

# ARTICLE 1. GENERAL PROVISIONS

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## **1.1. TITLE<sup>1</sup>**

This ordinance shall be known, cited, and referred to as the Unified Development Code of the City of Arlington. It is referred to in this ordinance as the “Arlington Unified Development Code,” or “this Unified Development Code” or “this Code.”

## **1.2. EFFECTIVE DATE**

This Code shall take effect and be in force from and after \_\_\_\_\_. [insert effective date of this Code]

## **1.3. AUTHORITY**

The Arlington Unified Development Code is enacted pursuant to the powers granted and limitations imposed by laws of the State of Texas, including the statutory authority granted in Local Government Code (LGC) Chapters 211 and 212, and all other relevant laws of the State of Texas. Whenever any provision of this Code refers to or cites a section of the Texas Revised Statutes and that section is later amended or superseded, this Code shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

## **1.4. PURPOSE AND INTENT**

The general purposes of this Unified Development Code are to protect the public health, safety, and general welfare, and to implement the policies and objectives in the Arlington Comprehensive Plan and the City’s other adopted plans. The Unified Development Code is intended to:

- 1.4.1.** Secure safety from fire, panic, and other natural and man-made dangers;
- 1.4.2.** Protect life and property in areas subject to floods, landslides, and other natural disasters;
- 1.4.3.** Provide adequate light and air;
- 1.4.4.** Lessen congestion in the streets while enhancing pedestrian and vehicular movement with the least detriment to environmental quality
- 1.4.5.** Facilitate the adequate provision of transportation, water, sewage, schools, parks and other public requirements to avoid transportation and public service and facility demands that cannot be satisfied; provide for phased development of government services and facilities
- 1.4.6.** Ensure that development and resource decisions are sustainable not only for the current residents of Arlington but for future residents and generations;
- 1.4.7.** Preserve the viability of the City as an entertainment and tourist area to conserve and enhance the value of the investments of the people of this community;
- 1.4.8.** Preserve and protect uses of land that provide employment opportunities to City residents;
- 1.4.9.** Consider the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development;

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<sup>1</sup> Existing Section 1-200, Purpose and Intent, edited to reflect the change from zoning ordinance to unified development code, updated to reflect new purposes, and revised for ease of understanding.

- 1.4.10. Promote the economic stability of existing land uses that are consistent with the comprehensive plan and protect them from intrusions by incompatible land uses;
- 1.4.11. Encourage innovations in residential development and redevelopment to provide a greater variety in type and design of dwellings;
- 1.4.12. Enhance the quality of development through superior building and site design; and.
- 1.4.13. Reduce the consumption of energy by encouraging the use of products and materials that maximize energy efficiency.

## 1.5. APPLICABILITY<sup>2</sup>

### 1.5.1. GENERAL APPLICABILITY

This Code applies to all land, buildings, structures, and uses thereof located within the City of Arlington, unless a variance, or exemption is provided by or pursuant to the terms of this Code.

### 1.5.2. APPLICABILITY TO PUBLIC AGENCIES

To the extent allowed by law, the provisions of this Code shall apply to all land, buildings, structures, and uses owned, leased, or otherwise controlled by any district, county, state, or federal government agencies in the City of Arlington. Where the provisions of this Code do not legally control such land, buildings, structures, and uses, such agencies are encouraged to meet the provisions of this Code.

### 1.5.3. COMPLIANCE REQUIRED

No land shall be used or divided, and no structure shall be constructed, occupied, enlarged, altered, or moved until:

- A. All applicable development review and approval processes have been followed in accordance with Article 10, *Review Procedures*;
- B. All applicable approvals have been obtained; and
- C. All required permits or authorizations to proceed have been issued.

### 1.5.4. EMERGENCY POWERS

The City Council may authorize deviations from any provision of this Code during a local emergency. Such deviations shall be authorized by resolution of the City Council without a requirement for prior notice or public hearing.

