



CITY OF AURORA, ILLINOIS

ORDINANCE NO. 020-087
DATE OF PASSAGE November 10, 2020

An Ordinance amending Chapter 34 of the Code of Ordinances, City of Aurora, in its entirety and repealing conflicting prior enactments

WHEREAS, the City of Aurora has a population of more than 25,000 persons and is, therefore, a home rule unit under subsection (a) of Section 6 of Article VII of the Illinois Constitution of 1970; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public health, safety, morals, and welfare; and

WHEREAS, the City Council of the City of Aurora has determined that it is necessary and desirable to amend the Chapter 34 of the Code of Ordinances, in order to update and improve certain Sections of said Ordinance to better carry out the purpose and intent of said Ordinance; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Aurora, Illinois, as follows:

Section One: That Chapter 34 of the Code of Ordinances of the City of Aurora shall be are hereby amended by striking its existing language in its entirety and replacing it as set forth in Exhibit "A".

Section Two: That Resolution R74-010 and R76-083 shall be and hereby are repealed in its entirety, and

Section Three: That all Ordinances or part of Ordinances in conflict herewith are hereby repealed insofar as any conflict exists.

Section Four: That any section, phrase or paragraph of this Ordinance that is construed to be invalid, void or unconstitutional shall not affect the remaining sections, phrases or paragraphs of this Ordinance which shall remain in full force and effect.

Section Five: That except as set forth in Section Six, this Ordinance shall be in full force and effect, and shall be controlling, on and after January 1, 2020.

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Section Six: The City Clerk and the Corporation Counsel, immediately upon approval of this ordinance, shall be and hereby are jointly and individually authorized to oversee the codification of the provisions set forth in Exhibit A. To the extent that the codification requires any alterations to the numbering or other formatting of any of the provisions to conform to the structure or format of the code, such alterations and changes to any internal references corresponding thereto are expressly authorized.

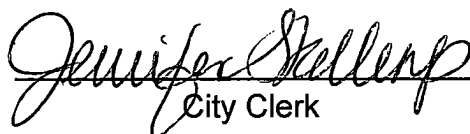
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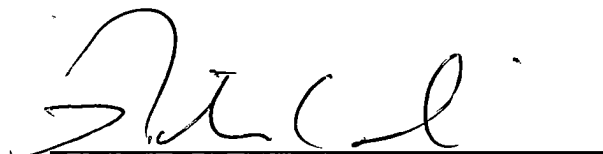
PASSED AND APPROVED ON November 10, 2020

AYES 12 NAYS 0 NOT VOTING 0 ABSENT 0

ALDERMAN	Vote
Alderman Llamas, Ward 1	yes
Alderman Garza, Ward 2	yes
Alderman Mesiacos, Ward 3	yes
Alderman Donnell, Ward 4	yes
Alderman Franco, Ward 5	yes
Alderman Saville, Ward 6	yes
Alderman Hart-Burns, Ward 7	yes
Alderman Smith, Ward 8	yes
Alderman Bugg, Ward 9	yes
Alderman Lofchie, Ward 10	yes
Alderman Jenkins, At Large	yes
Alderman O'Connor, At Large	yes

ATTEST:


City Clerk


Mayor

1 CHAPTER 34 - PLANNING AND DEVELOPMENT

2 ARTICLE I - GENERAL PROVISIONS

3 Sec. 34-101. - Definitions.

4 As used in this chapter, the following terms shall have the
5 meanings ascribed herein unless the context clearly requires
6 otherwise.

7 (a) "Commission" means the planning and zoning commission of
8 the city.

9 (b) "Committee" means a committee of the city council vested
10 by the city council with jurisdiction over zoning matters. In the
11 absence of a committee so authorized, "committee" shall mean the
12 city council sitting as a committee of the whole.

13 (c) "Conditional use" shall have the same meaning and
14 construction as the term "special use" used elsewhere in this code.

15 (d) "Conditional use planned development" shall have the same
16 meaning and construction as the term "special use planned
17 development" used elsewhere in this code. A property subject to a
18 special use planned development district is subject to a
19 conditional use planned development district.

20 (e) "A major change" shall mean a change which substantially
21 alters the proposed uses, including open space, or the percentages
22 or the maximum or minimum percentage limitations for each use,
23 projected densities for residential uses or the maximum or minimum
24 limitations for such densities, or the intent and purpose of the

1 plan description or the preliminary plan with respect to real
2 property embraced in a final plan.

3 (f) "Planning division" means the zoning and planning division
4 of the development services department of the city.

5 (g) "Zoning administrator" means the city employee charged
6 with the administration of this chapter and chapter 49 of this
7 code. The head of the planning is the ex-officio zoning
8 administrator of the city.

9 (h) "Zoning ordinance" means chapter 49 of this code sometimes
10 referred to as the "Aurora Zoning Ordinance," the "AZO" or
11 "Ordinance 3100."

12 Sec. 34-102. - Interpretation of ordinance.

13 The ordinance shall be interpreted as applying the minimum
14 requirements for the promotion of health, safety, morals,
15 convenience of the general welfare.

16 ARTICLE II - PLANNING AND ZONING COMMISSION

17 Sec. 34-201. - Duties and Powers.

18 The commission shall:

19 (a) Advise the city council on short- and long-range growth
20 and development in the city through maintenance and implementation
21 of the plans and regulations formally adopted by the city council;

22 (b) Hear and report findings and recommendations to the mayor
23 and city council on all applications for amendments to the zoning
24 ordinance and conditional uses in the manner set forth in this

1 code;

2 (c) Initiate, direct, and review, from time-to-time, studies
3 of the provisions of the zoning ordinance and make reports of its
4 recommendations to the mayor and city council;

5 (d) Hear, decide, or make recommendations upon all matters
6 which this code vests the commission with jurisdiction over;

7 (e) Require sworn testimony in official proceedings and to
8 compel by subpoena the attendance or testimony of witnesses and
9 the production of books and papers relevant to matters within its
10 jurisdiction. The chairperson, or a member presiding in the
11 chairperson's stead, shall have the authority to administer oaths,
12 and with the approval of the commission, direct the issuance of
13 subpoenas;

14 (f) Except as limited by this code, perform the duties of plan
15 commissions and zoning boards of appeal as set forth in law;

16 (g) Adopt and promulgate such rules and regulations as may be
17 necessary and proper to govern the conduct of its meetings and
18 transaction of its business that are not inconsistent with any
19 provision of law or ordinance;

20 (h) Establish such committees as it may find efficient to
21 carry out its duties;

22 (i) Perform and exercise any additional function or power
23 vested in the commission by ordinance or resolution; and

24 (j) Perform any other duty or exercise any other power

1 essential to the performance or of necessarily inferred from the
2 duties and powers set forth in this code.

3 Sec. 34-202. - Composition.

4 (a) The commission shall consist of nine (9) members appointed
5 by the mayor with the advice and consent of the city council.

6 (b) The mayor shall designate a member of the commission to
7 serve as its chairperson for a period of one (1) year or until the
8 mayor designates another member to serve as chairperson. The
9 chairperson shall preside at all meetings of the commission.

10 (c) All members of the commission, at the time of their
11 appointment and during their service, shall be qualified electors
12 of the city.

13 (d) No elected official or employee of the city may serve as
14 a member of the commission during his term of office or employment.

15 (e) In making appointments under this section, the mayor shall
16 make reasonable efforts to ensure an appropriate geographic
17 representation of the entire city. At least two (2), but no more
18 than four (4) members of the commission shall be appointed from
19 each of the following areas:

20 (1) That portion of the city located in Kane County that
21 is west of the Fox River;

22 (2) That portion of the city located in Kane County that
23 is east of the Fox River or in Kendall County; and

24 (3) That portion of the city located in DuPage County or

:

in Will County.

Sec. 34-203. - Term of office.

(a) The mayor shall appoint each member of the commission to a term of three (3) years to commence on July 1 and until a successor has been appointed and qualified as provided under this article.

(b) In the event of the death, resignation, removal, or incapacity of any member of the commission, or if a vacancy occurs for any reason, the mayor shall with the advice and consent of the city council appoint a successor to complete the unexpired term.

(c) Commission members shall attend all regularly scheduled commission meetings. If a member is absent for three (3) successive meetings or a cumulative of three (3) meetings during any twelve (12) month period without notification or good cause, the mayor may determine that the members has constructively resigned from office and proceed to appoint some other person to complete the unexpired term as provided in paragraph (b) of this section.

(d) Notwithstanding the provisions of paragraph (a) of this section, in 2021 the mayor shall appoint three (3) members for a term expiring on June 30, 2022, three (3) members for a term expiring on June 30, 2023, and three (3) members for a term expiring on June 30, 2024. The successors of each member appointed under this paragraph shall serve terms in accordance with paragraph (a) of this section.

1 Sec. 34-204. - Executive secretary; records.

2 (a) The head of the planning division shall serve ex-officio
3 as executive secretary to the commission.

4 (b) The executive secretary shall make a permanent record of
5 all the acts and doings of the commission and keep the same in his
6 custody and control.

7 (c) The executive secretary shall enlist the staff of the
8 planning division to provide such as administrative support as the
9 commission may require in the performance of its duties.

10 (d) The executive secretary shall keep the minutes of all
11 proceedings of the commission which shall reflect the vote of each
12 member upon each question, or if absent or failing to vote,
13 indicating such fact. The executive secretary shall in a similar
14 fashion maintain records of commission hearings and other official
15 actions. A copy of every rule or regulation, every appearance,
16 variation, and every recommendation, order, requirement, or
17 determination of the commission shall be maintained by the
18 executive secretary and shall constitute a public record.

