

# City of Arlington

## **Diagnosis of the Zoning Ordinance and Subdivision Regulations Annotated Outline of a new Unified Development Code**



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# INTRODUCTION

## PART 1: INTRODUCTION

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### PROJECT PURPOSE & GOALS

The City of Arlington is working with a consultant team led by Clarion Associates, and including White & Smith and Brenda McDonald, to rewrite the Arlington zoning ordinance and subdivision regulations. The zoning ordinance and subdivision regulations are regulatory tools that provide direction on how development or redevelopment will occur within the city. In theory, they should be the key instruments for implementing the sector plans and the forthcoming comprehensive plan. However, the current ordinance and regulations are outdated and are no longer adequate to deal with the type and scale of development that is desired in Arlington. A new code is needed that will act as an incentive to promote economic development and attract business and industry while also promoting quality of life and creating a healthy community.

Throughout the rewrite process, the Clarion team will be working closely with city staff, elected officials, and a citizens advisory committee charged with providing input from a variety of stakeholder groups. The Clarion team kicked off the project in January 2008 by reviewing key land use planning and regulatory documents, including the zoning ordinance and the numerous amendments passed since 2005, such as the commercial design standards and the Entertainment District overlay. Members of the consulting team met in Arlington on two different trips and interviewed city staff, elected officials, board and commission members, and a variety of other stakeholders. In addition, the team interviewed consultants and developers who work with the code in order to gain additional insight about its strengths and weaknesses. The consultants also toured Arlington with planning staff to see first-hand how code issues are translating into real-world development patterns. Finally, the consultants and staff distributed a detailed written questionnaire to key stakeholders, which resulted in valuable, additional insights.

### PROCESS OVERVIEW

Following the initial project kick-off work described above, the new Unified Development Code will be completed in the sequence described below.

- **Diagnosis/Outline (this document).** This Diagnosis/Outline provides a general overview of the current zoning ordinance and subdivision regulations and a proposed framework for a new, consolidated Unified Development Code. City staff, the advisory committee, local officials, and the general public will review this document. Based on feedback to the report, the Clarion team will then begin drafting the new Unified Development Code.
- **Initial Code Draft (Staff and Public Review Drafts).** Given the length and complexity of the new UDC, we recommend drafting the new code in three installments:

1. Administration
2. Districts and Uses
3. Development Standards

A preliminary draft will be prepared for each installment and forwarded for staff review. Following that review, a revised draft will be presented to the advisory committee and the public for input.

The city has divided the actual code drafting into two phases. Phase 1 will begin immediately following completion of this Diagnosis/Outline and will include all the code drafting tasks that the Clarion team and the city determine can be accomplished within the available budget for the first fiscal year of the project. The balance of the code drafting will be undertaken during the following year in Phase 2. Following review and discussion of this Diagnosis/Outline, the consultant team and the city will develop a summary memo that assigns all drafting tasks to either Phase 1 or Phase 2. The Phase 1 code will be adopted before the Phase 2 additional amendments are begun.

- **Final Code Draft and Adoption Process.** Following the public review of each of the three installments, a consolidated final draft will be prepared for review through the public hearing process.

## ELEMENTS OF SUCCESSFUL CODE PROJECTS

In our experience, successful code revision efforts share a number of common features. These are benchmarks that local governments and citizens can use to test their current code and to guide the drafting of revisions. These key features include:

- Citizens and code users should have opportunities for meaningful input before changes are set in stone.
- Revisions should help to implement adopted plans and be based on input from elected officials, advisory committee members, staff, developers, and citizens.
- Revisions should be based on a methodical analysis of the strengths and weaknesses of the current code and how it relates to community goals. There are no one-size-fits-all answers.
- At a minimum, revisions should result in a code that includes:
  - A logical organization and user-friendly formatting;
  - Substantive review standards that are clear, consistent, and illustrated where appropriate;
  - Legally-defensible standards and processes; and
  - Enforcement and administrative provisions that are realistic, based on available local resources and staff.

# KEY THEMES

## PART 2: KEY THEMES FOR IMPROVEMENT

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This project represents the first comprehensive update of the Arlington land use regulations in several decades. Several major themes and goals for the project emerged from the team's interviews and review of Arlington's existing plans and development approvals. While these themes often overlap, we have organized them into six general areas/topics for discussion purposes. This section provides an overview of these "key themes." The themes guide the more detailed analysis of current ordinance provisions located in Part 3 of this document.

### **SUMMARY OF KEY THEMES**

- 1. Improve the Code's Organization and User-Friendliness**
- 2. Reduce Reliance on Planned Developments**
- 3. Provide an Updated List of Zoning Districts**
- 4. Modernize the Land Use Classification System**
- 5. Raise the Bar for Development Quality**
- 6. Streamline the Review and Approval Procedures**

## 1

**IMPROVE THE CODE'S ORGANIZATION AND USER-FRIENDLINESS**

The most commonly mentioned concern in our interviews was the poor organization and format of the current regulations. Examples of the numerous specific problems cited include a lack of illustrations, too few cross-references, and inconsistent language between chapters. Arlington's regulations are especially challenging to understand because not only is the zoning ordinance itself poorly organized, but an extensive set of amendments dating back to 2005 is maintained separately and has not been integrated into the official ordinance. Planners with many years of experience expressed frustration that they still do not fully grasp certain nuances in the ordinance due to its poor organization and lack of clarity (though the new One-Start Center has helped in explaining code requirements to the public). One long-time staff member said that they had been with the city for 20 years, but "gave up trying to learn the ordinance 19 years ago." Though interviewees all pointed to their own particular frustrations, the consensus view generally is that a substantial reformat, reorganization, and rewrite of the Arlington zoning and subdivision regulations are necessary.

**KEY RECOMMENDATIONS**

- **Consolidate the Regulations into a Unified Development Code**
- **Add Illustrations, Tables, and Flowcharts**
- **Use Clear Language and Well-Defined Terms**

**CONSOLIDATE THE REGULATIONS INTO A UNIFIED DEVELOPMENT CODE (UDC)**

This project is focused on the rewrite of three separate documents: the zoning ordinance, a separate set of zoning amendments adopted since 2005 that have not yet been integrated into the zoning ordinance, and the subdivision regulations. While one option is to prepare two new separate ordinances – one for zoning and one for subdivision – we recommend instead that the city consolidate the zoning and subdivision materials into a new Unified Development Code (UDC). This is the approach taken in a number of Texas communities, such as San Antonio, as well as hundreds of communities around the country. A unified approach is simpler for the code user to understand and easier for the city to administer. It also typically results in a shorter document overall, since repetition can be avoided (for example, terms used in both ordinances can be defined once, rather than twice).

Beyond the overall consolidation of zoning and subdivision ordinances, numerous other organizational improvements should be pursued. In general, the goal of the new organization will be to place frequently used information where it can be easily referenced, and to remove some of the current repetition by consolidating related information. A new, more logical organization should help ensure that code users can quickly find the information they need -- particularly those who do not use the code on a frequent and regular basis. In addition, an improved organization will make it easier to

see the overlaps between related sections and should make future amendments easier and more consistent. (The Denton, Texas, code was cited as one model of good code organization.)

The current zoning ordinance starts with the introductory and administrative provisions, including definitions, decision-making bodies, and procedures. The ordinance then groups the zone district regulations into three articles – residential, non-residential, and special purpose and overlay districts. Next are articles that address development and dimensional standards, use regulations, and nonconforming regulations. The subdivision regulations follow a similar organization, with introductory provisions (including definitions and procedures) up front, followed by street and right-of-way requirements and subdivision standards (e.g., drainage and standards for parks).

Both documents follow a fairly straightforward approach, but the following changes would improve the organization in a new unified code:

- Consolidate all definitions (which currently are scattered) and relocate them to a new definitions article at the end of the UDC. Most code users expect to find definitions at the end of the document, not the beginning.
- Consolidate the zoning and subdivision review procedures and relocate them to the back of the UDC. Develop a set of common procedures that apply universally and do not need to be listed more than once (for example – the contents of required notices). We recommend that certain details of the procedures (such as submittal requirements and timelines for review) not be included in the code itself, but rather be relocated to a separate user's guide where they can be updated without a formal code amendment.
- Carry forward the current zoning district grouping approach, but relocate all the use standards to a single chapter. This includes standards embedded in all the lists of uses within Article VI of the current zoning ordinance. The current ordinance has use-specific standards dispersed throughout the document, which has led to confusion and inconsistency as the document is updated over time. There also is significant repetition in the current ordinance (such as the multi-family standards that are repeated verbatim numerous times).
- Consolidate the standards dealing with accessory and temporary uses in the new article containing the use-specific standards.
- Combine all development standards in one article. This should include any existing standards that are carried forward (e.g., residential adjacency, landscaping and screening, and parking), as well as any new development standards introduced in this code rewrite.
- Carry forward all language from the subdivision regulations (excluding procedures) into one article within the UDC. The existing structure of the subdivision regulations will remain intact, with procedural requirements moved to the new administration chapter. Where design and development standards could be applicable to either subdivision or site planning of an existing platted lot, such standards will be relocated to the development standards chapter, with a cross-



reference in the new subdivision article. In addition, this article will require that subdivision plats comply with the development standards of the zone district in which they are located. Plat standards will be reviewed to ensure compliance with Texas law.

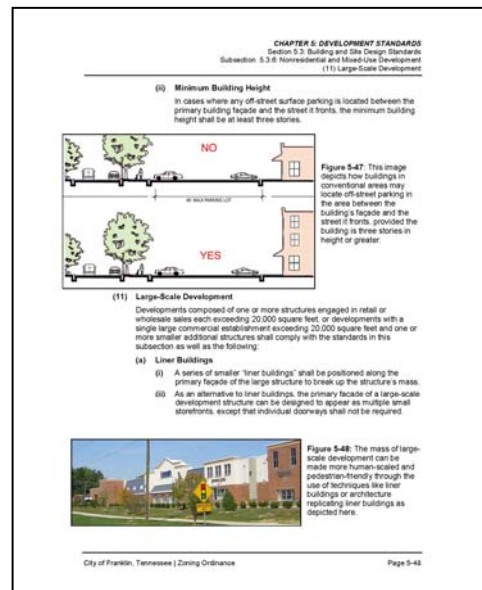
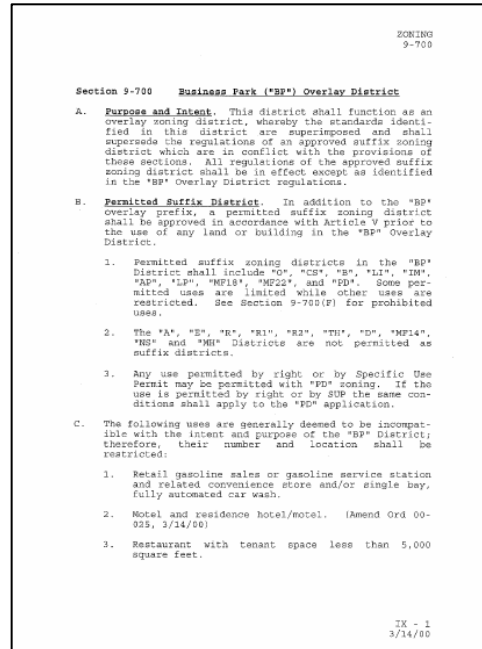
- Better cross-referencing is needed when an exemption in one part of the code affects the applicability of another section. (An example from the current code is that the residential adjacency standards should be cross-referenced in the landscaping section.)
- Ultimately, a better computerization of the UDC is envisioned as a key tool for explaining city requirements to the public, as well as linkages between the UDC and other city plans and regulations. (The computerization of the new UDC by the Visual Interactive Communications Group is planned as part of phase II of the code update project.)

