

1 **ARTICLE IV VARIANCES FROM ZONING AND SIGN REGULATIONS**

2 **Sec 34-402 Applications For Variances**

3 An application for a variance shall be filed in writing with the
4 zoning administrator. It shall include all plans and data as
5 required by the zoning administrator. Whenever a variance requires
6 the approval of the commission, the commission shall cause the
7 publication of notice pursuant to section 34-408. of a public
8 hearing pursuant to this chapter. Notice of the public hearing
9 shall be mailed to the petitioner and the owners of all property
10 deemed by the commission to be affected thereby.

11
12 **Sec 34-405 Minor Variances**

13 (a)The zoning administrator is authorized to grant certain
14 variations without a public hearing or notice but only in the
15 specific instances hereinafter set forth in paragraph (c) of this
16 section.

17 (b)The zoning administrator shall make written findings of fact in
18 accordance with the standards outlined in this article. Said
19 findings shall be made available for public examination and review
20 and shall be filed with the executive secretary of the commission.

21 (c)The zoning administrator may grant variances in the following
22 instances and no others:

23 (1) To permit any yard or setback less than that required by
24 the applicable regulations, but by not more than one (1) foot or
25 ten (10) percent, whichever is greater;

26 (2) To permit the same off-street parking facility to qualify
27 as required facilities for two (2) or more uses, provided the
28 substantial use of such facility by each use does not take place
29 at approximately the same hours of the same days of the week;

30 (3) To reduce the applicable off-street parking or loading
31 facilities required by not more than one (1) parking space or
32 loading space, or twenty (20) percent of the applicable
33 regulations, whichever number is greater, provided, however, in
34 applying the twenty (20) percent reduction, the maximum number of
35 spaces reduced shall not exceed ten (10) spaces;

36 (4) To increase by not more than twenty-five (25) percent the
37 maximum distance that required parking spaces are permitted to be
38 located from the use served;

39 (5) To increase by not more than ten (10) percent the maximum
40 gross floor area of any use so limited by the applicable
41 regulations;

42 (6) To allow the expansion of a legal nonconforming principal
43 building so long as the proposed expansion meets all requirements
44 of this ordinance;

45 (7) To allow the expansion of a legal nonconforming accessory
46 building provided that the proposed expansion meets all
47 requirements of this ordinance.

48 (8) To permit an increase in the maximum lot coverage to allow
49 for a one story, maximum twenty foot (20') by twenty foot (20'),
50 two-car garage with a leading driveway to be built on a residential
51 lot. The following guidelines shall apply to said structures:

52 a. A private recreational rear yard area shall be
53 maintained.

54 b. Said garage shall be the only garage allowed on the
55 lot.

56 c. Garage doors shall not be of a height greater than
57 eight (8) feet

58 d. Said leading driveway width shall not exceed the
59 garage door width by more than two (2) feet in either
60 direction.

61 e. Side walls of said garage shall not exceed nine (9)
62 feet in height.

63 (9) To reduce the bulk restrictions that have been impacted
64 due to the acquisition of land by the city or other governmental
65 entity for public purposes.

66 (10) To increase the sign area, setback, or height provisions
67 of Chapter 41 by up to ten (10) percent.

68 (d)The zoning administrator may in his/her discretion require that
69 an application for variance be reviewed and approved or denied by
70 the commission.

71 (e)A decision by the zoning administrator may be appealed to the
72 commission within ten (10) business days from the day of the
73 decision by the zoning administrator by filing with the executive
74 secretary of the commission a notice of appeal. The commission

75 shall within thirty (30) days conduct a hearing upon the
76 application.

77
78 **Sec 34-406 Major Variances**

79 (a) Major Zoning Variance.

80 (1) ~~(a)~~ The planning and zoning commission shall conduct a
81 public hearing upon, ~~and~~ consider and render a final decision
82 on all applications for variances other than those the zoning
83 administrator has approved pursuant to this article.

84 (2) ~~(b)~~ In considering an appeal from a decision of the
85 zoning administrator either to deny an application or to impose
86 limitations pursuant to Sec. 34-404, the commission may, but is
87 not required to, afford deference to the findings of fact or
88 conclusions of law made by the zoning administrator as to the
89 presence of a particular hardship or factual difficulty.

90 (3) ~~(e)~~ All decisions of the commission shall be
91 accompanied by written findings of fact as to an application's
92 satisfaction of or failure to satisfy the requirements of Sec.
93 34-403.