19 Sec. 34-205. - Meetings.

20 (a) Regular Meetings. The commission shall conduct its regular
21 meetings in accordance with the Open Meetings Act. Regular meetings
22 shall occur on a schedule determined by the mayor or as directed
23 by the city council.

24 (b) Special Meetings. The chairperson, the executive secretary

1 of the commission, or the mayor, may call a special meeting of the
2 commission to be held at the date, time, and location specified in
3 the call.

4 (c) Applicability of the Open Meeting Act. The provisions of
5 the Open Meetings Act shall apply to every meeting conducted and
6 notice of every meeting issued by the commission.

7 (1) For the purposes of Sec. 2.06(g) of the Open Meetings
8 Act, members of the public shall have the opportunity to
9 address the commission under the rules established and
10 recorded by the city council applicable to its own meetings,
11 as if said rules were established by the commission itself.
12 The commission may, but is not required to, adopt and record
13 rules requiring members of the public to limit their remarks
14 to subjects within the scope of the commission's jurisdiction,
15 which shall broadly include all substantive and procedural
16 zoning matters. Unless offered as sworn testimony submitted
17 during a public hearing, public comment shall not be
18 considered as part of any official record upon which the
19 commission may be called to base a decision upon.

20 (2) For the purposes of Sec. 7(c) of the Open Meeting
21 Act, the remote attendance rules applicable to the city
22 council and its committees as set forth in section 2-80 of
23 this code shall be construed as to apply to the commission as
24 if adopted by the commission itself.

1 (d) Quorum. A majority of the members appointed to the
2 commission shall constitute quorum for any of its meetings. No
3 meeting may occur nor business conducted without the establishment
4 and maintenance of quorum.

5 Sec. 34-206. - Ratification of certain acts and doings of the
6 former planning commission.

7 All acts and doings of the former city planning commission
8 made subsequent to a resolution of the city council dated September
9 17, 1968, which reorganized the planning commission are approved,
10 ratified, and confirmed, and the appointments previously made
11 therein are approved, ratified, and confirmed.

12 Sec. 34-207. - Finality of Decisions.

13 Unless otherwise specified in this code, decisions of the
14 commission in the course of considering an appeal from any order,
15 requirement, or determination made by a city officer, including
16 the zoning administrator, or an application for a variation or
17 from conditions opposed thereon, shall in all instances be final
18 administrative orders and subject to review in accordance with the
19 Administrative Review Law.

20 ARTICLE III - ZONING ADMINISTRATION

21 Sec. 34-301. - Zoning administrator.

22 (a) The zoning administrator shall be responsible for the
23 enforcement of all city regulations relating to zoning. The zoning
24 administrator is vested with all necessary powers to enforce the

1 same and to perform the duties set forth in this chapter.

2 (b) No person responsible for the enforcement of this
3 ordinance shall engage directly or indirectly in the construction
4 industry of in the building professions, or in any type of gainful
5 employment or business that conflicts with such person's official
6 duties or the interests of the city.

7 Sec. 34-302. - Zoning permit and site plans review required.

8 (a) No building or structure shall be erected, reconstructed,
9 enlarged, or moved until a building permit, which shall function
10 as a zoning permit, shall have been applied for in writing and
11 reviewed by the zoning administrator.

12 (1) Said permit shall be posted in a prominent place on
13 the premises prior to and during the period of erection,
14 reconstruction, enlargement or moving.

15 (2) Before a permit is issued for the erection, moving,
16 alteration, enlargement or occupancy of any building, or
17 structure or use of premises, the plans and intended use shall
18 indicate conformity in all respects to the provisions of this
19 code.

20 (b) Every application for building permit submitted to the
21 building and permits division shall include all plans and data
22 together with such other information as may be necessary to the
23 enforcement of this ordinance.

24 (c) The zoning administrator may require a site plan review

1 including all plans and data together as a prerequisite to the
2 application or approval of a building permit.

3 Sec. 34-303. - Certificates of occupancy required.

4 (a) A certificate of occupancy to be issued by the zoning
5 administrator shall be required for any of the following, except
6 buildings incidental to agricultural operations other than
7 residences:

8 (1) Occupancy and use of a building thereafter erected
9 or enlarged;

10 (2) Change in use of an existing building;

11 (3) Occupancy and use of vacant land except for the
12 raising of crops;

13 (4) Change in the use of land to a use of a different
14 classification except for the raising of crops;

15 (5) Any change in the use of a nonconforming use.

16 (b) No occupancy, use or change of use, shall take place until
17 a certificate of occupancy therefore shall be issued.

18 Sec. 34-304. - Applications for certificates of occupancy.

19 (a) Written application for a certificate of occupancy for a
20 new building or for an existing building that has been enlarged
21 shall be made at the same time as the application for the zoning
22 permit for such building. Said certificate shall promptly be acted
23 upon after a written request for the same has been made to the
24 zoning administrator after the erection or enlargement of such

1 building or part thereof has been completed in conformance with
2 the provisions of this ordinance.

3 (b) Pending the issuance of such a certificate, a temporary
4 certificate of occupancy may be issued by the zoning administrator
5 for a period of not more than six (6) months during the completion
6 of the construction of the building or of alterations that are
7 required under the terms of any law or ordinance. Such temporary
8 certificate may be renewed, but it shall not be construed in any
9 way to alter the respective rights, duties or obligations of the
10 owner or of the city relating to the use or occupancy of the land
11 or building, or any other matter covered by this ordinance, and
12 such temporary certificate shall not be issued except under such
13 restrictions and provisions as will adequately ensure the safety
14 of the occupants.

15 (c) Written application for a certificate of occupancy for
16 the use of vacant land, or for a change in the use of land or of
17 a building, or for a change in a nonconforming use, as herein
18 provided, shall be made to the division of buildings and permits.

19 (d) If the proposed use is in conformity with the provisions
20 of this ordinance, the certificate of occupancy therefore shall be
21 issued promptly after the application for the same has been made.

22 (e) Each certificate of occupancy shall state that the
23 building or proposed use of a building or land complies with all
24 provisions of this ordinance.

1 (f) A record of all certificates of occupancy shall be kept
2 on file in the office of the director of the division of building
3 & permits and a copy shall be forwarded, on request, to any person
4 having proprietary or tenancy interest in the building or land
5 affected.

6 Sec. 34-305. - Required Fees.

7 The city council shall from time-to-time establish by
8 separate resolution a schedule of fees required for the
9 administration of this chapter.

10 Sec. 34-306. - Enforcement and penalties.

11 (a) Any person or corporation, whether as principal, agent,
12 employee or otherwise, who violates any of the provisions of this
13 ordinance shall be guilty of a misdemeanor and upon conviction,
14 shall be fined not less than fifty dollars (\$50.00) and not more
15 than five hundred dollars (\$500.00), for each offense, and each
16 day of the existence of any violation shall be deemed a separate
17 offense.

18 (b) The erection, construction, enlargement, conversion,
19 moving or maintenance of any building or structure and the use of
20 any land or building which is continued, operated or maintained,
21 contrary to any of the provisions of this ordinance is hereby
22 declared to be a violation of this ordinance and unlawful.

23 (c) The corporation counsel, on behalf of the zoning
24 administrator, shall, upon any such violation having been called

1 to his attention, promptly institute the appropriate
2 administrative, injunctive, abatement or any other appropriate
3 action to prevent, enjoin, abate, or remove such violation. With
4 the permission of the corporation counsel, such action may also be
5 instituted by any property owner who may be especially damaged by
6 any violation of this ordinance.

7 (d) The remedy provided for herein shall be cumulative and
8 not exclusive and shall be in addition to any other remedies
9 provided by law.

10 ARTICLE IV - VARIANCES FROM ZONING REGULATIONS.

11 Sec. 34-401. - Generally.

12 (a) Recognizing that real property is unique and that
13 practical difficulties and particular hardships may make it
14 impossible to comply with all applicable zoning regulations, the
15 zoning administrator and the commission are authorized to consider
16 and authorize variances as more fully set forth in this article.

17 (b) All variances shall be in harmony with the general
18 purposes and intent of the provisions of chapter 49 of this code
19 and shall only be granted upon a determination by the zoning
20 administrator or the commission, as the case may be, and supported
21 by a finding of fact that there are practical difficulties or
22 particular hardships in the way of carrying out the strict letter
23 of zoning regulations.

24 Sec. 34-402. - Applications for Variances.

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

9 Sec. 34-403. - Standards for the Approval of a Variance.

10 The zoning administrator or the commission, as the case may
11 be, shall approve a variance only upon specific evidence supported
12 by the record:

13 (a) That with respect to the property in question:

14 (1) The particular physical surroundings, shape or
15 topographical conditions of the property result in a
16 particular hardship to the owner, as distinguished from a
17 mere inconvenience, if a strict letter of regulations were
18 carried out; or

19 (2) The unique conditions to the property for which the
20 variance is sought and are not applicable, generally, to other
21 property within the same zoning classification; and

22 (b) The alleged difficulty or hardship that is caused by the
23 ordinance and has not been created by any person presently having
24 an interest in the property; and

1 (c) The requested variance in all other respects is in
2 conformance to the applicable regulations of the district in which
3 it is located, except as such regulations may in each instance be
4 modified by the city pursuant to the recommendations of the
5 commission; and

6 (d) The requested variance is, in all other respects, in
7 conformance to the applicable regulations of the district in which
8 it is located, except as such regulations may in each instance be
9 modified by the city pursuant to the recommendations of the
10 commission.

11 Sec. 34-404. - Limitations on Approved Variances.

12 When authorizing a variance pursuant to this article, the
13 zoning administrator or the commission, as the case may be, may
14 impose such conditions and restrictions upon the premises
15 benefited by the variance as may be necessary to comply with the
16 standards established in this article, to reduce or minimize the
17 effect of such variances upon other property in the neighborhood
18 and to better carry out the general intent of this code.