A proposed *Annotated Outline* of the new UDC is contained in Part 4 of this report.

## ADD ILLUSTRATIONS, TABLES, AND FLOWCHARTS

Illustrations, flowcharts, and tables should be used much more frequently throughout the new UDC to explain standards and to summarize detailed information. There are some examples of this in the current ordinance (particularly the more recent amendments) but there is room for substantial improvement.

Another way to improve the overall appearance of the UDC and make key information more prominent will be to employ a variety of page formatting techniques, such as those illustrated in the example to the right, which can more quickly alert the reader as to where they are in the document. More extensive use of headers and footers, section headings, and also a more creative use of font types and sizes, all may be used to illustrate the hierarchy of topics in the UDC. More extensive use of cross-references also

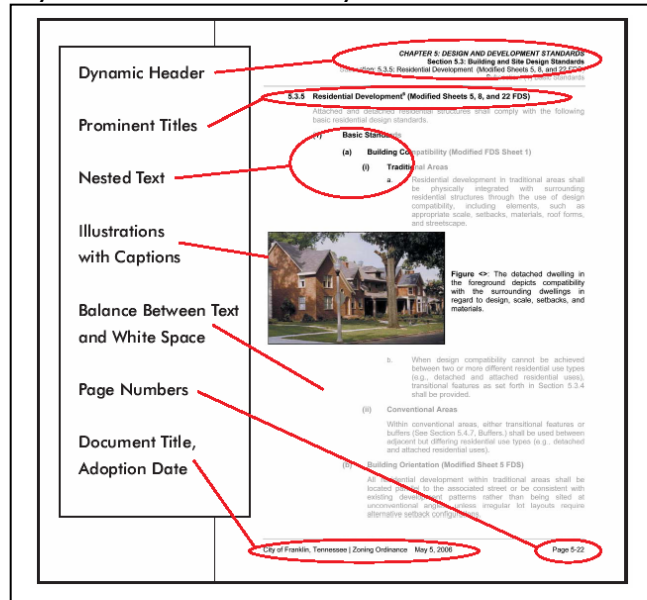


*Excerpt from current zoning ordinance (top) versus a code with improved formatting (bottom).*

would be helpful to identify interrelationships (though we note that often code users find too many cross-references make a document overly cumbersome).

Another way to reduce the overall bulk of the ordinance is to present key information more succinctly through the use of summary tables. There currently are some useful tables in the ordinance but more would be helpful. The table of decision-making for land use applications (Sec. 5-800 in the zoning ordinance), for example, is a helpful tool illustrating steps in the land use application process, but it will be cleaned up and made more user-friendly. Such tables can be immensely helpful in avoiding repetition and thereby reducing the document's overall bulk.

In addition to revamping the structure and formatting of the current zoning ordinance and subdivision regulations, and including more graphics and illustrations, we will include a simple index that will provide quick access to key terms. We also recommend that all submittal requirements (e.g., the lengthy lists of submittal requirements for landscape plans in Section 14-200) be removed from the ordinance, and instead be set forth in individual handouts or a separate “user’s guide” that could be updated without amending the actual ordinance.



## USE CLEAR LANGUAGE AND WELL-DEFINED TERMS

Finally, during the revision process we will review all proposed text and look for opportunities to provide greater clarity, including removal of “legalese,” “plannerese,” and jargon in favor of plain language. Currently, for example, many code users have a hard time understanding the Arlington code’s sections pertaining to the measurement of height. We will strive to ensure that everyone can understand the UDC’s language, from the individual landowner looking to expand his house to the professional planning a major new subdivision. We will work with staff to track down all interpretations of existing language and reference those as appropriate in the new code.

A key element of improving the language will be more clearly defining key terms and uses throughout the UDC. Definitions will be modified to address new uses and existing definitions will be reviewed to assure they are appropriate, used consistently, and avoid conflict with other documents, such as the Building Code. Any regulatory standards embedded in the definitions should be relocated into the main body of the UDC.

## 2

**REDUCE RELIANCE ON PLANNED DEVELOPMENTS**

Beyond improving the code's organization and format, the most frequently mentioned substantive concern with the Arlington code is the perceived over-reliance on planned developments (PD's). Section 9-300 of the zoning ordinance allows for rezonings to the PD special purpose district, which allows applicants to negotiate deviations from otherwise applicable code standards. We understand that many projects (42 in 2007), ranging from very large to very small, use this process as a way to get around strict code compliance.

**KEY RECOMMENDATIONS**

- **Improve the Code Generally to Reduce the Need for Negotiated Approvals**
- **Revise the PD Approval Process**

From the private sector's perspective, the PD process has been valuable in allowing new developments to be approved with flexible standards. Many officials also acknowledge that the PD process has encouraged innovation and creativity, and has allowed for the development of larger, master-planned projects like Glorypark and Viridian that would have been difficult under the base zoning districts.

However, numerous officials, community members, and staff said that Arlington's continuing emphasis on negotiated, case-by-case PD approvals does not necessarily result in better quality and demonstrates the inability of the current regulations to accommodate desired projects. We heard a variety of specific concerns. For example:

- The use lists in some of the existing districts (especially CS and NS) are considered too broad, and so PDs are used to limit the uses allowed in those districts for certain projects.
- Because no districts allow certain development scenarios (such as conversion of residential dwellings into offices along major roadways), PDs are used to allow such conversions.
- PDs are sometimes used instead of variances, when an applicant wants to modify a standard but can't demonstrate a hardship. (We understand that the ZBA has a light case load, in part because variance requests often get processed as PDs.)
- PDs also are used to allow minor adjustments to certain standards such as setbacks (whereas many communities allow these minor adjustments to be approved administratively).
- We understand that the PD process often is used to allow property owners to circumvent overlay district requirements.

Arlington's experience is not unusual. Procedures for individual master planned developments (sometimes called "planned area developments," or "planned unit developments," or "PUDs" in other communities) were enacted throughout the country

beginning in the 1960s as a way to give developers more flexibility to design innovative projects or master-planned communities. The underlying concept is that if the private sector is given greater leeway and flexibility to design a project and mix uses, communities will benefit from more creative development and from a higher level of amenities, such as open space, than would otherwise be required.



The theory is sound, yet today officials and citizens in Arlington (and elsewhere) often encounter significant practical shortcomings once they are operating outside of standard zoning district requirements and development regulations. In general, developers find that the negotiation inherent in creating a PD causes a loss of predictability, which can add to longer approval times and higher carrying costs. They cannot anticipate how ordinance provisions will be applied and are forced to negotiate every aspect of the development anew. Similarly, neighbors cannot rely on existing zoning to protect them and have little certainty about what might pop up on the vacant field next door. City staff must also devote substantial time not only negotiating the PD up front, but in trying to administer what amounts to a mini-development code once it is adopted, making enforcement and compliance extremely difficult.

Also, as noted above, one of the original rationales for allowing developers to use PDs was the promise that such developments would offer significant community benefits such as additional open space, community centers, higher quality building materials, and other amenities and upgrades. However, in Arlington the community benefits that are provided by PDs beyond those already required in the zoning ordinance and subdivision regulations appear to be uneven at best.

The following are recommended new steps to reduce the perceived over-reliance on the PD process.

### **IMPROVE THE CODE GENERALLY TO REDUCE THE NEED FOR NEGOTIATED APPROVALS**

**Districts.** The most important way to minimize the future use of negotiated PD approvals in Arlington – particularly for small and medium-sized projects – is to rewrite the ordinance to not only accommodate, but also to encourage, innovative and creative projects that respond to the comprehensive and sector plans, rather than restricting or prohibiting such projects. In particular, updating and modernizing the current lineup of zone districts as discussed later in “Provide an Updated List of Zoning Districts” can help accommodate more straightforward ordinance-based development. For example, by creating mixed-use zone districts that would allow a mix of residential and commercial development by right, developers would be less likely need to utilize the PD process to combine such uses. Similarly, creating a true neighborhood commercial district should

eliminate, or at least minimize, the need to always fine-tune the CS, LS, or NS district for particular sites.

**Procedures.** In terms of procedures, a new authorization for the Community Development and Planning Director to approve minor adjustments to certain standards like setbacks, subject to objective limits, would also minimize the need to use the PD to tailor code requirements to specific projects. The code should clearly define the parameters of this authority to avoid an unlawful delegation of legislative authority.

**Development Standards.** In addition, the community must clearly articulate the level of quality that it expects to see in all new development, rather than negotiating over quality issues as part of each PD application. The city should provide clear and objective standards in the new UDC that anticipate the issues and concerns that Arlington is currently negotiating on a case-by-case basis, such as landscaping, buffering, neighborhood protection, and building materials. These issues are discussed further below under “Raise the Bar for Development Quality.”



The new, codified standards will be less vulnerable to legal challenges than ad hoc, case-by-case requirements. Developers proposing PDs should not have free reign to write their own development standards. Instead, the ordinance should specify that the general development standards in the ordinance are baseline standards that apply to each PD unless specific alternatives are approved through the PD process. This is already done to an extent in the current code through provisions that require signage and parking to be subject to code standards, but the code also allows certain key standards (like open space and design) to be varied in the PD process (Section 9-300.E).

## REVISE THE PD APPROVAL PROCESS

Even though the new UDC will be designed to lessen the frequency of PD applications, there still will be a need for a PD process for those unusual or very large projects or infill development projects that need to be processed outside of the base zoning districts and procedures. To accommodate such projects, the PD procedure (which is contained in Section 9-300 of the current ordinance) should be revised and carried forward. We propose a number of changes to improve the PD process to address some issues heard in our interviews:

- The new PD procedure should be located in the new administration chapter, along with other types of procedures. It should be identified as a particular type of rezoning, and subject to the general rezoning criteria, in addition to any PD-specific approval criteria developed during this code update. The new general

procedures discussed later in this Diagnosis (such as a requirement that an application be “complete” before it is processed) should apply to the PD procedure.