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<sup>2</sup> This is a new provision that replaces existing Section 1-300, Applicability. The existing applicability section addresses “transitional” issues of how proposed and pending applications should be processed under the new code. We have incorporated those standards in Section 1.7, below.

## **1.6. TRANSITIONAL PROVISIONS<sup>3</sup>**

### **1.6.1. CONTINUITY OF PROVISIONS**

The provisions of this Code, insofar as they are substantially the same as previously existing Code provisions relating to the same subject matter, shall be construed as restatements and continuations thereof and not new enactments. Any actions or proceedings commenced or permits issued pursuant to any previously existing ordinance shall not be affected by the enactment of this Code.

### **1.6.2. VIOLATIONS CONTINUE**

Any violation of the previous zoning and subdivision regulations will continue to be a violation under this Code and be subject to penalties and enforcement under Article 8, *Enforcement and Penalties*, unless the use, development, construction, or other activity complies with the provisions of this Code.

### **1.6.3. LEGAL NONCONFORMITIES UNDER PRIOR REGULATIONS**

Any legal nonconformity under the previous zoning and subdivision regulations will also be a legal nonconformity under this Code, as long as the situation that resulted in the nonconforming status under the previous Code continues to exist. If a nonconformity under the previous zoning and subdivision regulations becomes conforming because of the adoption of this Code, then the situation will no longer be a nonconformity.

### **1.6.4. USES, LOTS, STRUCTURES, AND SITES RENDERED NONCONFORMING**

- A.** When a lot is used for a purpose that was a lawful use before the effective date of this Code and this Code no longer classifies such use as either a permitted use or conditional use in the zoning district in which it is located, such use shall be considered nonconforming and shall be controlled by the provisions of Article 11, *Nonconformities*.
- B.** Where any building, structure, lot, or development site that legally existed on the effective date of this Code does not meet all standards set forth in this Code, such building, structure, lot, or site shall be considered nonconforming and shall be controlled by the provisions of Article 11, *Nonconformities*.

### **1.6.5. PENDING APPLICATIONS**

- A.** Any complete application that has been submitted for approval, but upon which no final action has been taken by the appropriate decision-making body prior to the effective date of this Code, shall be reviewed in accordance with the regulations in effect on the date the application was deemed complete unless the applicant requests otherwise pursuant to paragraph (B), below. If the applicant fails to comply with any applicable required period for submittal or other procedural requirements, the application shall expire and subsequent applications shall be

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<sup>3</sup> This is a new section that establishes a process for reviewing projects that are in the pipeline during the change-over time from the existing regulations to this Code. During our staff meetings in October 2010, we recommended that some of this information be included in the adoption ordinance rather than the Code, particularly Sections 1.6.5, Pending Applications; 1.6.6, Preliminary Approvals; and 1.6.7, Approved Projects. We have inserted these sections here for City review but will remove them from the final draft if the City chooses to incorporate this (or similar) language in the adoption ordinance.

subject to the requirements of this Code. Any re-application of an expired project approval shall meet the standards in effect at the time of re-application.

- B. An applicant with a complete application that has been submitted for approval, but upon which no final action has been taken prior to the effective date of this Code, may request review under this Code.

#### 1.6.6. PRELIMINARY PLAT APPROVALS

An application for which approval of a preliminary subdivision plat was granted prior to \_\_\_\_\_, [insert effective date of this Code] shall be considered as having received preliminary plat approval under this Code. Preliminary approvals granted under the previous regulations shall be valid for two years from the date of approval. Failure to obtain a final plat approval in the time shall result in the expiration of the preliminary plat. In the instance of large tracts or blocks of land contained within a recorded subdivision and intended or designed for resubdivision into smaller tracts, lots, or building sites, the resubdivision shall comply with all provisions of this Code except for those that, in the opinion of the City Council, have been satisfied prior to filing of the original subdivision plat.