19 Sec. 34-405. - Minor Variances.

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

24 (b) The zoning administrator shall make written findings of

1 fact in accordance with the standards outlined in this article.
2 Said findings shall be made available for public examination and
3 review and shall be filed with the executive secretary of the
4 commission.

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

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

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

15 (3) To reduce the applicable off-street parking or
16 loading facilities required by not more than one (1) parking
17 space or loading space, or twenty (20) percent of the
18 applicable regulations, whichever number is greater, provided,
19 however, in applying the twenty (20) percent reduction, the
20 maximum number of spaces reduced shall not exceed ten (10)
21 spaces;

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

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

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

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

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

15 (A) A private recreational rear yard area shall be
16 maintained.

17 (B) Said garage shall be the only garage allowed on
18 the lot.

19 (C) Garage doors shall not be of a height greater than
20 eight (8) feet

21 (D) Said leading driveway width shall not exceed the
22 garage door width by more than two (2) feet in
23 either direction.

24 (E) Side walls of said garage shall not exceed nine

1 (9) feet in height.

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

5 (d) The zoning administrator may in his discretion require
6 that an application for variance be reviewed and approved or denied
7 by the commission.

8 (e) A decision by the zoning administrator may be appealed to
9 the commission within ten (10) business days from the day of the
10 decision by the zoning administrator by filing with the executive
11 secretary of the commission a notice of appeal. The commission
12 shall within thirty (30) days conduct a hearing upon the
13 application.

14 Sec. 34-406. - Major Variances.

15 (a) The commission shall conduct a public hearing upon and
16 consider all applications for variances other than those the zoning
17 administrator has approved pursuant to this article.

18 (b) In considering an appeal from a decision of the zoning
19 administrator either to deny an application or to impose
20 limitations pursuant to Sec. 34-404, the commission may, but is
21 not required to, afford deference to the findings of fact or
22 conclusions of law made by the zoning administrator as to the
23 presence of a particular hardship or factual difficulty.

24 (c) All decisions of the commission shall be accompanied by

1 written findings of fact as to an application's satisfaction of or
2 failure to satisfy the requirements of Sec. 34-403.

3 ARTICLE V - CONDITIONAL USES.

4 Sec. 34-501. - Initiation of conditional uses.

5 Any person owning or having an interest in the subject
6 property may file a petition to use such land for one or more of
7 the conditional uses provided for in chapter 49 in the zoning
8 district in which the land is situated.

9 Sec. 34-502. - Conditional Use Petitions.

10 (a) A petition for a conditional use or expansion or amendment
11 to a conditional use shall be filed with the zoning administrator.
12 No petition shall be accepted unless a preapplication review has
13 been completed with the zoning administrator or said review has
14 been waived by the zoning administrator. The preapplication review
15 must be arranged with the mutual agreement of the zoning
16 administrator.

17 (b) At such a preapplication review, the zoning administrator
18 and prospective applicant shall review the following as they relate
19 to the proposed conditional use application:

20 (1) General plan and physical development policies of the
21 city.

22 (2) Existing zoning and land use in the general area of
23 the property in question.

24 (3) The zoning history in the general area of the

1 property in question.

2 (4) The city's conditional use review process.

3 (5) Other pertinent factors.

4 (c) After the completion of the required preapplication review,
5 a conditional use petition may be filed with the zoning
6 administrator. The petition shall include all plans and data as
7 required by the zoning administrator. Copies of such petition shall
8 be submitted to the commission with the request that the commission
9 conduct a public hearing.

10 (d) Notice of the public hearing shall be given in accordance
11 with law.

12 Sec. 34-503. - Hearings on a petition for a conditional use.

13 (a) The commission shall conduct a hearing on the petition
14 for the conditional use in accordance with Illinois law. The
15 commission shall make a record of the proceedings which shall
16 include the application, recommendations by staff, and the
17 testimony offered by the petitioner and any members of the public
18 offering testimony in support or in opposition to the application.

19 (b) The commission shall allow members of the public to pose
20 questions to the petitioner which are germane to subject matter of
21 the petition to the petitioner through the chair of the commission.

22 (c) In deliberating upon a proposed conditional use, the
23 commission shall consider whether

24 (1) The establishment, maintenance or operation of the

1 conditional use will be unreasonably detrimental to or
2 endanger the public health, safety, morals, comfort, or
3 general welfare;

4 (2) The conditional use will be injurious to the use and
5 enjoyment of other property in the immediate vicinity for the
6 purposes already permitted or will substantially diminish and
7 impair property values within the neighborhood; factors
8 including but not limited to, lighting, signage and outdoor
9 amplification, hours of operation, refuse disposal areas and
10 architectural compatibility and building orientation.

11 (3) The establishment of the conditional use will impede
12 the normal and orderly development and improvement of
13 surrounding property for uses permitted in the district;

14 (4) Adequate utilities, access roads, drainage and/or
15 other necessary facilities have been or are being provided to
16 the conditional use;

17 (5) Adequate measures have been or will be taken to
18 provide ingress and egress so designed as to minimize traffic
19 congestion in the public streets; For automobile intensive
20 uses including but not limited to, gas stations, car washes,
21 and drive through facilities the concentration of similar
22 uses within 1000 feet of said subject property should be given
23 consideration as to the impact this concentration will have
24 on the traffic patterns and congestion in the area;

1 (6) The conditional use shall in all other respects
2 conform to the applicable regulations of the district in which
3 it is located, except as such regulations may in each instance
4 be modified by the city council pursuant to the
5 recommendations of commission; and

6 (7) That in the case of a proposed hotel, the contents
7 market feasibility study conducted wholly by an objective
8 professional third party acceptable to the zoning
9 Administrator or designee demonstrates that such proposed
10 hotel use has sufficient demand generators being already in
11 place or proposed as part of the hotel use development and
12 other factors present as indicated below, to support the
13 economic viability of such hotel use, in order to prevent
14 blight, excessive vacancies or obsolescence as a result of
15 such hotel use being abandoned, after construction thereof.
16 Such market feasibility study shall include sufficient
17 demonstrable data as follows:

18 (A) Area Review. Identification of a market drawing
19 area that comprises the areas where specific demand
20 generators are located, and provide economic
21 indicators, transportation, residential and
22 commercial development and tourism information and
23 their relationship to specific demand generators in
24 the area of the proposed hotel use;

1 (B) Supply and Demand Analysis. Identification of
2 competitive hotel room supply, historical
3 performance of the competitive hotel room supply,
4 seasonality data, segmentation of lodging demand,
5 and a summary of demand growth and market occupancy
6 data for the proposed hotel use;

7 (C) Site Selection Assessment. Identification of
8 potential site evaluation conducted, including
9 traffic counts, access and visibility information
10 for the location of the proposed hotel use;

11 (D) Projected Performance Outlook. Full description of
12 the proposed hotel project, including projections
13 relied upon for occupancy and average daily room
14 rates for five (5) years following completion of
15 construction of the proposed hotel use;

16 (E) Statement of Estimated Annual Operating Results.
17 Identification of assumptions utilized, and
18 specific data regarding departmental revenues and
19 expenses, undisturbed operating expenses, fixed
20 charges

21 (d) All recommendations of the commission shall be based upon
22 findings of fact supported by evidence contained in the record
23 created prior to and during the hearing. The commission shall not
24 recommend the approval of a conditional use unless that after due

1 consideration of the record and the provisions of paragraph (c)
2 above, that the proposed conditional use will not preclude the
3 normal and orderly development and improvement of surrounding
4 properties due to the saturation or concentration of similar uses
5 in the general area and is in all other respects in conformance to
6 the applicable regulations of the district in which it is located,
7 except as such regulations may in each instance be modified by the
8 city pursuant to the recommendations of the commission.

9 Sec. 34-504. - City council action.

10 (a) For each petition for a conditional use, the commission
11 shall report to the city council its findings and recommendations,
12 including the stipulations of additional limitations and
13 guarantees that such conditions will be complied with when they
14 are deemed necessary for the protection of the public interest.

15 (b) In deliberating a conditional use, the city council shall
16 consider the record made by the commission, but shall not be bound
17 by any findings of fact made by the commission upon such record.

18 (c) Except as provided in paragraph (b) of this section,
19 approval of a conditional use shall require the concurrence of a
20 majority of the members elected to the city council. Unless the
21 city council determines otherwise, approval of a conditional use
22 consistent with the commission's recommendations shall constitute
23 the city council's adoption of the commission's findings of fact
24 as its own.

1 (d) In the event of written protest against any petitioned
2 conditional use, signed and acknowledged by the owners of twenty
3 (20) percent of the frontage adjacent thereto, or across an alley,
4 or directly opposite there from, such conditional use shall not be
5 granted except by the favorable vote of two-thirds of all the
6 members of the city council.

7 (e) A denial of a conditional use is deemed to have occurred
8 if, and only if:

9 (1) The city council with the concurrence of a majority
10 of its members present votes affirmatively to approve a motion
11 rejecting the approval of a conditional use and accompanies
12 such motion with a finding of fact based on the record of the
13 commission that articulates a basis for such denial; or

14 (2) The city council fails to approve a motion
15 authorizing the approval of a conditional use within six (6)
16 months of the last action on the petition taken by the
17 commission or has affirmatively voted to indefinitely
18 postpone such approval.

19 (f) No petition for a conditional use which has been denied
20 wholly or in part by the council shall be resubmitted for a period
21 of one (1) year from the date of said order of denial, except on
22 the grounds of substantial new evidence or proof of changed
23 conditions found to be valid by the commission and the city council.