- There currently are no approval criteria for PDs. There are performance measures and design guidelines for PDs, but they do not take the form of criteria used to directly evaluate each proposal. New approval criteria are necessary. We will suggest new criteria that have proven effective in other communities for planned developments.
- The code should state that PDs are required to provide benefits to the community, in exchange for the opportunity of gaining approval outside of the base zoning districts and procedures. A list of types of community benefits should be included in the approval criteria—for example, a minimum amount of common open space, or higher quality design than would otherwise be required.
- PDs should be reserved for unusual, large, or exemplary projects as originally intended. This can be accomplished in part through a minimum size requirement – a typical threshold is 5-10 acres. In addition, PDs should be specifically authorized for infill and redevelopment projects where physical limitations because of the already-built environment are a factor. The code should prohibit the PD process from being used when the variance or administrative adjustment procedures could handle the situation.
- We should develop more objective triggers for concept briefs versus final development plans – the current text appears to make the choice entirely optional for many projects. One interviewee stated that larger and/or more complex projects should be required to prepare a final development plan, rather than a much simpler concept brief that may not provide sufficient information to allow a full evaluation of the project.



### 3 PROVIDE AN UPDATED LIST OF ZONING DISTRICTS

This project also involves a review of the Arlington zoning districts to determine whether they can be improved or streamlined in any way, such as by introducing new districts and consolidating or eliminating others.

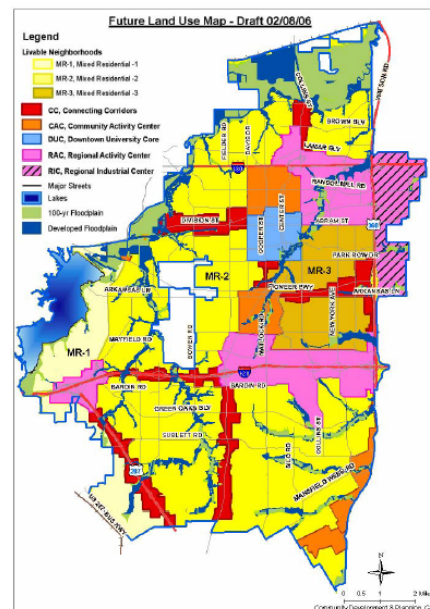
The zoning districts in any community should accommodate a wide range of housing types, commercial and industrial businesses, institutional uses, and recreation opportunities. Generally, we heard in our interviews that the overall lineup of districts in Arlington is sufficient, though a few targeted concerns were mentioned frequently. Some of the most commonly addressed issues include:

- Mixed-use development is difficult in Arlington, since few of the existing zoning districts allow a mix of uses by right;
- A residential district is needed that has a larger minimum lot size than that in the current Estate Residential district;
- There is no true neighborhood commercial district (the existing commercial districts, particularly CS, LS, and NS, allow too broad a range of uses to serve this function); and
- The relationship of the overlay districts and special purpose districts to the rest of the code is often ambiguous.

This section makes recommendations that specifically involve the Arlington zoning districts. (Many comments from the interviewees addressed issues that indirectly involve the districts, but really deal with other topics covered elsewhere in this report – for example, the lack of adequate development standards in the residential districts.)

#### KEY RECOMMENDATIONS

- **Create New Mixed-Use Districts**
- **Rethink the Residential Districts**
- **Expand the Range of Commercial and Industrial Districts**
- **Rein in the Special Purpose and Overlay Districts**



## CREATE NEW MIXED-USE DISTRICTS

Increasingly around the country, communities of all sizes are embracing mixed-use development, which can be defined in a variety of ways, including:

- The vertical mixing of uses within a single building (typically, retail businesses on the first floor with residential units or offices above); or
- The horizontal mixing of residential and nonresidential uses in separate buildings within the same planned development center; or
- Simply allowing a mix of uses in a predominantly single-use area – such as by allowing a corner store in a neighborhood, or apartment buildings in predominantly commercial areas.



*Example of mixed use development from another community (Legacy Town Center, Plano, TX)*

In the past, typical zoning ordinances have segregated uses by district, and so developers have had to jump through multiple hoops to gain approval to mix uses within a single project, such as obtaining variances, waivers, and/or planned development approval. Today, however, communities recognize that mixed-use development can be a key tool for reducing sprawl and promoting sustainability, concentrating development in strategic locations where it can be serviced most efficiently, and providing a variety of housing and business opportunities. Increasingly, communities are establishing one or more zoning districts that encourage and/or allow mixed-use development by right. Nationwide, the focus has turned to encouraging and incentivizing mixed-use development, rather than discouraging it through cumbersome procedures.

There are two mixed-use districts currently on the books in Arlington – the Mixed Use district adopted in 2005 as part of the Downtown ordinance amendments, and the Lamar Collins Mixed Use overlay district adopted in 2006. Neither of these districts has been integrated into the hard-copy zoning ordinance, and so understanding their relationship to the existing districts is challenging. While the intent of these districts appears to be to encourage mixed-use development, they are applicable only to specific areas of the community. According to staff, the MU district functions as an overlay that permits mixed use buildings by right in the DB and DN districts, subject to certain use and design standards. It was intended to be applicable to more areas than just DB and DN, but when the ordinance was adopted, the applicability section was limited. The Lamar Collins overlay is only applicable to a defined area in north Arlington. Any mixed-use development outside of these areas must go through a PD process.



We recommend that a modest series of new mixed-use districts that are appropriate for areas of varied scale and intensity be established in the new Arlington code. Adding mixed-use zoning districts will further the goal of reducing the current heavy reliance on PD's, as well as provide more options for the private sector to introduce more creative and innovative developments. By providing a common "tool box" for mixed-use development, future specific area and/or corridor plans, as well as individual new developments, will be able to address mixed-use concepts in a more consistent manner.

Specifically, and for discussion purposes, we propose creating the three new districts below.

- *Neighborhood Mixed-Use*: A small-scale mixed-use district intended to allow limited neighborhood-serving commercial uses in predominantly residential areas, in order to meet residents' needs for common errands in order to reduce vehicle miles traveled. Such districts often have a maximum allowed size (such as five acres), are used along major thoroughfares within residential neighborhoods, or are designated at the intersection of major streets.
- *Community Mixed-Use*: This district would be larger than the neighborhood mixed-use district and would be primarily commercial in nature, with higher-density residential uses also allowed. The general size range for such districts typically is five to 15 acres.
- *Regional Mixed-Use*: A higher-intensity mixed-use district for major activity centers, such as a regional shopping complex, with offices and higher-density residential uses also allowed. The general size of such districts is typically 15 or more acres.

Generally, we do not recommend a fine-grained approach to regulating the allowed uses within these districts. Instead, the focus should be on establishing the appropriate general scale and intensity for each district, with use-specific standards used in limited fashion as necessary to handle any potential conflicts between incompatible uses (for example, between intensive commercial uses, like bars and restaurants, and adjacent dwellings).

A key question to be addressed for any mixed-use district is whether a mix of uses should be required, encouraged through incentives, or purely optional. We typically recommend that the zoning code not mandate a specific mix, and that instead market forces be allowed to determine the demand for the uses in any particular area or development.

In addition to establishing new districts solely focused on mixed use, it also may be possible to implement mixed use through targeted modifications to the existing districts. For example, some neighborhood-serving commercial and office uses could be allowed by right in some of the existing higher-density residential districts (such as MF22), perhaps subject to a maximum size cap (e.g., 5,000 square feet per business) to ensure that the districts retain a predominantly residential character. The city could also consider locational criteria, such as adjacency to commercial zones or major thoroughfares, for allowing the mixing of uses on individual properties.

## RETHINK THE RESIDENTIAL DISTRICTS

The current lineup of nine residential zone districts in Arlington follows a fairly typical approach, ranging from lower density (E) to medium density (R2) up to high-density multi-family (MF22). We heard several concerns with the lineup of residential zone district:

- There is not a true estate district, since the current estate district has a minimum lot size of 10,000 square feet (which is relatively small for a true estate district).
- A residential office district is needed, primarily to allow for the conversion of dwellings into offices along major roadways, such as Abram Street and Center Street.
- The code generally should do a better job of describing and allowing a wider variety of housing types, particularly in the medium and higher density residential districts.

Some officials also asked us generally to reevaluate the standards in all the residential districts. We will evaluate the minimum lot sizes and other dimensional standards applicable to all of the existing residential districts and suggest modifications during the drafting process if appropriate. Because we also heard that there may be too many residential districts, we will not simply suggest new districts, but will look for opportunities to consolidate some of the existing very similar districts where possible.

Most comments dealing with the residential districts dealt with the need for stronger residential design controls – a topic addressed later in this report.



*Examples of typical residential development in Arlington.*

## EXPAND THE RANGE OF COMMERCIAL AND INDUSTRIAL DISTRICTS

The number of nonresidential zone districts in Arlington is fairly small for a city of close to 400,000 people. One or more new districts may be necessary to accommodate the wide array of commercial and industrial activity frequently seen in a large city – ranging from neighborhood services, to corridor and highway commercial, to major activity centers, to business parks, to heavy industrial operations. As with the residential districts, we will evaluate the current lineup of nonresidential districts and suggest new districts and

consolidation and/or elimination of some districts during the drafting process. We also will draft new purpose statements for all districts to clarify each district's intent (and this will help in the evaluation of uses allowed in each district). The new mixed-use districts discussed above also will accommodate a wider range of commercial activity.

We heard frequently of the need for a true neighborhood-serving commercial district. The lists of allowed uses in the existing NS, LS, and CS districts are too broad, leading to frequent requests for PD's to narrow the use lists in those districts. As one interviewee put it, the city needs "a district where there are commercial uses allowed that someone might actually want to live next to." (The uses in the NS, LS, and CS districts will be evaluated. See discussion on uses later in this report.)



*Arlington Highlands.*

The current industrial districts appear to allow a mix of both commercial and industrial uses, which may pose a concern for the city's industrial land supply. Generally, with manufacturing on the decline in the U.S., many communities are experiencing a great deal of encroachment of commercial uses into industrial areas, which can lead to user conflicts (i.e., incompatible customer and distribution traffic), non-viability of industrial employment uses (i.e., conflicts or rents that drive industry to other sites), and unacceptable risks from assembly of people near hazards (i.e., a day care center next to a processing facility that stores toxic materials). Many communities are taking a more restrictive approach to commercial development in industrial areas in order to protect their industrial employment base in key areas. We recommend that the city consider revisions to the list of uses allowed within the industrial districts to protect the industrial nature within these districts. We can make specific recommendations on allowed uses during the drafting process.