94 (b) Major Sign Variance.

95 (1) The planning and zoning commission shall conduct a
96 public hearing upon, consider and render a final decision on all
97 applications for sign variances other than those the zoning
98 administrator has approved pursuant to this article.

99 (2) The commission shall review the evidence presented and
100 consider the following factors in rendering a decision.

101 a. Strict compliance would preclude an effective
102 design solution improving sign functionality, operational
103 efficiency or appearance.

104 b. Strict compliance would preclude an effective
105 design solution fulfilling the basic intent of the
106 applicable regulations.

107 c. The variance will not constitute a grant of special
108 privilege inconsistent with limitations imposed on
109 similarly zoned properties or inconsistent with the
110 purposes of the zoning regulations.

d. The proposed sign is architecturally and aesthetically compatible with the major structures on the subject site, and adjacent sites and is compatible with the character of the established neighborhood and general environment.

(3) The commission's decision shall be accompanied by written findings of fact as to the application's satisfaction of the factors in this section.

Sec 34-407 Publication and Notices

(a) The zoning administrator shall cause a notice of time, place and purpose of such hearing to be published in a newspaper of general circulation within the city not more than thirty (30) days nor less than fifteen (15) days in advance of such hearing.

(b) For all applications, except as provided in this article, public notice shall be mailed by the petitioner. Said notices shall be mailed after a public hearing date has been scheduled by the executive secretary of the commission to be held before the commission. The notices shall be mailed to all owners of record within one-hundred fifty (150) feet in each direction of the location in which the property is located, and to owners or occupants of other properties that may be affected as determined by the commission. The owners of record within the one-hundred fifty (150) foot requirement shall be determined by consulting the tax assessor's rolls of the township or the county in which the property is located, provided the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the one-hundred fifty (150) foot requirement.

(c) Unless otherwise required by the zoning administrator, the notice shall be in writing and shall contain the following information:

(1) Common description of property and PIN number(s).

(2) Requested action.

(3) Date, time, and place of hearing.

(4) Reference to planning division for further information.

(5) Telephone number of planning division.

(d) The notice shall be mailed not more than thirty (30) days, nor less than fifteen (15) days in advance of such hearing. The notice shall be sent by regular mail, properly addressed as shown on the assessor's rolls and with sufficient postage affixed thereto, and shall be attested to by means of a certified mailing and an affidavit of mailing which shall include a copy of the notice and a complete list of names, addresses and tax parcel numbers of said owners of record required to be mailed the notice. The zoning administrator may waive the requirement of the certificate of mailing when, in the judgement of the zoning administrator, an affidavit alone sufficiently establishes proof of service. The requirements of this section are directory and any failure to comply with the requirements hereof shall not deprive the commission or city council of jurisdiction to adopt any amendment to chapter 49 or any appendix thereto, nor shall any defect render invalid any proceedings held in furtherance of any such amendment.

(e) The certificate of mailing and the affidavit of mailing with its attachments shall be submitted to the zoning administrator prior to the hearing date and shall be made part of the hearing record.

(f) In connection with the requirements of this section, the following forms and instructions are on file with the zoning administrator:

(1) Form for certified public notice.

(2) Instructions for determining scope of two-hundred-fifty-foot distance.

(3) Form for owners of record and tax parcel number listing.

(4) Affidavit form for mailing.

(5) Certificate of mailing form.

Sec 34 - 408 Landmark Signs

(a) Any person may apply for designation of a then-existing sign as a landmark sign. Landmark signs shall be exempt from the requirements of Chapter 41. The owner of a landmark sign shall ensure that the sign is not structurally dangerous, a fire hazard, an electrical shock hazard, or any other kind of hazard. Landmark signs are subject to the maintenance standards of section 41-4, but may be rebuilt if damaged.

(b) Application for landmark sign status shall include detailed plans for sign maintenance, renovation or possible reconstruction (where appropriate to an overall restoration of a historic building or area), acceptable to the building officer and the Aurora preservation commission director.

(c) Application for landmark sign status shall be made to the preservation commission planner, who shall schedule a public hearing of the Aurora preservation commission and shall present its recommendations to that body. The preservation commission planner shall cause to be published in a newspaper of general circulation in the city a public notice announcing such hearing no earlier than thirty (30) days and no later than fifteen (15) days prior to such hearing. The preservation commission shall make its recommendation to the city council. The city council shall grant or deny the application.