24 (g) The city council may reconsider any vote approving,

1 failing to approve, or denying a petition for a conditional use so
2 long as it confines any decision to the record created by the
3 commission.

4 Sec. 34-505. - Limitations and guarantees.

5 (a) Prior to granting any conditional use, the commission may
6 recommend, and the council shall stipulate such limitations or
7 restrictions upon the establishment, locations, construction,
8 maintenance and operation of the conditional use it deems necessary
9 for the protection of the public interest and to secure compliance
10 with the standards and requirements specified herein, as may be
11 from time-to-time required.

12 (b) In all cases in which conditional uses are granted, the
13 city council shall require such evidence and guarantees as it may
14 deem necessary as proof that the conditions stipulated in
15 connection therewith are being, and will be, complied with.

16 (c) Violation of limitations or guarantees. In cases where
17 limitations and guarantees are stipulated by a conditional use
18 ordinance upon the establishment, location, construction,
19 maintenance and operation of the use as deemed necessary for the
20 protections and security herein described, and are not followed,
21 the city council shall have the authority to revoke the conditional
22 use.

23 Sec. 34-506. - Lapse of conditional use.

24 (a) If construction work such as parking lots, sidewalks,

1 streets, buildings, sewer and water lines on the proposed
2 development, have not begun within twelve (12) months from the
3 authorization order of the city council, the city council or the
4 zoning administrator shall have the power to institute proceedings
5 on its own motion to terminate the conditional use permit.

6 (b) Whenever any provision of this code, including paragraph
7 (a) of this section, or an ordinance granting a conditional use
8 requires holder of a conditional use to achieve any milestone
9 within an established period of time, and said milestone has not
10 been achieved due to circumstances substantially outside of the
11 holder's control, the zoning administrator may extend the time to
12 substantially complete said milestone, and subsequent milestones
13 dependent on it, by not more than ninety (90) days. A decision by
14 the zoning administrator not to extend a milestone under this
15 section shall not be subject to review.

16 Sec. 34-507. - Revocation of conditional uses.

17 (a) The city council may by ordinance revoke a conditional
18 use upon its determination that the owner of the property subject
19 to the conditional use has violated any of the limitations or
20 guarantees set forth in the ordinance authorizing the use.

21 (b) Prior to the revocation of a conditional use by the city
22 council, the committee shall conduct a meeting at which time the
23 parties granted the conditional use or their successors in interest,
24 after service of a ten (10) day written notice, may explain their

1 reasons for not adhering to the required conditions and
2 restrictions.

3 (c) If the committee determines that the limitations or
4 guarantees on the conditional use have not been violated or if
5 there is good cause to extend the time for compliance set forth
6 there in, the committee shall recommend to the city council that
7 no revocation occur.

8 (d) If the committee determines that the limitations or
9 guarantees on the conditional use have been willingly violated it
10 shall recommend the revocation of the conditional use to the city
11 council.

12 ARTICLE VI - CONDITIONAL USE PLANNED DEVELOPMENTS

13 Sec. 34-601. - Generally. Whenever chapter 49 authorizes a planned
14 development as conditional use in any zoning district, the
15 provisions of this article shall supply the procedures and
16 standards required by the commission and the city council to
17 consider applications therefore. Unless otherwise provided in this
18 article, all of the rules, regulations, and procedures set forth
19 in article V with respect to the establishment or revocation of
20 conditional uses shall apply to conditional uses for planned
21 developments. In the event of direct conflict with any provisions
22 article V, the provisions of this article shall control.

23 Sec. 34-602. - Application Process.

24 (a) The application for establishment of a planned development

1 shall be filed with the zoning administrator. No application shall
2 be accepted unless a preapplication review has been completed with
3 the planning director or said review has been waived by the
4 planning director. The preapplication review must be arranged with
5 the mutual agreement of the zoning administrator. At the
6 preapplication review, the zoning administrator and prospective
7 applicant shall review the following as they relate to the proposed
8 application for establishment of a planned development:

9 (1) The city's general plan and physical development
10 policies.

11 (2) Existing zoning and land use in the general area of
12 the property in question.

13 (3) The zoning history in the general area of the
14 property in question.

15 (b) The application filed with the zoning administrator for
16 establishment of a planned development as set forth above shall be
17 forwarded to the commission. The requirements of a public hearing
18 by the commission and the standards upon which the commission shall
19 make a recommendation to the city council shall be the same as set
20 forth in article v with respect to conditional uses. The commission
21 may further recommend limitations or guarantees upon the approval
22 of a conditional use for a planned development in the manner and
23 to the extent set forth in sec. 34-505.

24 (c) The city council may disapprove or grant a conditional

1 use for planned development by ordinance, but such development
2 shall not be approved except by three-fourths of the members
3 present, when the commission recommends denial of the request for
4 a conditional use permit for planned development.

5 (d) The ordinance granting a conditional use for planned
6 developments shall set forth all the requirements, special
7 conditions and agreements made a part of the planned development.
8 The plans and other documents required as part of the special use
9 application shall be attached to and made a part of the ordinance
10 granting the permit for planned development.

11 Sec. 34-603. - Plan Approval Procedures.

12 (a) Preliminary plans.

13 (1) The developer shall submit a preliminary plan for
14 all or specified phases of a planned development to the zoning
15 administrator for referral to the commission.

16 (2) The commission shall review, but need not conduct a
17 public hearing upon, the preliminary plan in accordance with
18 the provisions of this section as in the case of an
19 application for establishment of a planned development.

20 (3) The commission shall, within ninety (90) days from
21 the date of submittal, submit to the city council its written
22 recommendations with respect to the preliminary plan as to
23 whether the plan should be approved or disapproved.

24 (4) In either case, the commission shall set forth in

1 writing the reasons for its recommendations, and may, in the
2 event of a favorable recommendation, specify particular
3 conditions that should be incorporated in the approval of the
4 preliminary plan.

5 (5) Within sixty (60) days after receipt of the
6 commission's recommendation the city council shall either
7 approve or disapprove the preliminary plan. An approval may
8 be conditional and, if so, shall specifically state what
9 additions or deletions from the preliminary plan as submitted
10 shall be made in the preliminary plan as approved. Such
11 additions or deletions shall be shown on or attached to such
12 approved preliminary plan. A developer may request that the
13 commission to waive preliminary plan approval procedures for
14 any area in a planned development and, if such request is
15 granted the developer may, without having obtained approval
16 of a preliminary plan covering the area, submit for approval,
17 in accordance with the procedures prescribed in this section
18 and within the time period prescribed for submission of a
19 preliminary plan for the area, one or more final plans for
20 the area.

21 (6) Promptly after approval of each preliminary plan,
22 such number of the complete copies, including in electronic
23 form, as the zoning administrator may require of such approved
24 preliminary plan with all accompanying materials and data

1 shall be prepared at the developer's expense and deposited
2 with the zoning administrator.

3 (b) Final plans.

4 (1) The developer shall submit final plans for all or
5 specified phases of a planned development to the zoning
6 administrator for referral to the commission. In the case of
7 a final plan affecting only a single lot and that has not
8 been submitted with another petition, the zoning
9 administrator may refer the final plan to the committee
10 without prior consideration by the commission.

11 (2) The commission shall review the final plan, and, if
12 major changes are proposed by the developer, shall conduct a
13 public hearing thereupon in accordance with the provisions of
14 this section as in the case of an application for the
15 establishment of a planned development. No hearing shall be
16 required when a major change is not proposed.

17 (3) The commission shall, within sixty (60) days from
18 the date of submittal from the zoning administrator, submit
19 to the committee of the city council its written
20 recommendations with respect to the final plan. The
21 commission may recommend approval or disapproval of the final
22 plan, and/or specify particular conditions that should be
23 incorporated in the final plan for approval.

24 (4) Within thirty (30) days after receipt of a final plan

1 from the zoning administrator or from the commission with
2 recommendation, the committee shall either approve or
3 disapprove the final plan provided that the final plan is in
4 substantial conformance to the preliminary plan. The
5 committee shall make the determination whether the final plan
6 is in substantial conformance with the preliminary plan. If
7 the final plan is not in substantial conformance with the
8 preliminary plan, the final plan approval procedure shall be
9 as described in this section. The applicant and the committee
10 may mutually agree to extend said time periods. An approval
11 may be conditional and if so, shall specifically state what
12 additions or deletions from the final plan as submitted shall
13 be made in the final plan as approved. Such additions or
14 deletions shall be shown on or attached to such approved final
15 plan.

16 (5) Promptly after approval of each final plan such
17 number of the complete copies, including in electronic form,
18 as the zoning administrator may require of such approved final
19 plan, with all accompanying materials and data shall be
20 prepared at the developer's expense and deposited with the
21 zoning administrator.

22 (6) Approval of a final plan by the committee shall not
23 be final until the expiration of the appeal period as
24 described below. If an appeal is filed the decision by the

1 committee also becomes a recommendation to the city council
2 and the final decision on the final plan shall be made by the
3 city council.

4 (7) The approval or disapproval by the committee of a
5 final plan is appealable to the city council by the applicant
6 or a member of the city council. Appeals shall be filed within
7 five (5) business days from the day of the decision by the
8 committee. All appeals shall be filed by 5:00 p.m. on the
9 fifth business day as described above with the zoning
10 administrator. Only items associated with the final plan on
11 record with the committee may be appealable.

12 (8) Final plans shall conform to all zoning regulations
13 in effect at the commencement of construction. The developer
14 shall submit a revised final plan in accordance with this
15 section whenever regulatory changes enacted prior to the
16 commencement of construction so require.