## **REIN IN THE SPECIAL PURPOSE AND OVERLAY DISTRICTS**

Arlington has 14 special purpose and overlay districts, which is a large number for any size community. The intent of a special purpose or overlay district is to enact supplemental regulations applicable to a specific geographic area – typically because the area has unique characteristics that exist (or are desired) and the underlying development standards may not be appropriate. For example, the city has adopted special purpose districts for the Lamar Collins neighborhood and the Entertainment districts, each of which has land use issues that are unique in the city. Arlington also has frequently turned to the overlay tool due to the inadequacies of the base zoning regulations, as we understand was done for Tierra Verde.

While we heard a variety of specific comments on the special purpose and overlay districts (all of which are addressed later in the article-by-article analysis), a number of overall themes stand out:

- The overall number and complexity of the special purpose and overlay districts has made the code unwieldy and confusing. The districts should be streamlined as much as possible, in part by eliminating obsolete districts that are no longer needed, such as the transitional overlay (T) and the special commercial transition (SCT). (It may also be possible to eliminate the existing manufactured home (MH) district, but the city must provide some location and/or mechanism for locating HUD-code manufactured homes.)
- The applicability of each of the special purpose and overlay districts should be clarified. This is particularly important for the Downtown Neighborhood Overlay (DN) and the Mixed Use (MU) districts. The code should clearly distinguish between special purpose districts (which are base districts) and overlay districts (which supplement, but do not replace, the base districts).
- The special purpose and overlay districts have been a “proving ground” for many new development and design standards. Now, the special purpose/overlay districts can be streamlined by removing some of the distinctive district-specific standards that could be applicable city-wide. For example, the Entertainment District has a thoughtful set of “private realm development standards,” which should be considered as models for some of the new mixed-use base districts.
- Evaluate the Business Park (BP) overlay district to reduce its length and perhaps reclassify it as a base zone district. We heard several comments that this overlay essentially functions as a base district.

# 4

## MODERNIZE THE LAND USE CLASSIFICATION SYSTEM

A key feature of any zoning ordinance is the set of uses that are allowed within the zoning districts.

The term “use” refers to the way a parcel or building is utilized. Land use classification systems are a systematic organization of land uses that are allocated between the zoning districts.

A number of interviewees requested a complete review of the uses allowed in all the Arlington districts. Planning staff members, in particular, are frustrated with use lists they view as poorly organized and in need of frequent amendment (“wedding chapel” was one recent addition). This section discusses ways of improving how uses are categorized and treated in the new Arlington UDC.

### KEY RECOMMENDATIONS

- **Develop a Single Master Table of Allowed Uses**
- **Improve the Use Classification System**
- **Distribute Uses Appropriately Between Districts**
- **Introduce More Use-Specific Standards**

### DEVELOP A SINGLE MASTER TABLE OF ALLOWED USES

In Arlington, permitted uses are currently listed in the zoning district regulations in Articles VII, VIII, and IX of the Zoning Ordinance. The Zoning Ordinance also includes a separate table of uses in Article X, raising the potential for inconsistencies. Because both listings are codified, inconsistencies must be resolved through zoning amendments. We recommend consolidating the information so that there are no narrative use lists and the new UDC simply has one table of permitted uses. This will minimize the need to repeat the same uses within separate district regulations, thereby reducing ordinance length. It also allows readers to easily compare where a particular use is permitted across various districts.

### IMPROVE THE USE CLASSIFICATION SYSTEM

We also recommend improving the organization of the uses. While the Arlington code does arrange the current use lists into general categories (e.g., “agricultural/animal related uses”), there is room for improvement. Generally speaking, land use classification systems should focus on several objectives: usability, enforceability, and consistency with local land use policies.

First, the list of uses must be **clear and understandable**. This involves several issues:

- The terminology must be clear and as free as possible from interpretation. This makes the list of permitted uses easier for both the zoning administrator and applicants to understand. Clear terminology and definitions minimize the amount of time needed for zoning staff to prepare interpretations and avoids arguments with applicants. In addition, a clear use matrix tells applicants what the rules of the game are before they approach the zoning administrator.

- The uses must be organized well. This requires that uses be placed under categories where people expect to find them. The list of uses should be organized clearly, and in a way that is consistent with professional practice. If uses are not organized well, staff and applicant time is lost in attempting to locate the use in the matrix. In addition, the likelihood of uses being classified differently in several places creates the potential for inconsistencies and vagueness.

For the new Arlington UDC, we recommend categorizing individual “use types” within larger categories and subcategories. For example, the category of “residential uses” could include a subcategory of “group living,” which could include specific use types such as “group home” and “senior living.” This is a more systematic and logical way to organize permitted uses than the code’s current system. Standards in the code can simply refer to a category of uses and, by definition, include all of the uses within that category rather than listing them individually.



- Uses should be clearly defined. If uses are not clearly defined, zoning staff is called upon to interpret the ordinance. If the applicant disagrees with the interpretation, the Zoning Board of Adjustment or the courts could be called upon to interpret the ordinance. Because ambiguities in zoning regulations favor the property owner, the result could be an interpretation that undermines the integrity of the local government’s zoning scheme. Further, from the applicant's perspective, unnecessary delay is incurred in the development approval process.

Second, the list of permitted uses should be as **complete** as possible. While this makes the list of permitted uses longer, it also minimizes the need for formal interpretations, and potentially minimizes litigation. Under most zoning systems, omitting uses means either that the use is not permitted, or that it fits within a broader use category. This creates the need for staff and administrative agencies such as the board of adjustment to render a formal interpretation. If the applicant or surrounding neighborhoods disagree with this interpretation, the result could be litigation.

This does not mean that every particular use must be enumerated in the list of permitted uses. However, all potential uses should be covered to the extent possible. For example, a general use category for retail sales will encompass a number of potential sales establishments, including those not in existence today. Of course, it is not possible to contemplate every use that will become the subject of a zoning application.

Third, the list of permitted uses should be **consistent** with the city's adopted plans, and also any applicable state and federal laws. For example, constitutional law, federal legislation, and sometimes state legislation require that adult uses, cell towers, churches, and similar uses be permitted somewhere in nearly all jurisdictions. Failing to recognize these uses in the list of permitted uses or elsewhere in the zoning ordinance could result in their exclusion from the community, or the failure to accommodate these uses in a sufficient number of locations. The result may be an unwinnable lawsuit, along with potential litigation expenses, damages, and attorney's fees.

In suggesting a new organizational framework for land uses in the Arlington UDC, we will draw on classification systems that have been developed for other communities around the country. For example, the American Planning Association and its partners have developed a comprehensive approach to classifying land uses based on their characteristics, known as the Land-Based Classification Standards (LBCS). The model provides for the classification of land uses based on five different characteristics - activities, functions, building types, site development character, and ownership constraints - each with its own set of categories and subcategories.

### **DISTRIBUTE USES APPROPRIATELY BETWEEN DISTRICTS**

One of the most difficult, but important, tasks in updating the Arlington zoning ordinance will be developing an appropriate list of land uses within each district. As Arlington has seen repeatedly in recent years, too many or too few uses in a district encourages the use of a PD or some other type of negotiated approval. In Arlington, many PDs include lists of prohibited uses, such as pawn shops, gun stores, and tattoo parlors. This can lead to a proliferation of projects with their own, unique lists of uses. This complicates administration and enforcement of the ordinance over time.

Our rewrite of the Arlington code will include a reevaluation of the uses list in each district – both the existing districts that are carried forward and also the new districts. We already heard several community members object to the breadth of uses within the various districts. For example, the CS and NS districts formerly included uses ranging from 6-bay gasoline stations, teen clubs, and offices. While the CS district was designed to serve community and regional retail, service, and office uses along major intersections and corridors, the perception is that it has allowed a proliferation of single uses (principally gas stations) that occupy street corners. This issue has been somewhat addressed by Ordinance No. 06-076, which established the LS District and provided a more distinctive separation of uses between the city's commercial zoning districts (though some feel that the LS district allows too broad a range of uses). This approach could be carried forward to other districts in order to strengthen the distinction between various districts.

A perception that too many uses are lumped into residential areas also has led to increases in PD applications. It also led to the creation of a new commercial district ("LS" Local Service) that was not as restrictive as NS or as permissive as CS. This was an acceptable resolution for many property owners and residents. However, this failure to

properly distribute or condition uses could lead to a proliferation of districts that are designed to accomplish a limited purpose.

Every community has controversial uses. In Arlington, we heard that adult businesses, tattoo parlors, massage parlors, cell towers, convenience stores, and multi-family development have all led to neighborhood zoning controversies. All of these uses must be accommodated somewhere in the zoning districts. Some uses, such as adult uses and cell towers, are protected by state and federal constitutional laws and court decisions to which the zoning regulations must conform. Uses without special legal protections could be assigned to more intensive zoning districts. For example, the city could create a heavy commercial district that accommodates specialized commercial uses such as tattoo parlors, without permitting them by right. This would require the city's most discretionary permitting process - a rezoning - in order to establish the use.

### **INTRODUCE MORE USE-SPECIFIC STANDARDS**

We also recommend introducing a broader range of use-specific standards in order to mitigate the impacts of certain uses regardless of the underlying zoning district. The current Arlington ordinance already includes many of these standards scattered throughout the zoning district use lists in Articles VII, VIII, and IX, addressing uses such as bed and breakfasts and multi-family housing. We recommend adding new use-specific standards for other common uses that are currently being addressed through conditions in the development approval process, such as day care centers and wireless towers. The benefit of this approach is that it allows the use to be permitted, subject to conformance with the standards, rather than requiring discretionary review. By making more uses permitted, but ensuring compatibility with surrounding areas and mitigating impacts through new objective standards, the development review process can be streamlined and made more predictable.



# 5 RAISE THE BAR FOR DEVELOPMENT QUALITY

While Arlington welcomes new development, citizens stressed their desire for high-quality projects that will enhance the character of the community. The current code has very minimal standards regarding development quality, apart from the most recent special purpose and overlay districts. The new code should raise the bar with respect to development quality by setting objective minimum standards for the entire community, yet not make code-based development cost-prohibitive. Standards should address both site design—how buildings relate to their site and surrounding development—and building design.

## KEY RECOMMENDATIONS

- **Draft Generally Applicable Nonresidential Standards**
- **Draft New Residential Design Standards**
- **Incorporate Sustainability Principles**

Our approach to development and design standards is based on two important assumptions:

- Objective standards that address key elements of building and site design offer a win-win opportunity for both the community and the property developer. Clearly stating the city's standards up-front can save time and money for both the city and the owner, as the need for lengthy negotiation on those items is removed.
- The objective standards must incorporate enough flexibility to address unique sites and circumstances and to encourage innovation and creative design.