#### 1.6.7. APPROVED PROJECTS

- A. Use permits, variances, architectural or design approvals, and final subdivision plats, including planned developments, any of which are valid on \_\_\_\_\_ [insert effective date of this Code], shall remain valid until their expiration date. Projects with valid approvals or permits may be carried out in accordance with the zoning and subdivision regulations in effect at the time of approval, provided that the permit or approval is valid and has not lapsed.
- B. No provision of this Code shall require any change in the plans, construction, or designated use of any structure for which a building permit has been issued prior to \_\_\_\_\_ [insert effective date of this Code], unless the building permit has expired.
- C. The Director<sup>4</sup> may renew or extend the time of a previous approval of an application that was administratively approved if the required findings or criteria for approval remain valid. Any extension granted shall not exceed one year in length, and no more than one extension may be granted. Non-administratively approved projects may be granted extensions from the reviewing body by which they were originally approved where such extension would be permissible under the zoning and subdivision regulations in effect at the time of approval. If those regulations are silent as to extensions then no extension may be granted.
- D. Any re-application for an expired project approval shall meet the standards in effect at the time of reapplication.

#### 1.6.8. TRANSITION TO NEW ZONE DISTRICTS

Upon the effective date of this Code, land that is zoned with a zoning district classification from the previous zoning regulations shall be re-classified or translated to one of the zoning district classifications set forth in this Code by separate action of the City Council. Table 1.6-

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<sup>4</sup> We have used Director here instead of Zoning Administrator to reflect the fact that subdivision applications may be included in these approvals.

1, *Zoning District Transitions*, summarizes the translation or re-classification of the zoning districts in the previous zoning regulations to the zoning districts used in this Code.

| <b>Table 1.6-1: Zoning District Transitions</b> |  |  |  |
|---|--|--|--|
| <b>Prior Zoning District</b>                    |  | <b>Zoning District as of [insert effective date]</b> |  |
| <b>Residential Districts</b>                    |  | <b>Residential Districts</b>                         |  |
| <b>A</b>  | Agricultural                                 | <b>RE</b>  | Residential Estate <sup>5</sup>          |
| -   | -  | <b>RS-20</b>   | Residential Single Family                |
| <b>E</b>  | Estate                                       | <b>RS-15</b>   | Residential Single Family                |
| <b>R</b>  | Residential                                  | <b>RS-7.2</b>  | Residential Single Family                |
| <b>R1</b>                                       | Residential                                  | <b>RS-5</b>  | Residential Single Family                |
| <b>R2</b>                                       | Residential                                  |  |  |
| <b>D</b>  | Duplex                                       | <b>RM-12</b>   | Residential Medium Density               |
| <b>TH</b>                                       | Townhouse                                    |  |  |
| <b>MF14</b>                                     | Medium Density Multi Family                  |  |  |
| <b>MF18</b>                                     | Medium Density Multi Family                  | <b>RMF-22</b>  | Residential Multi-Family                 |
| <b>MF22</b>                                     | High Density Multi Family                    |  |  |
| <b>VG</b>                                       | Village on the Green at Tierra Verde Overlay | <b>VG</b>  | Village on the Green at Tierra Verde     |
| <b>MH</b>                                       | Manufactured Housing                         | <b>MH</b>  | Manufactured Housing ( <i>obsolete</i> ) |
| <b>Non-Residential and Mixed Use Districts</b>  |  | <b>Non-Residential and Mixed Use Districts</b>       |  |
| -   | -  | <b>LO</b>  | Limited Office                           |
| <b>O</b>  | Office                                       | <b>OC</b>  | Office Commercial                        |
| <b>NS</b>                                       | Neighborhood Services                        | <b>NC</b>  | Neighborhood Commercial                  |
| <b>LS</b>                                       | Local Services                               |  |  |
| <b>CS</b>                                       | Community Services                           | <b>CC</b>  | Community Commercial                     |
| <b>F</b>  | Festival                                     |  |  |
| <b>B</b>  | Business                                     | <b>GC</b>  | General Commercial                       |
| -   | -  | <b>HC</b>  | Highway Commercial                       |
| -   | -  | <b>BP</b>  | Business Park                            |
| <b>DB</b>                                       | Downtown Business                            | <b>DB</b>  | Downtown Business                        |
| <b>LI</b>                                       | Light Industrial                             | <b>LI</b>  | Light Industrial                         |
| <b>IM</b>                                       | Industrial Manufacturing                     | <b>IM</b>  | Industrial Manufacturing                 |
| -   | -  | <b>RMU</b>   | Regional Mixed Use                       |
| <b>MU</b>                                       | Mixed Use                                    | -  | ( <i>proposed for deletion</i> )         |
| <b>Overlay and Other Districts</b>              |  | <b>Overlay Districts</b>                             |  |
| <b>AP</b>                                       | Airport Overlay                              | <b>APO</b>   | Airport Overlay                          |
| <b>BP</b>                                       | Business Park Overlay                        | -  | ( <i>proposed for deletion</i> )         |
| <b>CD</b>                                       | Conservation District Overlay                | <b>CDO</b>   | Conservation District Overlay            |
| <b>DN</b>                                       | Downtown Neighborhood Overlay                | <b>DN O</b>  | Downtown Neighborhood Overlay            |
| <b>ED</b>                                       | Entertainment District Overlay               | <b>EDO</b>   | Entertainment District Overlay           |
| <b>LCMU</b>                                     | Lamar Collins Mixed Use Overlay              | <b>LCMUO</b>   | Lamar Collins Mixed Use Overlay          |
| <b>LP</b>                                       | Landmark Preservation Overlay                | <b>LPO</b>   | Landmark Preservation Overlay            |
| <b>PD</b>                                       | Planned Development                          | <b>PD</b>  | Planned Development Overlay              |
| <b>T</b>  | Transitional Overlay District                | -  | ( <i>proposed for deletion</i> )         |
| <b>SCT</b>                                      | Special Commercial Transition                | -  | ( <i>proposed for deletion</i> )         |