17 (c) Preliminary and final plans submitted concurrently. In the
18 event that a preliminary plan and final plan are submitted
19 concurrently, the procedures for application shall be provided by
20 this article.

21 Sec. 34-604. - The provisions of article v pertaining to the
22 termination of a conditional use shall apply to conditional use
23 planned developments.

24 ARTICLE VII - PLANNED DEVELOPMENT DISTRICTS

1 Sec. 34-701. - Application Process.

2 (a) The application for establishment of a planned
3 development district shall be filed with the zoning administrator.
4 No application shall be accepted unless a preapplication review
5 has been completed with the zoning administrator unless the zoning
6 administrator waives said review in writing. The preapplication
7 review must be arranged with the mutual agreement of the zoning
8 administrator.

9 (b) At the preapplication review, the zoning administrator and
10 prospective applicant shall review the following as they relate to
11 the proposed application for establishment of a planned
12 development:

13 (1) The city's general plan and physical development
14 policies.

15 (2) Existing zoning and land use in the general area of
16 the property in question.

17 (3) The zoning history in the general area of the
18 property in question.

19 (4) The city's process for establishment of a planned
20 development.

21 (5) Other pertinent factors.

22 (c) After the completion of the required preapplication review
23 an application for establishment of a planned development district
24 may be filed with the zoning administrator. The application shall

1 include a plan description, and all plans and data as required
2 within the zoning administrator for establishment. Copies of the
3 application shall be submitted to the executive secretary of the
4 commission with the request to hold a public hearing.

5 (d) The establishment of a planned development district
6 requires the amendment of the zoning map. The provisions of article
7 IX pertaining to map amendments shall apply to the establishment
8 of a planned development district, except to the extent they may
9 conflict with the provisions of this article.

10 (e) Plan descriptions shall contain the information required
11 by the zoning administrator and the city engineer.

12 (f) After the close of the public hearing provided for in
13 article IX of this chapter, and within the time period therein
14 provided but in no event later than ninety (90) days after the
15 date on which the application was submitted, unless the developer
16 and the commission have agreed to an extension of such time period,
17 the commission shall submit to the city council its recommendation
18 with respect to the application.

19 (g) The commission may recommend that the city council approve
20 or disapprove the application. In either case, the plan commission
21 shall set forth the reasons for its recommendation, and may, in
22 the event of a favorable recommendation, specify particular
23 conditions which should be incorporated in an approval of the
24 application.

1 (h) Within sixty (60) days after receipt of the plan
2 commission's recommendation, the city council shall either approve
3 or disapprove the application. An approval may be conditional and
4 if so shall specifically state what additions or deletions from
5 the plan description as submitted shall be made in the application
6 as approved.

7 Sec. 34-702. - Zoning Map Amendment.

8 (a) Upon approval of the application for establishment of a
9 planned development district by the city council and acceptance by
10 the developer of any conditions incorporated in such approval, the
11 city council shall proceed to amend the zoning map by rezoning the
12 property as a planned development district.

13 (b) The public hearing on the application previously held by
14 the plan commission pursuant to the amendment procedure provided
15 for in article IX of this chapter shall satisfy all hearing
16 requirements for the rezoning action.

17 Sec. 34-703. - Preliminary plans.

18 (a) Within such time periods as are prescribed in this section,
19 preliminary plans for all or specified development phases of the
20 planned development district shall be submitted for approval in
21 accordance with the procedures set forth in this section. Approval
22 of preliminary plans may not be withheld for reasons that would be
23 inconsistent with the approved plan description.

24 (b) Preliminary plans may contain reasonable variations from

1 the approved plan description, and subject to such conditions as
2 may be made a part of the approval of the plan description, a
3 variation shall be deemed reasonable provided it does not (a)
4 increase the gross residential density by more than five (5)
5 percent; (b) reduce the area set aside for common open space by
6 more than five (5) percent; or (c) increase or decrease by more
7 than ten (10) percent the bulk restrictions on buildings and
8 structures.

9 (c) In approving a preliminary plan, the city council may,
10 without further public hearing, also approve changes from the plan
11 description which exceed the scope of permitted reasonable
12 variations, provided that no such change is a "major change" as
13 defined in this section, below.

14 (d) Major changes from the plan description shall not be made
15 without consideration of such changes at a public hearing held in
16 accordance with the provisions of article IX as in the case of an
17 application for establishment of a planned development district.

18 (e) Requirements for preliminary plans. A preliminary plan
19 shall be prepared at a scale and contain standard information
20 required by the zoning administrator.

21 (f) Time limitations for submission of preliminary plans. A
22 preliminary plan for not less than forty (40) acres of the proposed
23 planned development district (first preliminary plan) shall be
24 submitted for approval within twelve (12) months after adoption by

1 the city council of the amendment establishing the planned
2 development district; provided that upon request in writing of the
3 developer, the city council may at any time or from time to time,
4 by resolution duly adopted at any meeting of the city council,
5 extend the period of time for the submission of a first preliminary
6 plan. If the first preliminary plan shall cover less than all of
7 the planned development district, preliminary plans for additional
8 areas of the district may be submitted to the city council from
9 time to time after submission of such first preliminary plan;
10 provided that preliminary plans covering all of the district shall
11 be submitted to the city council within such period of time as
12 shall have been prescribed in the approval of the application for
13 establishment of the planned development district which shall be
14 not more than fifteen (15) years after the adoption by the city
15 council of the amendment establishing the planned development
16 district; and provided, further, that upon request in writing of
17 the developer, the city council may at any time and from time to
18 time, by resolution duly adopted at any meeting of the city council,
19 extend the period of time for submission of preliminary plans
20 covering all of the district. A preliminary plan for all or part
21 of a planned development district may be submitted for approval
22 with the application for establishment of the district and such
23 preliminary plan may be approved by the city council at the time
24 such application is approved.

1 Sec. 34-704. - Final plans.

2 (a) Within such time periods as are prescribed in this section,
3 final plans for specified development phases of the planned
4 development district shall be submitted for approval in accordance
5 with the procedures set forth in this section. Approval of a final
6 plan may not be withheld for reasons that would be inconsistent
7 with the plan description or the approved preliminary plan for the
8 area covered by such final plan.

9 (b) A final plan may contain reasonable variations from the
10 approved preliminary plan for the area covered by such final plan;
11 and subject to such conditions as may be made a part of an approved
12 preliminary plan, a variation shall be deemed reasonable provided
13 it does not (a) increase the gross residential density by more
14 than five (5) percent; (b) reduce the area set aside for common
15 open space by more than five (5) percent; or (c) increase or
16 decrease by more than ten (10) percent the bulk restrictions on
17 buildings and structures.

18 (c) In approving a final plan, the committee may approve
19 changes from the approved preliminary plan for the area covered by
20 such final plan which exceed the scope of permitted reasonable
21 variations provided that no such change constitutes a major change.
22 Major changes shall not be made without consideration of such
23 changes at a public hearing which shall be held by the planning
24 commission in accordance with the Article IX as in the case of an

1 application for establishment of a planned development district.

2 (d) Requirements for final plans. A final plan shall be
3 prepared at a scale and contain standard information required by
4 the zoning administrator and city engineer.

5 (e) Time limitations for submission of final plans. Final
6 plans for all of the area covered by the first preliminary plan
7 required by this section shall be submitted to the commission for
8 recommendation to the committee within three (3) years after
9 approval of such first preliminary plan by the city council;
10 provided that, upon request in writing of the developer, the city
11 council may at any time or from time to time, by resolution duly
12 adopted at any meeting of the city council, extend the period of
13 time for the submission of such final plans. Final plans covering
14 all of the planned development district shall be submitted to the
15 city council for referral to the planning council and the planning
16 commission for recommendation to the planning and development
17 committee within such period of time as shall have been prescribed
18 in the approval of the application for establishment of the planned
19 development district which shall be not more than eighteen (18)
20 years after adoption by the city council of the amendment
21 establishing the planned development district; provided, that upon
22 request in writing of the developer, the city council may at any
23 time and from time to time, by resolution duly adopted at any
24 meeting of the city council, extend the period of time for

1 submission of final plans covering all of the district.

2 Sec. 34-705. - Procedures for approval of preliminary and final
3 plans

4 (a) Preliminary plans.

5 (1) Preliminary plans for all or specified phases of a
6 planned development district shall be submitted by the
7 developer to the zoning administrator for referral to the
8 commission.

9 (2) The commission shall review the preliminary plan and
10 conduct a hearing thereon in accordance with the provisions
11 as in the case of an application for establishment of a
12 planned development district. The commission shall, within
13 ninety (90) days from the date of referral, submit to the
14 city council its written recommendations with respect to the
15 preliminary or final plan. The commission shall review the
16 preliminary plan and, subject to the provisions of this
17 section may recommend that the city council approve or
18 disapprove of such preliminary plan. In either case, the
19 planning commission shall set forth in writing the reasons
20 for its recommendation, and may, in the event of a favorable
21 recommendation, specify particular conditions which should be
22 incorporated in the approval of the preliminary plan.

23 (3) Within sixty (60) days after receipt of the
24 commission's recommendation, the city council shall either

1 approve or disapprove the preliminary plan. An approval may
2 be conditional and, if so, shall specifically state what
3 additions or deletions from the preliminary plan as submitted
4 shall be made in the preliminary plan as approved. Such
5 additions or deletions shall be shown on or attached to such
6 approved preliminary plan.