Generally, for all types of development and design standards, it is important to achieve a balance between ensuring objectivity and allowing for the flexibility needed to meet unusual circumstances and encourage creativity. To strike this balance, we recommend using menus of alternatives where possible and allowing the property owner options in how compliance with the standards is achieved, rather than prescribing a one-size-fits-all approach. In addition, we recommend instituting an “alternative equivalent compliance” provision that allows the Community Development and Planning Director to approve alternative approaches that meet or exceed the intent of the standards, if not necessarily the letter of those standards. A third approach to provide additional flexibility might be to provide varying standards in older parts of the city where infill and redevelopment are encouraged.

In addition to following this general approach to regulating development quality, we have identified several substantive areas where revisions or additions to current standards are recommended.

## **DRAFT GENERALLY APPLICABLE NONRESIDENTIAL DESIGN STANDARDS**

The current Arlington regulations include some thoughtful design standards for nonresidential development that were developed as part of the recent special purpose and overlay district amendments, particularly the Entertainment District and Downtown, and also Ordinance 07-012, which included some standards that apply to certain zoning districts and limited-size buildings. While an area-based approach has been appropriate in the past, many officials now have asked that the new code take a fresh look at design standards, focusing more on establishing a unified set of standards for the entire city, with less reliance on area-based or development-based standards, with the goal of bringing greater consistency and effectiveness to the city's design regulation efforts. These new consolidated standards would apply regardless of base district or location.

We suggest that these consolidated standards be structured to address a wide variety of common design aspects like building orientation, building placement, primary facade treatment, massing, materials, roof form, and surface parking location. In some cases, these new standards would not need to be developed from scratch, but rather simply build on and incorporate the city's current array of design standards from the special purpose and overlay districts.

In addition to these new standards, the UDC should ensure that infill and redevelopment projects respect local character and are compatible with existing development. One of the best approaches in this regard is the development of new context-based design standards for infill development. Such standards would promote consistency and compatibility between new infill development or redevelopment and its surroundings through the use of average front setbacks, context-based maximum building heights, the use of architectural transitions between existing structures and new larger adjacent structures, requirements for unifying design or architectural themes that repeat or replicate design features on established buildings, and other similar requirements. Some communities "bundle" these standards with incentives for redevelopment in the form of density bonuses, relaxed parking or open space standards, or expedited processing. These standards could be integrated into the new code as a means of helping to foster new activity centers in established areas.

On a related note, the consolidation and standardization of building design standards could help simplify the city's overlay and special purpose districts. There currently are 14 overlay and special purpose districts in Arlington, which is a high number even for a relatively large community. Most of the districts include special standards that are unique to the district. Based upon conversations with staff and officials, and consistent with the project's goal of streamlining the code organization, we will attempt to replace many of the current overlay districts with new, generally applicable design standards that apply city-wide.

## **DRAFT NEW MULTI-FAMILY RESIDENTIAL BUILDING DESIGN STANDARDS**

We heard numerous concerns from a variety of community members about the quality of residential development in Arlington. Several interviewees believe that the city has an overabundance of “starter housing” and not enough high-quality housing options for middle- and upper-income residents. We understand that city leaders have been interested in developing appropriate standards for residential development for quite some time in Arlington.

The staff currently is working on new standards for single-family residential development. To avoid duplication of that effort, this code update project will focus on multi-family development standards. Multi-family development seems to be especially controversial in Arlington, and a few poor-quality projects in the past have created a general disposition against future multi-family projects. In order to better accommodate a variety of housing types within the city, some new multi-family development standards are needed to help ensure they are compatible with the character of the community and do not have adverse impacts on their neighbors. Typical requirements in other communities include:

- A requirement that each building have some variation in appearance through changes in roofs, materials, and colors to avoid “army barracks” type monotonous developments.
- A minimum percentage of the façade (e.g., 50%) be covered by masonry or other quality building materials.
- Entryways to major developments have substantial landscaping features.
- Parking garages are sited so as not to create large expanses of blank walls along arterial streets.

## **INCORPORATE SUSTAINABILITY PRINCIPLES**

Increasingly, communities nationwide are realizing that good development should be “sustainable.” Sustainability involves the ability of a community to meet the needs of its present population, while ensuring that future generations have the same or better opportunities. There are increasing concerns that as a society we are using resources at a faster rate than we are replenishing them and are creating communities that are not sustainable in the long run. The challenges of global warming, climate change, energy sufficiency, water supply, health, and food security are all related to the sustainability issue.

While the federal government has lagged in grappling with sustainability, local governments have taken the lead around the United States. Indeed, a recent issue of *Newsweek* made exactly that point in profiling mayors from around the country who were at the forefront, including Mayor Dr. Robert Cluck. In Arlington, the Mayor and City Council have emphasized the need for strong, sustainable neighborhoods as a key building block for the city’s future. A number of interviewees we spoke with were interested generally in sustainability, but requested more specifics on how the new UDC

could address the issue. There are three basic ways that Arlington's new UDC could be drafted to promote sustainability:

**Remove Obstacles.** Zoning codes often unintentionally create obstacles to sustainable developments. For example, most do not allow solar panels in residential areas or only permit them as special uses requiring a public hearing. Small, compact wind turbines that can produce enough power for an entire home in a moderate wind area are usually not allowed because of residential height restrictions. Neither use is described in the current Arlington zoning ordinance. We will draft the new Arlington UDC with an eye towards identifying potential obstacles to sustainability features such as solar and wind power and water conservation, and remove any impediments.



(As another example, one study has shown that increasing a house's overhang from zero feet to four feet results in an annual energy savings from 0.37% to 2.76%, depending on the fuel source and type of heating/cooling system. Currently the ordinance allows a two-foot intrusion. Amending the ordinance to allow for four-foot eaves will allow for additional energy savings.)

**Create Incentives for Sustainable Development**

**Practices.** Because some sustainability tools and approaches are cutting-edge and often involve new technologies, the use of voluntary incentives in the UDC, rather than mandates, can be particularly effective. For example, if a developer provides a green roof, which can reduce storm water runoff, absorb carbon dioxide, and help lower urban temperatures, he or she might be allowed increased density or an extra floor on a building as has been done in Portland, Oregon. Similarly, a developer might be given credit towards any open space requirement for providing a community garden, which can contribute to food self-sufficiency or be given extra landscaping credit for protecting native vegetation beyond what would otherwise be required by open space protection standards.



Most of the Arlington interviewees with whom we spoke said that the city should explore incentives to encourage sustainability, rather than strict mandates – at least until the city has more experience administering these new types of requirements.

**Enhance Regulations to Address Sustainability.** Arlington has a number of regulations already on the books relating to landscaping, lighting, and commercial building design. These standards can be enhanced by integrating sustainability concepts. For example, the City of Seattle has established a point system to evaluate commercial landscaping. A minimum number of points must be accumulated by a project before a landscaping plan can be approved. In the list of actions that can be awarded points, Seattle has included sustainability concepts such as the use of drought-resistant landscaping and rain gardens that capture storm water runoff. Similarly, Austin's new commercial design standard system awards points for sustainable features like bicycle storage facilities, green roofs, and LEED certification.

Some of those we met with during the initial project interviews indicated the desire to include new standards requiring compliance with LEED (Leadership in Energy and Environmental Design) minimum criteria for at least some new developments (e.g., new mixed-use redevelopments, or public buildings), along with incentives for all other forms of development to comply with minimum LEED criteria. In February 2008 the Citizens Environmental Committee made a report to the City Council on water conservation and green building standards. That standing committee is charged with recommending to the City Council initiatives and strategies for improving the quality of the natural environment in Arlington. One of the recommendations in the report was that all new city buildings should incorporate site design and construction methods from six LEED categories. (If the city ultimately does include LEED standards, city officials will need to ensure that staff is required to be proficient in the certification process. This would include planners, engineers, and plans examiners.)

Lighting and signage is another potential target area for regulatory enhancement to encourage sustainable development. Arlington might consider requirements for businesses to extinguish their signage and architectural lighting after business hours. This would help save energy. Business that operated around the clock (e.g., hotels and convenience stores) would be exempt as would on-site security lighting. Arlington might also consider additional controls on the amount and intensity of exterior lighting (consistent with any adopted energy codes).

Throughout the drafting process, we will propose a variety of measures to incorporate sustainability concepts into the UDC. For example, we may be able to draw on the recently published LEED-Neighborhood Development criteria for sustainable site plan regulations. We will seek continuing feedback from the community as to what types of measures will be most appropriate in Arlington.

## 6 STREAMLINE THE REVIEW AND APPROVAL PROCEDURES

Finally, a major focus of the Arlington code update should be on improving the efficiency of the land use approval procedures. The rewritten procedures in the new UDC should attempt to strike a better balance between the need for the careful analysis and public review of applications and the need for regulatory efficiency. Unduly cumbersome policies can discourage the type of development that the city wants to see happen.

Ideally, administrative procedures should accomplish the following:

- Provide clear rules that tell parties and interested stakeholders when, where and how to participate;
- Protect the due process rights of participants;
- Allow public participation in land use decision making;
- Promote land use decisions that are consistent with the city's land use policies;
- Provide adequate notice to affected parties;
- Provide an opportunity for affected parties to be heard;
- Develop a good factual record;
- Provide decisions that are based on the record;
- Provide consistent decisions;
- Provide certainty;
- Provide an unbiased decision; and
- Provide finality.

Comments were made about Arlington's existing approval procedures by citizens, staff, and the private sector. This section makes several recommendations for improving the efficiency and effectiveness of the city's land use approval procedures.

### KEY RECOMMENDATIONS

- **Rewrite the Procedures in a Consistent Format**
- **Reflect Recent Arlington Process Improvements**
- **Include Clearer Rules for Public Hearings**
- **Consider Reducing the Amount of Discretionary Review**
- **Reevaluate the Role of the Planning and Zoning Commission**
- **Consider Adding a Development Agreement Procedure**

## REWRITE THE PROCEDURES IN A CONSISTENT FORMAT

The decision-making procedures are located mostly in Article V of the current code. Though the procedures are consolidated in one location, the level of detail for each process is inconsistent and many key details are left unanswered. The UDC should include a new procedures article with separate sections for each type of application, along with subsections that have a common format. We suggest the following common procedural elements:

- Applicability – the type of permit, approval, or other procedure the section applies to.
- Initiation – how an application is filed, and to whom.
- Pre-application – designate appropriate staff for each type of application or process.
- Completeness – provide procedures and time limits for determining whether application includes sufficient information, along with legal authority to return insufficient applications.
- Approval procedures – designate the body with jurisdiction to approve or deny, the type of hearing or process, and how a decision is reached.
- Criteria – include criteria unique to that application, along with cross-references to applicable standards in the regulations.
- Withdrawal and Reapplication – indicate whether and when new applications can be filed if the application is withdrawn or denied.
- Scope of Approval – indicate the type of activity authorized by approval, and how long the decision remains valid.
- Recording – designate how the approval is documented and maintained.

