alderman of the ward in which the *cannabis business establishment* is proposed to be located in writing of the time, place and purpose of the community meeting. The applicant must publish notice of the community meeting in a newspaper of general circulation within the ward and the applicant must send written notice by USPS first class mail to the *property owner* of the subject property and to all *property owners* within 250 feet of the property lines of the subject property. Such applicant shall furnish a complete list of the names and last known addresses of the persons provided with such written notice as well as a written

affidavit certifying compliance with such written notice to the Chairman of the Zoning Board of Appeals on or before the public hearing is held by the Zoning Board of Appeals, in a form prescribed by the Commissioner of the Department of Planning and Development. No *special use* application for a *cannabis business establishment* may be approved unless the Zoning Board of Appeals finds that the *special use* criteria of this Section has been satisfied.

17-13-0906 Conditions of Approval. When the anticipated impacts of a *special use* are determined to have the potential for adverse impacts on surrounding property, the *special use* must be denied or conditions must be placed on the approval to ensure that any adverse impacts will be mitigated. The Zoning Administrator ~~may recommend and or~~ the Zoning Board of Appeals, as determined in Section 17-13-0903-A and Section 17-13-0903-B, may impose such conditions upon the site planning, design, location and operation of a *special use*.

17-13-0907 Action by Zoning Board of Appeals. The Zoning Board of Appeals is the final decision-making body on *special use* applications for Manufacturing and Planned Manufacturing districts, special uses requiring compliance with the Air Quality Ordinance, drive-throughs, waste-related uses, cannabis establishments, gas stations, liquor stores, and adult uses. A concurring vote of 3 members of the Zoning Board of Appeals is necessary to approve *special use* ~~application~~ applications in the aforementioned categories.

17-13-0908 Inaction by Zoning Board of Appeals. If the Zoning Board of Appeals does not render a final decision on a *special use* application for an *adult use, firearms dealer, or religious assembly use* within 120 days after a complete application is filed, the application will be considered approved, provided that this limitation does not apply to periods of time during which consideration of the application has been delayed at the request or cause of the applicant.

17-13-0909 Lapse of Approval; Discontinuance.

17-13-0909-A An order of the Zoning Administrator or Zoning Board of Appeals, as determined in Section 17-13-0903-A and Section 17-13-0903-B, granting approval of a *special use* application is valid for 12 months from the date of such order unless a complete application for a building permit is submitted and diligently pursued or the use is commenced. If a complete building permit application is not submitted or the use is not commenced within such time, the approval will lapse and become null and void.

17-13-0909-B The Zoning Board of Appeals or the Zoning Administrator may, at its discretion and upon adequate showing of good cause, extend the period of validity of *special use* approval for a period not to exceed 12 months. To grant such extension the Zoning Board of Appeals or the Zoning Administrator must receive a written request from the applicant stating the reasons for the proposed extension. Such extension request must be made before expiration of the *special use* approval.

17-13-0909-C If a *special use* is discontinued for a period of 6 months or longer, such *special use* will be considered abandoned and become null and void. Any subsequent reinstatement of the *special use* will require *special use* approval pursuant to the procedures of this section.

17-13-0910 Amendments to Special Uses. A change or increase in the area, *bulk* or function of any existing *special use*, or from those conditions specified by the Zoning Administrator or the Zoning Board of Appeals at the time of approval, will constitute and be deemed the same as a new *special use* and will require *special use* approval pursuant to all procedures of this section.