<sup>5</sup> The new “RE” district includes the merger of some activities from the current “A” district

**1.6.9. MAP INTERPRETATIONS**

Questions or disputes regarding zoning designations on the City of Arlington Zoning Map resulting from adoption of this new Code shall be submitted to the Zoning Administrator for written interpretation in accordance with Section 1.6.2, *Interpretations*.

**1.7. CONFLICTING PROVISIONS**

**1.7.1. MINIMUM REQUIREMENTS**

The provisions of this Code shall be held to be minimum requirements adopted for the promotion of the public health, safety, and welfare.

**1.7.2. CONFLICT WITH OTHER PUBLIC LAWS, ORDINANCES, REGULATIONS, OR PERMITS**

This Code is intended to complement other City, state, and federal regulations that affect land use. This Code is not intended to revoke or repeal any other public law, ordinance, regulation, or permit. However, where conditions, standards, or requirements imposed by any provision of this Code are either more restrictive or less restrictive than comparable standards imposed by any other public law, ordinance, or regulation, the provisions that are more restrictive or that impose higher standards or requirements, as determined by the Zoning Administrator, shall govern.

**1.7.3. CONFLICT WITH PRIVATE AGREEMENTS**

This Code is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this Code are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement, then the requirements of this Code shall govern. Nothing in this Code shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not excuse any failure to comply with this Code. In no case shall the City be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.

**1.8. SEVERABILITY**

It is expressly declared that this Code and each section, subsection, sentence, and phrase would have been adopted regardless of whether one or more other portions of the Code is declared invalid or unconstitutional.

**1.8.1.** If any section, subsection, sentence, or phrase of this Code is held to be invalid or unconstitutional by a court of competent jurisdiction for any reason, the remaining portions of this Code shall not be affected.

**1.8.2.** If any court of competent jurisdiction invalidates the application of any provision of this Code, then such judgment shall not affect the application of that provision to any other building, structure, or use not specifically included in that judgment.

**1.8.3.** If any court of competent jurisdiction judges invalid any condition attached to the approval of an application for development, then such judgment shall not affect any other conditions or requirements attached to the same approval that are not specifically included in that judgment.