### **Arlington's land development procedures include:**

- **Zoning or subdivision text amendments**
- **Rezoning (zoning map amendments)**
- **Planned Development (PD) district rezoning, concept briefs, and final development plans**
- **Specific Use Permits**
- **Special Exceptions**
- **Subdivision plats (Amended Plat, Combination Plat, Conveyance Plat, Preliminary Plat, Final Plat, Minor Plat)**
- **Replat**
- **Plat Vacation**
- **Variances**
- **Appeals**
- **Landmark district certificates of appropriateness, demolition, or relocation**
- **Landscape plans and substitute landscape plans**

Because this will be a unified code, these same elements will apply to the subdivision application as well as zoning applications.

## REFLECT RECENT ARLINGTON PROCESS IMPROVEMENTS

The new Arlington site plan process for nonresidential and multi-family projects should be codified in the new UDC. Staff has requested that the code provide broad enabling language for the process, and the specifics can be handled in supporting materials outside the code. (Generally, internal procedures do not require codification, although an

administrative handbook can be a useful tool for administrators and applicants.) The Entertainment District is, at present, the only place the new site plan process is mentioned. The existing procedures as codified there should be included in the new UDC, using the format described above.

Another recent Arlington initiative is the use of technology in processing applications. The city has recently retained CSDC Systems to replace its spreadsheet-based permit tracking system with their “AMANDA” automated permit tracking software. The city offers online permits, inspection requests, and contractor registrations through its One-Start website at [arlingtonpermits.com](http://arlingtonpermits.com). This should improve internal processes, efficiency, and productivity. The software deployment will require few changes to the city’s zoning or subdivision regulations. The city’s land development regulations can recognize and incorporate digital application submittals, but most of the improvements involve internal processes rather than changes to legislation. (In addition, software does not reduce delays associated with requests information, site plan modifications, or other issues that occur within the confines of a public hearing.)

### **INCLUDE CLEARER RULES FOR PUBLIC HEARINGS**

In addition to jurisdictional assignments, the procedural regulations should indicate how public hearings are run. Some Arlington stakeholders indicated that the hearings as conducted today are inadequate. Most of the displeasure is directed to the exercise of discretionary authority at the hearings. However, the regulations should provide applicants, the public, and decision makers guidance as to how the hearing should be conducted. The regulations should address, at a minimum, the following:

- Who presides over the hearing and rules on procedural matters, such as objections to the introduction of evidence.
- The type of hearing (i.e., legislative or quasi-judicial). The Planning Commission and City Council have significantly more control over how a legislative hearing is run, and trial type procedures (such as cross-examination) are generally not present. In a quasi-judicial hearing, the council should give all interested parties the ability to present evidence and to confront adverse witnesses and testimony.
- How evidence is presented, and in what format.
- The order of presentation by the applicant, staff, and parties.
- When the record stays open, and how it can be reopened.
- How the proceedings are recorded or transcribed.
- How the general public and parties are notified of the hearing date, proposed or final decisions, or continuances.
- Who has party status, versus simply appearing and presenting testimony.



## CONSIDER REDUCING THE AMOUNT OF DISCRETIONARY REVIEW

Arlington relies heavily on discretionary review to negotiate conditions and to minimize land use conflicts. One prominent example of discretionary review is the Planned Development (PD) district rezoning process, discussed above in Key Theme 2. We heard consistently that the city would like the new UDC to reduce the level of discretion in the land use approval process.

Discretionary review typically involves a public hearing, general standards, and assigning decisions to the City Council or Planning and Zoning Commission rather than staff. An advantage of discretionary review is that it provides the city the ability to craft conditions that relate to the specific project and neighborhood. However, discretionary review creates uncertainty in the approval process because conditions are often negotiated at the public hearing rather than set out in advance of the application. This can also result in undesirable development outcomes. The review process can be time-consuming for applicants, decision makers, and staff. As a result, there is wide support in Arlington for shifting some decision making authority to staff.

Discretionary review is a powerful tool to control difficult land use situations. This could include controversial uses, such as tattoo parlors, that the city must permit somewhere but does not want to expressly encourage. Discretionary review ensures that these types of uses are not permitted outright, but instead receive careful scrutiny at a public hearing. Other uses, such as cell towers and adult uses, are protected by federal law that significantly limits the city's ability to apply discretionary standards or lengthy delays on approval. A better approach for these types of uses is to permit them with clear standards and administrative approval.

Modifying the use of discretion in Arlington will involve careful stakeholder discussion. The impression among some stakeholders is that the City Council is happy with its discretionary powers, and will not freely delegate permitting or zoning decisions to the Planning and Zoning Commission (which is primarily a recommending body, except for plats) or staff.

### Types of Land Development Decisions

There are three major types of land use decisions:

- **A legislative hearing provides the public an opportunity to be heard consistent with the adoption procedures provided by statute. A legislative hearing does not require due process protections (see description of quasi-judicial hearings, below). Like quasi-judicial hearings, legislative hearings are public hearings preceded by notice to interested parties. Examples include amendments to a Comprehensive Plan and amendments to the Zoning Ordinance.**
- **In making quasi-judicial decisions, the agency investigates facts, ascertains the existence of facts, holds hearings, weighs evidence, and draws conclusions from the evidence. Parties have due process rights, such as right to offer evidence, cross-examination, sworn testimony; or written findings of fact. The evidentiary hearing provides a basis for their official action. The agency exercises discretion of a judicial nature. In the land use context, these quasi-judicial decisions involve the application of land use policies to individual situations, such as variances and special exceptions.**
- **Ministerial decisions involve the application of the zoning standards to an application by an administrative official or agency. A public hearing is not required. A ministerial permit typically occurs late in the development approval process. Examples include building permits and certificates of occupancy.**

(Also, some decisions, such as rezoning, are vested in the City Council by state law.<sup>1</sup>) Others believe that the Council sees the procedural and substantive benefits of assigning decision making authority to staff or the Planning and Zoning Commission, and may be willing to consider the delegation of some types of decisions. The table below lists the current decision-making responsibilities in Arlington.

<b>Land Use Decision Making Bodies in Arlington</b>	
<b>Body or Agency</b>	<b>Authority</b>
<b>City Council</b>	✓ Legislative decisions, specific use permit conditions, concurrent plat review
<b>Planning and Zoning Commission</b>	✓ Provides recommendations to Council on legislative decisions ✓ Plat review
<b>Zoning Board of Adjustment</b>	Quasi-judicial or administrative decisions including: ✓ special exceptions ✓ appeals ✓ variances ✓ interpretations ✓ can initiate discontinuance of nonconforming uses
<b>Landmark Preservation Commission</b>	✓ Submit recommendations on designation of property in LP Overlay ✓ Issue Certificates of Appropriateness or Demolition with LP district
<b>Zoning Administrator / Community Development and Planning Department</b>	✓ Administers zoning regulations ✓ Maintains zoning maps ✓ Staffs Planning and Zoning Commission, Zoning Board of Adjustment, and Council meetings
<b>Building Official</b>	✓ Issues certificates of occupancy ✓ Issues gas well permits

## CONSIDER ADDING A DEVELOPMENT AGREEMENT PROCEDURE

Development agreements are an increasingly common feature of local zoning processes. These agreements allow an applicant to proffer conditions and improvements, and also to lock in their zoning entitlements so that they do not change over time. The agreement provides a negotiated enforcement mechanism for the city. For the developer, an agreement provides assurances that land use regulations remain in place and, in some instances, mitigation that offsets increases in density or other regulatory concessions. The city does not currently have a development agreement process, and at least one staff member has requested that the zoning code update include this tool.

There are potential downsides to development agreement procedures. The agreements can require extensive staff time for negotiations, and can complicate administration. As with planned developments, the City would need to review compliance with the customized standards and requirements for individual developers. In addition, because the Texas vested rights legislation is permissive and allows rights to vest early in the approval process with little financial commitment by developers, they have little incentive to negotiate agreements.

<sup>1</sup> The City can revise the application of standards through the City's current rezoning process - such as PD - by incorporating standards into the ordinance itself. This enables standards to be applied administratively, and does not require future decisions to go to Council.

# ARTICLES

## PART 3: ARTICLE-BY-ARTICLE REVIEW OF EXISTING REGULATIONS

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This section of the Diagnosis/Annotated Outline provides a more detailed article-by-article, and in some cases section-by-section, review of the current Arlington zoning ordinance and subdivision regulations. It includes observations, questions, and recommendations regarding current language, organization, and content. Broader issues are addressed in Part 2 of this document, above, and a preview of the new UDC and a summary of its contents are found in the Annotated Outline – Part 4 of this report.

### ZONING ORDINANCE

#### ORDINANCE HISTORY

The ordinance begins with a lengthy list of ordinance amendments from the past. This list is necessary for a variety of reasons (such as for determining vested rights), but we recommend that it be carried forward as a separate document and not part of the new UDO itself.

#### ARTICLE I: TITLE, PURPOSE AND INTENT, APPLICABILITY, ENFORCEMENT

Much of this article has general applicability. Such provisions are not read frequently, but they contain important information, such as the purpose and intent behind the code. Except as noted below, the majority of these provisions should be carried forward in the *General Provisions* article in the new code with no major substantive changes.

ARTICLE I: TITLE, PURPOSE AND INTENT, APPLICABILITY, ENFORCEMENT		
Section #	Section Title	Suggested Modification(s)
1-200	Purpose and Intent	Review section to ensure consistency with comprehensive plan and sector plans.
1-400	Enforcement	<ul style="list-style-type: none"><li>• Replace with a new, expanded enforcement section (or article) that clearly identifies what constitutes a violation of the code, who has authority for enforcement, and what types of remedies and penalties are available to address code violations.</li><li>• Clarify that failure to maintain required landscaping constitutes a code violation.</li></ul>

#### ARTICLE II: INTERPRETATIONS AND DEFINITIONS

This article includes the bulk of the definitions used in the ordinance, though a handful are scattered elsewhere. All definitions will be relocated to the new definitions article in the back of the new LUDC. We will review all definitions for clarity, add new terms as necessary, and delete definitions for terms that are no longer used or are unnecessary (e.g., “benevolent”). Any regulatory information will be relocated into the main body of the code (e.g., as in the current definition for “accessory caretakers quarters”). We will ensure that all land uses in the new use table are defined in the new code.