(d) To qualify for designation as a landmark sign, the sign must:

(1) Be at least twenty-five (25) years old (or be a duplicate if such sign remains in keeping with the character of the building and the combined age of such signage is at least twenty-five (25) years);

(2) Had been restored, if necessary, so that it can be maintained in the original working order;

(3) Possess unique physical design characteristics, such as configuration, verbiage, color, texture, etc.; and

(4) Be of extraordinary significance to the city, regardless of the use identified by the sign.

(e) The Paramount Marquee shall be deemed to be a landmark sign pursuant to Ordinance 03-159 which was passed on 12-9-03.

ARTICLE X SPECIAL SIGN DISTRICTS

Sec 34-950 Special Sign Districts

(a) A special sign district is a special district that exclusively addresses sign regulations. It allows an applicant, subject to approval of the building zoning and economic development committee (BZE), the option of designating an area where the signs may deviate from the underlying sign regulations, to the extent so expressly provided in the Ordinance adopting a special sign district. Unless a deviation is expressly permitted in the

Ordinance adopting a special sign district, the underlying sign regulations shall control.

(b) The purpose of a special sign district is to:

(1) Promote consistency among signs within a development thus creating visual harmony between signs, buildings, and other components of the property;

(2) Enhance the compatibility of signs with the architectural and site design features within a development;

(3) Encourage signage that is in character with planned and existing uses thus creating a unique sense of place; and,

(4) Encourage multi-tenant commercial uses to develop a unique set of sign regulations in conjunction with development standards.

Sec 34-951 Special Sign District Petitions

(a) The petition for establishment of a special sign district shall be filed with the zoning administrator. No petition shall be accepted unless a preapplication review has been completed with the zoning administrator unless the review is waived by the zoning administrator. The preapplication review must be arranged with the mutual agreement of the zoning administrator.

(b) At the preapplication review, the zoning administrator and prospective applicant shall review the following as they relate to the petition for establishment of a special sign district:

(1) The city's sign ordinance and sign regulations.

(2) Existing zoning and land use in the general area of the proposed special sign district.

(3) The development history in the general area of the proposed special sign district.

(4) The proposed sign plan/package.

(b) After the completion of the required preapplication review, a special sign district petition may be filed with the zoning administrator. The petition shall include all plans and detail as required by the zoning administrator. Copies of such petition shall be submitted to the planning and zoning commission with the request that the commission conduct a public hearing.

(c) The petition filed with the zoning administrator for the establishment of a special sign district as set forth above shall be forwarded to the commission. The requirements of a public hearing by the commission and the standards upon which the commission shall make a recommendation to the building, zoning and economic development committee are set forth in section 34-952 with respect to special sign districts.

Sec 34-952 Hearings on a Special Sign District

The planning and zoning commission shall conduct a public hearing upon and consider all applications for a special sign district. For a special sign district, the mailing requirement pursuant to section 34-407 shall not be required.

(a) In deliberating upon a proposed special sign district, the commission shall consider and make factual findings on the following:

(1) The benefits of the proposed special sign district: is it part of a new development or a redevelopment that will economically benefit the city.

(2) Whether the proposed special sign district has a need for a deviation from the sign ordinance: does the district need multiple signs and multiple types of signs.

(3) Whether the proposed special sign district is consistent with the intent of the sign ordinance: does it provide adequate communication through signage while encouraging aesthetic quality in the design, location, size and purpose of all proposed signs.

(4) Whether the proposed special sign district is compatible with surrounding properties and uses and whether it will have an adverse impact on surrounding properties or impede the orderly development of the area.

(5) Whether the proposed special sign district is consistent with the purposes of a special sign district identified in this article.

(b) The commission may further recommend modifications, limitations or guarantees as a condition of approval of a special sign district. The building zoning and economic development committee can impose any modifications, limitations

299 or guarantees in their final approval of a special sign
300 district.

301 (c) All decisions of the commission shall be accompanied by written
302 findings of fact as to an applicant's satisfaction of or failure
303 to satisfy the requirements of this section.

304 (d) The hearing record as well as the commission's recommendation
305 and written findings of fact shall then be forwarded to the
306 building zoning and economic development committee for their
307 review.

308 (e) The building zoning and economic development committee shall
309 render final decisions on all applications for a special sign
310 district.

311 (f) The ordinance granting a petition for a special sign district
312 shall set forth all requirements, special conditions and
313 agreements. The plans and other documents required as part of the
314 petition for a special sign district shall be attached to and made
315 a part of the ordinance granting the permit for said special sign
316 district.