7 (4) A developer may request the commission to waive
8 preliminary plan approval procedures for any area in a planned
9 development district and, if such request is granted the
10 developer may, without having obtained approval of a
11 preliminary plan covering the area, submit for approval, in
12 accordance with the procedures prescribed in this section and
13 within the time period prescribed for submission of a
14 preliminary plan for the area, one or more final plans for
15 the area. Promptly after approval of each preliminary plan,
16 such number of the complete copies, including in electronic
17 form, as the zoning administrator may require of such approved
18 preliminary plan with all accompanying materials and data
19 shall be prepared at the developer's expense and deposited
20 with the zoning administrator.

21 (b) Final plans.

22 (1) Final plans for all or specified phases of a planned
23 development district shall be submitted by the developer to
24 the zoning administrator for referral to the commission. In

1 the case of a final plan affecting only a single lot and that
2 has not been submitted with another petition, the zoning
3 administrator may refer the final plan to the committee
4 without prior consideration by the commission.

5 (2) The commission shall review the final plan and if
6 major changes are proposed by the developer, shall conduct a
7 public hearing on a final plan in accordance with the
8 provisions of the article IX as in the case of an application
9 for establishment of a planned development district.

10 (3) The commission shall, within sixty (60) days from
11 the date of referral, to the commission, submit to the
12 committee of the city council its written recommendations
13 with respect to the final plan. The commission may recommend
14 approval or disapproval of the final plan, and/or specify
15 particular conditions that should be incorporated in the
16 final plan for approval.

17 (4) Within thirty (30) days after receipt of the final
18 plan from the commission or from the zoning administrator,
19 the committee shall either approve or disapprove the final
20 plan, provided that the final plan is in substantial
21 conformance with the preliminary plan. If the final plan is
22 not in substantial conformance with the preliminary plan, the
23 final plan approval procedure shall follow that described in
24 this section. The applicant and the committee may mutually

1 agree to extend said time periods. An approval may be
2 conditional and if so, shall specifically state what
3 additions or deletions from the final plan as submitted shall
4 be made in the final plan as approved. Such additions or
5 deletions shall be shown on or attached to such approved final
6 plan.

7 (5) Promptly after approval of each final plan, such
8 number of the complete copies, including in electronic form,
9 as the zoning administrator may require of such approved final
10 plan with all accompanying materials and data shall be
11 prepared at the developer's expense and deposited with the
12 zoning administrator.

13 (6) Approval of the final plan by the committee shall
14 not be final until the expiration of the appeal period as
15 described below. If an appeal is filed, the decision by the
16 committee also becomes a recommendation to the city council,
17 and the final decision on the final plan shall be made by the
18 city council.

19 (7) Final plans shall conform to all zoning regulations
20 in effect at the commencement of construction. The developer
21 shall submit a revised final plan in accordance with this
22 section whenever regulatory changes enacted prior to the
23 commencement of construction so require.

24 (c) Preliminary and final plans submitted concurrently. In the

1 event that a preliminary plan and a final plan are submitted
2 concurrently, the procedures for application shall be as provided
3 by this section.

4 (d) Preliminary plat and preliminary plan submitted
5 concurrently. In the event that a preliminary plat required by
6 chapter 43 of this code and a preliminary plan are submitted
7 concurrently when permitted by a plan description, the procedure
8 for application shall be as provided by this section.

9 (e) Appeals. The approval or denial by the committee of a
10 final plan is appealable to the city council by the applicant or
11 a member of the city council. Appeals may be filed only within
12 five (5) business days from the day of the decision by the
13 committee. All appeals shall be filed by 5:00 p.m. on the fourth
14 business day as described above with the zoning administrator.
15 Only items associated with the final plan on record with the
16 committee may be appealable.

17 Sec. 34-706. - Standards.

18 (a) Except for modifications and exceptions granted pursuant
19 to this section, a planned development district shall be subject
20 to the off-street parking and loading regulations provided for in
21 chapter 49, except that references therein to standard zoning
22 districts shall be deemed to refer to areas within the planned
23 development district wherein the principal use is similar to the
24 principal uses permitted in such standard zoning districts.

1 (b) Except for modifications and exceptions granted pursuant
2 to this section, a planned development district shall be subject
3 to the sign regulations provided for in chapter 41 and chapter 49
4 of this code. References therein to standard zoning district shall
5 be deemed to refer to areas within the planned development district
6 wherein the principal use is similar to the principal uses
7 permitted in such standard zoning districts.

8 (c) Except for modifications and exceptions granted pursuant
9 to this section, conditional uses shall be permitted within a
10 planned development district in accordance with the regulations
11 provided for in in chapter 49 this code. References therein to
12 standard zoning districts shall be deemed to refer to areas within
13 the planned development district wherein the principal use is
14 similar to the principal uses permitted in such standard zoning
15 districts.

16 (d) The plan description for a planned development district
17 or a preliminary plan or a final plan for all or a part of a
18 planned development district may depart from the building height,
19 bulk and lot coverage, lot dimensions and area regulations provided
20 for in chapter 49 of this code.

21 (e) As part of the approval of a plan description for a planned
22 development district or of a preliminary plan or a final plan for
23 all or a part of a planned development district the commission may
24 recommend and the city council, or committee in the case of final

1 plans, may grant, for all or specified areas of the planned
2 development district, modifications and exceptions from any
3 provisions of this ordinance, or the subdivision control ordinance.

4 (f) A planned development district shall be developed only
5 according to approved final plans.

6 Sec. 34-707. - Subdivisions.

7 (a) At the time of any preliminary plan for all or part of a
8 planned development district, the developer may request that all
9 or part of such preliminary plan be considered and approved as a
10 "preliminary plat" under the subdivision control ordinance, and at
11 the time of submission of a final plan for all or part of a planned
12 development district, the developer may request that all or part
13 of such final plan be considered and approved as a "final plat"
14 under the subdivision control ordinance.

15 (b) Approval of all or part of any preliminary plan or final
16 plan submitted for consideration and approval as a "preliminary
17 plat" or "final plat" under the subdivision control ordinance shall
18 not be withheld for reasons that would be inconsistent with the
19 plan description or any preliminary plan theretofore approved by
20 the city council in accordance with the provisions of this section

21 (c) Nothing contained herein shall be deemed to require the
22 subdivision of any part of a planned development district.

23 Sec. 34-708. - Permits.

24 (a) Building, zoning and occupancy permits shall be required

1 for each structure in a planned development district. No building
2 permit relating to any part of a planned development district shall
3 be issued prior to the approval of a final plan for such part of
4 the planned development district in accordance with the provisions
5 of this section; provided that, subject to the approval of the
6 city engineer, mass excavation operations may be carried on prior
7 to the approval of such final plan.

8 (b) The application for establishment of a planned development
9 shall be accompanied by a preliminary plan or both a preliminary
10 plan and final plan for all or a portion of the planned development.
11 The plan(s) must include all data as required by the zoning
12 administrator. The developer may request review and approval of
13 the plan(s) concurrently with the review and approval of
14 application for the establishment of the planned development.

15 ARTICLE VIII - OVERLAY DISTRICTS

16 Sec. 34-801. - Establishment procedures.

17 (a) Generally. The establishment of an overlay district
18 constitutes an amendment to the zoning map and is subject to all
19 of the requirements of this code with respect to map amendments,
20 in addition to the provisions of this article. In construing the
21 provisions of this article with any provision of law or ordinance
22 related to map amendments, the provisions should be read together
23 and construed as cumulative except where two provisions directly
24 contradict. In such instances, the most restrictive provision

1 shall control.

2 (b) Pre-Establishment.

3 (1) Prior to the formal initiation of the process to
4 establish an overlay district, the city council by resolution
5 shall direct the development of a conceptual design setting
6 forth the goals and objectives of a possible overlay district
7 and to make recommendations for subsequent action by the city
8 council.

9 (2) The resolution shall direct a special committee, task
10 force, or some other body established by the resolution to
11 develop the conceptual plan.

12 (3) The conceptual design shall include a review of

13 (A) The general plan and physical development policies
14 of the city;

15 (B) The existing zoning and land use of the real
16 property in and around the area proposed to be
17 subject to the overlay district;

18 (C) The zoning history in and around the area proposed
19 to be subject to the overlay district; and

20 (D) Any other pertinent factors.

21 (4) The special commission or task force shall include
22 in its report to the city council a recommendation as to
23 whether the establishment.

24 (c) Commission review.

1 (1) Upon receipt of the conceptual design report and
2 recommendation, the city council may by resolution forward
3 the report and recommendation to the commission with the
4 direction to commence a review of

5 (A) the conceptual design report and recommendation;

6 (B) an ordinance defining the development standards
7 and design guidelines within the proposed overlay
8 district as more fully set forth in Section 34-803,
9 and

10 (C) an ordinance amending the zoning map rezoning the
11 property within the proposed overlay district as
12 subject to its underlying zoning classifications as
13 modified by the overlay district.

14 (2) The commission shall conduct one or more public
15 hearings in accordance with this code on the proposed
16 establishment of the overlay district and amendment to the
17 zoning map.

18 (3) Within in ninety (90) days of the approval of the
19 city council resolution directing the commission to review
20 the establishment of the overlay district, and after
21 conducting at least one public hearing thereon, the
22 commission shall submit to the city council its
23 recommendation thereon, and its reasons for the
24 recommendation. In the case of a favorable recommendation,

1 the commission may specify or recommend specific conditions
2 for inclusion in the ordinance establishing the overlay
3 district. The commission shall not recommend the
4 establishment of an overlay district unless it finds:

5 (A) That the establishment, maintenance or operation
6 of the overlay district will not be unreasonably
7 detrimental to or endanger the public health,
8 safety, morals, comfort or general welfare;

9 (B) That the overlay district will not be injurious to
10 the use and enjoyment of the properties within the
11 overlay district or of other property in the
12 immediately vicinity for the purposes already
13 permitted, nor substantially diminish and impair
14 property values within the neighborhood;

15 (C) That the establishment of the overlay district
16 will not impede the normal and orderly development
17 and improvement of the properties within the
18 overlay district or of surrounding property for
19 uses permitted in the district;

20 (D) That adequate utilities, access roads, drainage
21 and/or other necessary facilities have been or are
22 being provided; and

23 (E) That adequate measures have been or will be taken
24 to provide ingress and egress so designed as to

1 minimize traffic congestion in the public streets.