The following table includes specific comments we heard on the current definitions:

<b>ARTICLE II: INTERPRETATIONS AND DEFINITIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
2-100	Interpretations	<ul style="list-style-type: none"> <li>• Keep this language with the <i>Definitions</i> article with no substantive changes proposed.</li> <li>• Include a provision authorizing the Director to issue written interpretations of the code, and require that the interpretations be kept and made available for inspection, and regularly codified. We understand that currently interpretations by different zoning administrators over time are problematic. They are not codified and everyone maintains a separate list of interpretations that aren't necessarily consistent.</li> </ul>
2-200	Definitions	<ul style="list-style-type: none"> <li>• "Mini-warehouse" should be updated to "self-storage"</li> <li>• Review group home definitions for consistency with state requirements (Chapter 123, Texas Human Resources Code)</li> <li>• Review definition of "condominium"</li> <li>• The definition of "parking for outside storage of vehicles" (trucks, storage of truck fleets) creates confusion. What is the difference between storage and for sale?</li> <li>• Draft for consistency between building codes and UDO, especially for housing types. Different definitions for condos vs. multi-family vs. townhomes creates confusion.</li> <li>• Review heavy industrial terminology (e.g., biofuel facility)</li> <li>• Restaurant – we will work with staff to determine if the 25% of sales devoted to food needs revision. This may be opening up the use to allowing bars and other activities that are not functioning solely as restaurants.</li> <li>• Incorporate newly adopted "indoor recreation" definition.</li> <li>• Add "assisted living facility"</li> <li>• Differentiate between outside display and storage</li> <li>• "Drop boxes" vs "recycling collection containers"</li> <li>• Definition of "automobile" recently changed slightly</li> <li>• Change in definition of "hotel" pending</li> <li>• Add "natural gas compression station"</li> </ul>

### **ARTICLE III: DECISION-MAKING AND ADMINISTRATIVE BODIES**

This article formally establishes the agencies that are involved in the city's zoning review processes. The key information here is what body hears and/or decides what types of applications. We will develop a simple summary table showing the review and decision-making authority for all types of land use applications.

The balance of this article should be moved to a later article, an appendix, or another part of the City Code. All the article needs to accomplish is to formally establish any agency not already created in the Charter or another part of the City Code, and their

jurisdiction. Once this is done, it is not material that applicants and administrators refer to on a day-to-day basis. Details about procedures should be moved to the new procedures article.

<b>ARTICLE III: DECISION-MAKING AND ADMINISTRATIVE BODIES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
3-100	City Council	The new summary table of decision-making responsibilities needs to say that the city council hears requests for rezoning, specific use permits, alternative landscape plans, and sets fees, with the details left to the procedures article. Include a cross-reference to Art. VI of the City Charter.
3-200	Planning and Zoning Commission	A policy issue was raised about whether to split this into two commissions - one for planning, and another for zoning. This would allow the commission to focus on the current planning effort, but in the long run it could create conflicts between policy and administration. Most major Texas cities, and most cities in general, have a single commission. A heightened focus on the plan might be achieved through a subcommittee.
A.	Powers and Duties	This list can be simplified by removing some information to the new summary table of decision-making responsibilities.. Note that the Planning and Zoning Commission also serves as the Capital Improvements Program Advisory Committee.
B.	Membership, Appointment, and Term of Office	<ul style="list-style-type: none"> <li>• 2-term limit is a policy issue. This could eliminate some members who have acquired expertise on planning and zoning issues. Members who do not share the Mayor and Council's policy interests can be removed.</li> <li>• There is no express provision for removal, although this does say members serve at the pleasure of the Council. Break this into a separate subsection.</li> <li>• C.2 indicates that it adopt its own rules of procedure.</li> </ul>
C.	Meetings, Hearings and Procedures	<ul style="list-style-type: none"> <li>• C.1 should be moved to, or replaced by, general rules of procedure.</li> <li>• Consider moving meeting dates (C.3), voting (C.4), and quorum (C.6) to the Commission's rules of procedure outside the code.</li> <li>• The provision prohibiting expenses may be covered elsewhere in the City Code. An initial review of the Code did not reveal any similar section, but the City Attorney should verify whether this is already covered.</li> </ul>
3-300	Zoning Board of Adjustment	The regulations should limit the Board's duties to those provided by state law. They are typically not a suitable agency to address plan or policy implementation issues. While we understand that all the authority listed in this section has not been realized, the language of this section still should be limited.
A.	Powers and Duties	<ul style="list-style-type: none"> <li>• This list can be simplified by removing some information to the new summary table of decision-making responsibilities.</li> <li>• A.5, there are no standards governing the discontinuation of a nonconforming use.</li> <li>• A.6, the interpretation of the zoning map should be by the director, with appeal to the ZBA.</li> </ul>

<b>ARTICLE III: DECISION-MAKING AND ADMINISTRATIVE BODIES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
B.	Membership, Appointment, and Term of Office	<ul style="list-style-type: none"> <li>In B.1, alternates should be requested by the Mayor or city manager rather than the Zoning Administrator, per Tex. Local Gov't Code § 211.008(c).</li> <li>C.2 indicates that it adopts its own rules of procedure.</li> </ul>
C.	Meetings, Hearings and Procedures	<ul style="list-style-type: none"> <li>City Attorney's office has asked if there is any new case law on noticing for the ZBA. Current practice is 200' like a zone change. The statutes (Local Gov't Code § 211.010(d)) provide that "shall give public notice of the hearing and due notice to the parties in interest." No cases or opinions interpreting this provision are included in the annotated statutes in Westlaw or on the Attorney General's website. Any public notice – including a website posting, signage, newspaper notice, or posting in City Hall – would satisfy the literal terms of the statute. However, it is unclear how the courts would interpret this provision. In addition, the City's current practice is to provide the same notice it gives for zoning cases. This is a cautious and, from a legal standpoint, the safest position given the lack of clarity in the statute. It is also more expensive and time consuming than alternative procedures such as posting or website notice. The City could codify its notice procedures, although the statute does not require this..</li> <li>City Attorney's office notes that the language on 75% to modify or reverse decisions needs to be clarified.</li> <li>While the details here could be left to the Board's rules, as with our recommendations above, some communities prefer to require a supermajority to guard against excessive grants of relief that could undermine their planning policies.</li> </ul>
3-400	Landmark Preservation Commission	
A.	Powers and Duties	<ul style="list-style-type: none"> <li>Dissolution of Landmark Preservation Committee is historical, and should be removed from future codification.</li> <li>The language should be streamlined consistent with the comments above.</li> </ul>
B.	Membership, Appointment, and Term of Office	<ul style="list-style-type: none"> <li>2-term limit (B.2) is a policy issue. This could eliminate some members who have acquired expertise on preservation issues. This could be a more acute issue than with the Planning and Zoning Commission, because the issues are more narrowly focused and B.1 limits the types of professions represented on the commission. Members who do not share the Mayor and Council's historic preservation objectives can be removed.</li> <li>There is no express provision for removal, although this does say members serve at the pleasure of the Council. Break this into a separate subsection.</li> <li>C.1 and C.2 indicates that it adopts its own rules of procedure.</li> </ul>
C.	Meetings, Hearings and Procedures	<ul style="list-style-type: none"> <li>Consider moving meeting dates (C.3), voting (C.4), and quorum (C.6) to the Commission's rules of procedure.</li> <li>The provision prohibiting expenses may be covered elsewhere in the City Code. An initial review of the Code did not reveal any similar section, but the City Attorney should verify whether this is already covered.</li> </ul>

<b>ARTICLE III: DECISION-MAKING AND ADMINISTRATIVE BODIES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
3-500	Zoning Administrator	<ul style="list-style-type: none"> <li>Consider moving C.2-3 (zoning maps) and C.5 (development plan and substitute plan changes) to the ordinance sections that address these issues, with a brief reference here.</li> </ul>
3-600	Building Official	<ul style="list-style-type: none"> <li>Consider referencing the applicable provisions of the Building Code.</li> <li>Consider establishing a zoning certification process. It appears that the Building Official, in practice, has little engagement with zoning anyway.</li> <li>Clarify that the Zoning Administrator has authority to make interpretations about uses, not the Building Official.</li> </ul>
3-700	Conflicts of Interest	This section simply cross-references the City's Code of Ethics with a brief statement relating to zoning issues. This appears adequate.
	Development Review Committee	Some interviewees noted that it can be difficult to know the status of a case without a DRC. A formal DRC was abandoned when the city established its new review process using permit tracking software (AMANDA). Each project (zoning case, plat, site plan, etc) is now assigned its own review team for that project. In addition, each project is assigned a primary case manager (either a planner or engineer). The new system was recently established, reflects significant investment of City resources and staff time, and appears to work well. There is no need to establish a formal, standing DRC at this time.

## ARTICLE IV: PLANNING DOCUMENTS

This article makes official reference to the adopted city plans, including the comprehensive plan and sector plans. Generally, we heard that this chapter provides too much detail, some of which is out of date, and does not need to be carried forward in the new UDC -- though a description of the comprehensive plan as the policy foundation for the UDC should be included in the new *General Provisions* article. There are procedures here for adopting and amending the comprehensive plan that should be integrated into the new *Review Procedures* article.

## ARTICLE V: DEVELOPMENT REVIEW PROCEDURES

This Article could use a purpose statement. The statement should explain that the chapter consolidates the permitting and procedural regulations to give applicants a clear path to approval, engage the public, and to assist city staff and decision makers in administering the regulations. The Article should include separate sections for each type of application, along with subsections that have a common format. We suggest some common procedural elements in the Key Themes discussion earlier in this report. Because we are recommending a UDC, the article should include both the zoning and subdivision procedures.

As mentioned in the Key Themes above, the new Arlington zoning site plan process should be codified. The ordinance should include the major processes and requirements. Internal procedures do not require codification, although an administrative handbook could



provide a useful tool for administrators and applicants. The Entertainment District is, at present, the only place the process is mentioned. The existing procedures as codified there should be included in this section, using the format described above.

Overall, an emphasis should be placed on clear, consistent terminology between the various types of approval. We heard, for example, that the terms “site plan,” “zoning application,” “SUP,” etc. are used often now, but there is not a clear understanding of the relationship to building permit review.

Finally, the processes are currently defined only in text format. Flow charts and similar visual aids, such as text boxes, could assist the reader in identifying how the processes relate to one another.