2 (d) City council action.

3 (1) Within sixty (60) days of receipt of the commission's
4 recommendation, the city council shall either approve or
5 disapprove of the ordinance establishing the overlay district.
6 An approval may be conditional, and if so, shall specifically
7 state what additions or deletions from the overlay district
8 ordinance as submitted shall be made. Any proposed overlay
9 district which does not receive the city council's
10 affirmative approval within sixty (60) days of receipt of the
11 commission's recommendations shall be deemed to have been
12 disapproved by the city council.

13 (2) Upon approval of the establishment of an overlay
14 district by the city council, the city council shall proceed
15 to approve an ordinance amending the zoning map by rezoning
16 the property as an overlay district with the underlying zoning
17 classification remaining.

18 (3) Upon approval of the establishment of an overlay
19 district, the city council may proceed to adopt a resolution
20 creating a design review committee in accordance with this
21 article.

22 Sec. 34-802. - Contents of an ordinance establishing an overlay
23 district.

24 (a) The ordinance defining an overlay district shall provide

1 for the establishment of certain zoning protections. The
2 protections shall include development standards and design
3 guidelines over the area proposed to be subject the overlay
4 district and based on the conceptual design approved by the city
5 council at the conclusion of the pre-establishment process
6 described in this article.

7 (b) Said ordinance shall set forth a title for the district
8 in the form of "_____ District," and include the
9 following:

10 (1) A legal description of the property to be included
11 in the overlay district.

12 (2) A plat or map showing boundaries of the overlay
13 district.

14 (3) A written explanation of the general character of
15 the overlay district including:

16 (A) A description of all land use categories to be
17 included in such district (including open space)
18 with approximate percentages or, alternatively,
19 maximum or minimum percentage limitations for each
20 use,

21 (B) Projected densities for residential uses or,
22 alternatively, maximum and minimum limitations for
23 such densities,

24 (C) A description of the development standards,

1 applicable to the goals and objectives adopted by
2 the city in the conceptual design.

3 (4) A plat or map of the proposed overlay district which
4 shall show its relation to existing roads and highways,
5 traffic circulation features adjacent to the district,
6 existing zoning of the district and adjacent properties and
7 a generalized plan of existing utilities which will serve the
8 district.

9 (5) In the case of a proposed overlay district that is
10 adjacent to a designated flood area:

11 (A) A topographical survey of the overlay district at
12 five-foot contour intervals, which may be taken
13 from U.S.G.S. information, showing the limits of
14 the highest recorded flood if available from public
15 documents. This requirement shall apply only if the
16 district is adjacent to a designated flood prone
17 area.

18 (B) The existing limits of floodplain in the overlay
19 district if such limits have been mapped by the
20 Chicago Metropolitan Agency for Planning or another
21 public agency.

22 (6) A description of any exceptions to the requirements
23 of the zoning ordinance or the subdivision control ordinance
24 within the proposed overlay district;

1 (7) Specific development standards and design guidelines
2 applicable within the proposed overlay district, detailed by
3 parcel, which shall supersede conflicting requirements in the
4 underlying zoning district;

5 (8) Whether particular permitted or conditional uses
6 authorized in the underlying zoning district will be
7 prohibited or otherwise limited in the overlay district;

8 (9) Whether particular permitted or conditional uses
9 prohibited or otherwise limited in the underlying zoning
10 district will be authorized in the overlay district; and

11 (10) Any modifications to the bulk regulations in the
12 underling zoning district.

13 Sec. 34-803. - Design review committees.

14 (a) Creation and composition.

15 (1) When establishing an overlay district pursuant to
16 this article, the city council may resolution establish a
17 design review committee consisting of members of the public
18 appointed by the mayor with the advice of the city council as
19 well as representatives of the city's administrative service.
20 The resolution shall provide for the composition of the design
21 review committee and specific goals and objectives unique to
22 the overlay district. In the absence of a resolution creating
23 a design review committee for an overlay district, the
24 commission shall perform the duties of a design review

1 committee in that district.

2 (2) In all instances, members of the design review
3 committee shall be appointed by the mayor with the advice and
4 consent of the city council or in the case of employees of
5 the city, shall serve by virtue of their employment as
6 specified in the resolution creating the committee.

7 (3) Members of a design review committee, other than
8 employees of the city, shall serve terms of three (3) years
9 commencing on July 1 of a given calendar year. The terms of
10 the members shall be staggered such that as nearly an equal
11 number of members of the design review committee as possible
12 expire each year.

13 (4) The mayor shall from time-to-time designate a member
14 of each design review committee to serve as its chairperson
15 and a member to serve as its vice-chairperson.

16 (5) The mayor may remove a member of a design review
17 committee for incompetence, neglect of duty, or malfeasance
18 in office and shall report the same to the city council in
19 writing with the reasons therefore within ten (10) days.

20 (b) Meetings.

21 (1) All meetings of a design review committee shall be
22 open meetings and conducted in accordance with the provisions
23 of the Open Meetings Act. A majority of the members appointed
24 to a design review committee shall constitute quorum for the

1 purpose of conducting business.

2 (2) For the purposes of Sec. 2.06(g) of the Open Meetings
3 Act, members of the public shall have the opportunity to
4 address a design review committee under the rules established
5 and recorded by the city council applicable to its own
6 meetings, as if said rules were established by the design
7 review committee itself. A design review committee may, but
8 is not required to, adopt and record rules requiring members
9 of the public to limit their remarks to subjects within the
10 scope of the committee's jurisdiction, which shall broadly
11 include all substantive and procedural zoning matters within
12 the respective overlay district. Unless offered as sworn
13 testimony submitted during a public hearing, public comment
14 shall not be considered as part of any official record upon
15 which the design review committee may be called to base a
16 decision upon.

17 (3) For the purposes of Sec. 7(c) of the Open Meeting
18 Act, the remote attendance rules applicable to the city
19 council and its committees as set forth in section 2-80 of
20 this code shall be construed as to apply to a design review
21 committee as if adopted by the committee itself.

22 (c) Executive Secretary. The director of the planning division
23 shall be the ex-officio executive secretary of each design review
24 committee and shall maintain a record of all proceedings and

1 actions of each design review committee in the office of the
2 planning division.

3 (d) Powers and duties. With respect to real property within
4 its overlay district, and where applicable, a design review
5 committee shall have the power to:

6 (1) Approve, amend, or deny preliminary plans submitted
7 pursuant to this article;

8 (2) Make recommendations for any amendments to the
9 overlay district;

10 (3) Consult and work with representatives of the planning
11 division in the review of applications for permits for any
12 construction, additions, alterations, or enlargements of
13 structures;

14 (4) To adopt supplemental rules for the conduct of its
15 business not inconsistent with any provision of law or
16 ordinance; and

17 (5) Exercise any other power or perform any additional
18 duty as may be specified in the resolution establishing the
19 design review committee.

20 (e) Applicability of city ethics ordinance. The provisions of
21 chapter 15 of this code, titled "City of Aurora Ethics Ordinance"
22 shall be applicable to each member of a design review committee.
23 Sec. 34-804. - Preliminary plans in overlay districts.

24 (a) Submission of plans. Prior to the issuance of a permit

1 for any exterior improvements, including but not limited to new
2 construction, new or redesignated or altered signage, demolition,
3 paving, or any other action that would alter property in an overlay
4 district in a manner regulated by said overlay district, an
5 applicant shall pursue the preliminary and final plan process if
6 applicable pursuant to the specific overlay district regulations.
7 No such permits shall be issued until and unless said plans have
8 been approved by the city and a certificate of appropriateness has
9 been issued.

10 (b) Preliminary plan requirements. Preliminary plans shall
11 consist of the following:

12 (1) A completed application listing the statement of
13 planning objectives, a time schedule, and modifications to
14 city ordinances, with an attached survey of the area in
15 question, prepared and certified by a registered Illinois
16 surveyor; and

17 (2) A drawing of the area at a scale and standard
18 information determined by the zoning administrator as may be
19 applicable.

20 (c) Preliminary plan approval. Preliminary plans and revisions
21 thereof for all parcels within the overlay district shall be
22 submitted to the design review committee for approval in accordance
23 with this paragraph. Any applicant may request a meeting with the
24 design review committee or planning official before submitting an

1 application and may consult with the committee or planning official
2 during the review of the application.

3 (d) Following the submission of a preliminary plan, a design
4 review committee shall review the application and may recommend
5 approval of the preliminary plan if it finds that the proposal is
6 clearly in accordance with the provisions of this code and of the
7 ordinance establishing the overlay district.

8 (1) A design review committee may not withhold approval
9 of a preliminary plans for reasons that would be inconsistent
10 with the approved development standards and design guidelines.

11 (2) In approving a preliminary plan, a design review
12 committee may, without further public hearing, also approve
13 changes from the development standards provided that no such
14 change is a "major change" as defined in this section.

15 (3) Major changes from the development standards shall
16 not be made without consideration of such changes at a public
17 hearing in the manner required for the establishment of
18 overlay districts.

19 (4) As used in this section, a "major change" shall be a
20 change that substantially alters the percentages or the
21 maximum or minimum percentage limitations for each use,
22 projected densities for residential uses or the maximum or
23 minimum limitations for such densities, or the intent and
24 purpose of the development standards. The development

standards and design guidelines applicable to an overlay district may be specifically define additional changes or categories of changes as "major changes" within the overlay district.

Sec. 34-805. - Final plans in overlay districts.

(a) Following or concurrent with the approval of a preliminary plan, and prior to the issuance of a permit for the purposes detailed in this section, an applicant shall submit final plans for properties located in an overlay district, for review and approval. No permits for the purposes detailed in this section shall be issued until and unless said final plans have been approved by the city if applicable pursuant to the specific overlay district regulations. No such permits shall be issued until and unless said plans have been approved by the city and a certificate of appropriateness has been issued.

(b) Final plan requirements. Final plans shall contain the following, as applicable:

(1) A completed application listing the statement of planning objectives, a time schedule, proposed covenants, restrictions and conditions, and variations to city ordinances.

(2) A drawing of the area using an accurate engineering scale and containing such standard information as the zoning administrator shall by rule require.

1

2 ARTICLE IX - REZONING; TEXT AND MAP AMENDMENTS

3 Sec. 34-901. - Applications for rezoning.

4 (a) Amendments may be proposed by the mayor, city council,
5 commission, zoning administrator, any property owner, or, in the
6 case of an application for establishment of a planned development
7 district pursuant, by the owner or owners of the subject property
8 or by his or their duly authorized agent.

9 Sec. 34-902. - Processing application for amendment.

10 (a) Petition For a rezoning. A petition for an amendment to
11 chapter 49 or the zoning map shall be filed with the zoning
12 administrator. No petition shall be accepted unless a
13 preapplication review has been completed with the zoning
14 administrator unless the zoning administrator has, in writing,
15 waived such review. Such a preapplication review must be arranged
16 by mutual agreement with the zoning administrator. At such a
17 preapplication review, the zoning administrator and prospective
18 petitioner shall review the following as they relate to the
19 proposed rezoning petition:

20 (1) General plan and physical development policies of the
21 city.

22 (2) Existing zoning and land use in the general area of
23 the property in question.

24 (3) The zoning history in the general area of the

1 property in question.

2 (4) The city's rezoning review process.

3 (5) Other pertinent factors.

4 (b) After the completion of the required pre-application
5 review, a rezoning petition may be filed with the zoning
6 administrator. The petition shall include all plans and data as
7 the zoning administrator may reasonably require. Copies of such a
8 petition shall be forwarded to the commission with the request
9 that the commission hold a public hearing.

10 Sec. 34-903. - Notices.

11 (a) For all petitions, public notice shall be mailed by the
12 petitioner. Said notices shall be mailed after a public hearing
13 date has been scheduled by the executive secretary of the
14 commission to be held before the commission. The notices shall be
15 mailed to all owners of record within two hundred fifty (250) feet
16 in each direction of the location in which the property is located,
17 and to owners or occupants of other properties that may be affected
18 as determined by the commission. The owners of record within the
19 two-hundred-fifty-foot requirement shall be determined by
20 consulting the tax assessor's rolls of the township or the county
21 in which the property is located, provided the number of feet
22 occupied by all public roads, streets, alleys and other public
23 ways shall be excluded in computing the two-hundred-fifty-foot
24 requirement.

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

4 (1) Common description of property.

5 (2) Requested action.

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

7 (4) Reference to planning division for further
8 information.

9 (5) Telephone number of planning division.

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

1 invalid any proceedings held in furtherance of any such amendment.

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

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

9 (1) Form for certified public notice.

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

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

14 (4) Affidavit form for mailing.

15 (5) Certificate of mailing form.

16 Sec. 34-904. - Surrounding owner notification exception.

17 For property zoned residential, other than in planned
18 developments, that is proposed for zoning of a lesser intensity,
19 the mailing requirement provided by this section shall not be
20 required.

21 Sec. 34-905. - Posting of sign.

22 (a) For all rezoning petitions a sign provided by the planning
23 division shall be posted by the petitioner and/or property owner.
24 The sign shall be posted after a public hearing date has been

1 scheduled by the planning division to be held before the commission.
2 The sign shall be at least two (2) feet in height and four (4)
3 feet in length and shall be posted not more than fifteen (15) days
4 nor less than ten (10) days in advance of the public hearing. The
5 sign or signs shall be posted so that at least one sign is clearly
6 readable from all adjacent roadways. The sign shall contain the
7 information specified by the zoning administrator.

8 (b) The sign shall not be removed until the public hearing
9 before the commission has been completed unless otherwise directed
10 by the zoning administrator or the commission. The provisions of
11 this section are directory and any failure to comply with the
12 requirements hereof shall not deprive the commission or city
13 council of jurisdiction to pass any amendment to chapter 49 of
14 this code or any attachment thereof, nor shall any defect render
15 invalid any proceedings held in furtherance of any such amendment.

16 (c) The petitioner and/or property owner shall also file with
17 the zoning administrator no later than ten (10) days before the
18 public hearing date, an affidavit verifying who posted the sign
19 and the date and time of its posting, and including a location map
20 showing where said sign was posted on the property and a photograph
21 of said sign after it was erected.

22 (d) In connection with the requirements of this section, the
23 zoning administrator shall prepare and make available all forms,
24 instructions, and affidavits required for compliance with this

1 section.

2 (e) Posting of sign exception. For property zoned residential
3 other than planned developments that is proposed for zoning of a
4 lesser intensity, the posting of sign requirements provided by
5 this section shall not be required.

6 Sec. 34-906. - Publication.

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

11 Sec. 34-907. - Hearing on application.

12 Upon receipt in proper form of the application and statement
13 referred to above, the commission shall hold at least one public
14 hearing on the proposed amendment. However, the commission may
15 continue from time to time the hearing without further notice being
16 published.

17 Sec. 34-908. - Rezoning Hearings.

18 (a) Within forty-five (45) days after the close of a hearing
19 on a proposed petition, the commission shall make findings of fact
20 based upon the evidence presented to it, with respect to the
21 matters enumerated herein; shall enter its findings and decisions
22 or recommendation thereon into meeting recordation; and shall
23 submit a copy of the applicable minutes thereof to the mayor and
24 the city council.

1 (b) In the interest of promoting the public health, safety,
2 comfort, convenience and general welfare, the commission shall
3 recommend no amendment for approval unless it shall find that the
4 proposed amendment:

5 Sec. 34-909. - Standards for Rezoning

6 In considering a proposed amendment to chapter 49 or to the
7 zoning map, the commission shall consider whether the proposed
8 amendment

9 (1) Is in accord with all applicable official physical
10 development policies and other related official plans and
11 policies of the city;

12 (2) Represents the logical establishment and/or
13 consistent extension of the requested classification in
14 consideration of the existing land uses, existing zoning
15 classifications, and essential character of the general area
16 of the property in question;

17 (3) Is consistent with desirable trend of development in
18 the general area of the property in question, occurring since
19 the property in question was placed in its present zoning
20 classification, desirability being defined as the trend's
21 consistency with applicable official physical development
22 policies and other related official plans and policies of the
23 city;

24 (4) Will permit uses which are more suitable than uses

1 permitted under the existing zoning classification;

2 (5) Is a consistent extension of the existing land uses,
3 existing zoning classifications, and essential character of
4 the general area; and

5 (6) Is consistent with desirable trend of development in
6 the general area of the property in question, occurring since
7 the property in question was placed in its present zoning
8 classification, desirability being defined as the trend's
9 consistency with applicable official physical development
10 policies and other related official plans and policies of the
11 city.

12 Sec. 34-910. - Decisions on applications.

13 (a) Recommendations by the commission.

14 (1) The commission may hear a request for change in
15 zoning and may recommend a zoning classification more
16 restrictive than that requested.

17 (2) A concurring vote of a majority of those members
18 present at the meetings with a minimum of three (3) concurring
19 votes shall be required to recommend granting or denying an
20 application for an amendment.

21 (3) The commission's recommendation to the city council
22 shall contain the number of commissioners present, the number
23 of votes for or against the motion and include the
24 commission's written findings of fact in support of the

1 application.

2 (b) Approval by the city council.

3 (1) The city council, upon receiving the recommendations
4 of the commission, may grant or deny any proposed amendment
5 in accordance with applicable law, or may refer the
6 recommendation back to the commission for further
7 deliberation.

8 (2) If city council takes no final action on an
9 application for a proposed amendment within six (6) months of
10 the date upon which such application is received by the city
11 council, it shall be deemed to have been denied.

12 (c) In cases where the city council conducts the public
13 hearing required by this article, the city council, at the
14 conclusion of the public hearing, may grant or deny the amendment
15 in accordance with applicable Illinois law and this code. The city
16 council shall adopt findings of fact in support of its
17 determination.

18 (d) In the case of property rezoned by the city council but
19 not utilized for the rezoned purpose within one (1) year from the
20 date of said rezoning, the city council or the commission shall
21 have the power to institute proceedings on its own motion to rezone
22 said property to either its previous classification or some other
23 classification deemed appropriate by the aforementioned bodies;
24 provided, however, that the foregoing provisions of this section

1 shall not apply to property zoned as a planned development district.

2 (e) In the case of property in a planned development district,
3 the city council or the commission shall have the power to
4 institute proceedings on its own motion to rezone (1) property as
5 to which preliminary plans or final plans have not been submitted
6 within the time period prescribed by this chapter or as such time
7 periods may have been properly extended, or (2) property covered
8 by an approved final plan if the time period prescribed in the
9 this code for the submission of such final plan shall have expired
10 and if no development work shall have commenced on any of the
11 property covered by such final plan within one year after the final
12 plan's approval. In such rezoning proceedings such property may be
13 rezoned either to its previous classification or to some other
14 classification deemed proper by the city council.