<b>ARTICLE V: DEVELOPMENT REVIEW PROCEDURES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
5-100	Procedures of General Applicability	Change title to “General Procedures”
A.	Definition	This includes only “zoning changes” – amendments, rezonings, specific use permits, and development plans. It should be expanded to include administrative permits such as site plans and special exceptions, and ministerial permits such as building permits, certificates of occupancy, and (if applicable) zoning certifications.
B.	Preapplication Conference	<ul style="list-style-type: none"> <li>We understand that staff currently mandates pre-application meetings for some applications. That is common in many communities. The code should be updated to specify when a pre-app meeting is required.</li> <li>The section should be more explicit about who conducts the preapplication conference.</li> <li>Application forms should indicate whether the applicant participated in preapplication.</li> </ul>
C.	Application Requirements	<ul style="list-style-type: none"> <li>Include common completeness review requirements. Specify that incomplete applications will not be processed. This procedure would clarify that incomplete applications are not vested, and establish “vested rights determination” procedures to assess whether existing applications are sufficiently complete to establish vesting status under Texas Local Gov’t Code chap. 245.</li> <li>Replace fees in regulations, which requires an ordinance amendment, with an appendix that is adopted by resolution of the Council. Require earmarking of fees to permitting activities, and the refund of unspent fees (as written, a “rebate” only applies to withdrawn applications) if a timely request is filed. The regulations would establish criteria for refund eligibility and renote fees. For applications that require a public hearing, include additional hearing fees if the application is continued.</li> <li>There were comments about verifying how and whether signs are posted, but the procedures for sign verification here are very thorough, and much more extensive than most cities. We may suggest removing some of this detail from the code to an internal procedures manual.</li> </ul>



<b>ARTICLE V: DEVELOPMENT REVIEW PROCEDURES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		<ul style="list-style-type: none"> <li>Add a separate, global section on notification that includes not only signs, but also any required mailing, publication, or posting. The city can also provide online notice, but this does not supersede mandatory notice through more conventional methods. It could be mentioned here, but does not have to be codified.</li> </ul>
D.	Action by Decision-Making Bodies	<ul style="list-style-type: none"> <li>This section should be split up, and included as part of the processing subsection for each type of land use approval. At present, it is difficult for the typical reader to find this information. For example, an applicant would probably look for a section titled "Specific Use Permits" to look for the final action procedure. Most would not think to look under "Action by Decision Making Bodies."</li> <li>The decisionmaking procedure should clarify the status of applications that are denied by the Planning and Zoning Commission – i.e., whether they are automatically placed on the City Council agenda, go to the council only on appeal, or whether the Planning and Zoning Commission is final.</li> <li>This section includes an authorization for the Zoning Administrator to approve "minor modifications to the zoning districts," but includes no description of what those are or criteria upon which they may be considered. This should be replaced by a more complete "Administrative Adjustments" section in the new code.</li> </ul>
E.	Notice	<ul style="list-style-type: none"> <li>This simply refers to the Local Government Code. It should state that notice must comply with this section or, if the Texas Local Gov't Code is amended to change the requirement, the Local Gov't Code (state zoning or subdivision legislation).</li> <li>For processes that are not expressly listed in the state legislation (e.g., zoning site plans), the section should expressly list the type of notice required. This would include standard notice language.</li> </ul>
F.	General Provisions for Hearing Procedures	<ul style="list-style-type: none"> <li>This section is comprehensive and generally well done, but it should be divided into separate sections for legislative and quasi-judicial hearings.</li> <li>Legislative hearings would include presentation and record-keeping requirements similar to existing council hearing.</li> <li>Quasi-judicial hearings (such as the Zoning Board of Adjustment appeals, special exception and variance hearings) would include due process protections along with general criteria for ruling on evidence, and if needed transcribing the hearing.</li> <li>Interviewees requested that the code not allow introduction of supplemental info too late in process. With many applications, they are getting information very late in the process – sometimes right at the public hearing. If this happens, the hearing should be postponed.</li> </ul>
5-200	Changes and Amendments to Zoning Ordinance or Zoning Map	This section applies to text amendments and rezonings. These should be divided into separate sections.
5-300	Development and Site Plan Approval	<ul style="list-style-type: none"> <li>The section states that the development and site plan procedures are "generally outlined" in § 5-200, which applies to rezonings. This may not accurately reflect how site plans are currently</li> </ul>

<b>ARTICLE V: DEVELOPMENT REVIEW PROCEDURES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		<p>processed. This section should outline an explicit process for development plans and site plans, as set out in the common format listed at the beginning of this table.</p> <ul style="list-style-type: none"> <li>If the city wants to limit development plans to PDs, this process should be set out in the district regulations with a cross-reference here.</li> </ul>
5-400	Substitute Landscape Plans	This cross-references § 14-200, which makes sense. This keeps the landscaping standards together, while signaling here that another process is codified in the regulations.
5-500	Specific Use Permits	<ul style="list-style-type: none"> <li>Subsection D, relating to temporary uses in "BP," should be moved to the Business Park district regulations. This section should be reserved for general specific use permit procedures.</li> <li>Subsection H includes a list of submittal requirements. Staff notes that all of these items are not required for all applications; a general authorization for the Director to waive certain submittal requirements is needed in the new UDC.</li> <li>See 5-550 Conservation District Overlay. This language is in the wrong place in the ordinance in Article V. It should be located in the special district/overlay section.</li> </ul>
5-600	Special Exceptions	<ul style="list-style-type: none"> <li>The city should reconsider whether to include both special exceptions and specific use permits. Both processes are designed to require discretionary review for particular uses or situations. It is confusing to have two processes that are designed to accomplish essentially the same thing. We understand that very few special exceptions are normally heard in the city. In the past 12 months, the Zoning Board of Adjustment has heard special exception applications. Two were for temporary batch plants, three for off-site parking, and one for a carport. While the volume of cases is low, even a single discretionary review can require significant time and effort by the agency.</li> <li>This section should clearly establish that a quasi-judicial hearing applies.</li> </ul>
5-700	Variances	<ul style="list-style-type: none"> <li>There are two sets of criteria for variances in the code – one in 3-300 and one in 5-700 – and they conflict. Only one set of criteria should be included and the language should be consistent with state law.</li> <li>This section should clearly establish that a quasi-judicial hearing applies.</li> <li>References to building official recommendations should be replaced with a reference to the Zoning Administrator.</li> <li>The code should authorize the ZBA to place conditions on variance approvals. While the statute does not expressly grant or deny this authority, it is recognized as routine practice and likely authorized standard zoning enabling legislation. 3 Anderson's Am. Law. Zoning § 20:61 (4th ed.).</li> </ul>

<b>ARTICLE V: DEVELOPMENT REVIEW PROCEDURES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
5-800	Appeals to Decisions	<ul style="list-style-type: none"> <li>• This section should clearly establish that a quasi-judicial hearing applies.</li> <li>• The reference to fees should be replaced with the general requirement described under § 5-100, above.</li> <li>• Confirm that the appeals language tracks state statutes (Chapter 211, Texas Local Government Code).</li> </ul>

## **ARTICLE VI: ZONING DISTRICTS, BOUNDARIES, AND INTERPRETATION OF DISTRICT REGULATIONS**

This brief article establishes the lineup of zone districts in Arlington, including provisions for interpreting zone district boundaries. The article begins with a list of zone districts that, at least in the hard copy version we were provided, is outdated and does not include several recently adopted special purpose and overlay districts, such as the entertainment overlay. The overall lineup of districts will be modified pursuant to the discussion above in the Key Themes section. The district boundary interpretation language will be carried forward in the new *Zone Districts* article.

## **ARTICLE VII: RESIDENTIAL ZONING DISTRICT REGULATIONS**

This article describes the residential zoning districts and the uses allowed within those districts. In terms of the substantive lineup of residential districts, the Key Themes section above discusses the need to reevaluate the districts for possible new districts and consolidation and/or elimination of others.

In terms of organization, as discussed earlier in the Key Themes section of this diagnosis/outline, our strategy in drafting the new UDC will be to break apart all of this information and reorganize it so that similar information is grouped together, and so that comparisons can be more easily be made between districts by presenting much of the information in tables.

As described further in the Annotated Outline, we will have one chapter whose primary purpose will be to list the purpose statements for each zoning district. Another chapter will list the uses allowed in those districts, and will be anchored by a new summary use table that consolidates the numerous use lists in the current code. A third chapter will contain the dimensional standards (e.g., height, setbacks) for structures built in the districts. A subsequent chapter will contain general development standards (e.g., parking, landscaping) that apply to development in all districts. In our experience, this type of structure is much easier for officials, staff, and the public to use and understand than the current zoning ordinance organization. Such a structure will allow code users to more easily compare requirements for different districts, such as the setback requirements for the residential districts versus the new mixed-use districts.

Beyond structural changes, we will examine the use tables for all the districts and make recommendations for changes, as we believe appropriate. However, we will rely heavily on the local knowledge of the advisory committee and staff for comments as to what uses should be allowed where.

In most of the current districts, there are use-specific standards embedded within the use lists. For instance, in the Estate district “personal care facilities” are limited to six residents, unless a SUP is obtained. While there are slight variations in some of the use-specific standards, many other standards are repeated verbatim across multiple districts. All the use-specific standards will be consolidated in one new “use-specific standards” section in the new UDC. They will be reviewed for accuracy and clarity and supplemented as necessary based on discussions with staff and the committee.

In addition to these general modifications, the following specific changes are also suggested:

<b>ARTICLE VII: RESIDENTIAL ZONING DISTRICT REGULATIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
7-100	Estate (“E”) District	The principal concern with this district is the minimum lot size of 10,000 sq feet (which actually is listed in Article XI). Many interviewees said that either the minimum should be increased for the Estate district, or a new district is necessary with a much larger minimum lot size.
7-700	Medium Density Multi-family (“MF14”) District	<ul style="list-style-type: none"> <li>We heard few comments about the actual lineup of multi-family districts, but we did hear some concerns about the design standards and ensuring the city gets quality multi-family development. There are only modest existing standards relating to building scale and architecture. We will be proposing new multi-family design standards, per the discussion in the Key Themes.</li> <li>Additionally, we understand that multi-family uses are considered commercial for the purposes of staff review. Typically, multi-family development is reviewed separately and under different criteria than commercial development.</li> </ul>
7-800	Medium Density Multi-Family (“MF18”) District	
7-900	High Density Multi-Family (“MF22”) District	
NEW	Residential Office	We will suggest a new residential office district that can accommodate residential structures being converted to nonresidential on major corridors.

## **ARTICLE VIII: NONRESIDENTIAL ZONING DISTRICT REGULATIONS**

Article VIII sets forth all the nonresidential zone districts in Arlington, following a similar structure to that in the residential districts as discussed above. All the structural recommendations discussed above for the residential districts also apply to this material.

Generally, most of the comments we heard related to the uses allowed in each of the districts and their need for evaluation and revision based on the intent of the district. We

did hear comments about the need for a true neighborhood commercial district that the city is currently lacking. The most frequent concern was the lack of a true neighborhood commercial district. We also heard frequent comments that too many uses may be allowed in the NS and CS districts, leading to frequent PD applications to tailor those districts by limiting the use lists for particular areas.

We also heard that the industrial districts and the uses allowed within those districts should be reviewed. Currently, there are only two – the Light Industrial and Industrial Manufacturing districts.

Other specific comments are as follows:

<b>ARTICLE VIII: NONRESIDENTIAL ZONING DISTRICT REGULATIONS <sup>2</sup></b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
8-200	Neighborhood Services ("NS") District	<ul style="list-style-type: none"> <li>For the NS district, reevaluate the use list to confirm that uses allowed are consistent with district intent. Several interviewees stated that the list is too broad. Also, reevaluate whether to allow certain uses that have caused compatibility problems, like tattoo parlors.</li> </ul>
8-300	Community Service ("CS") District	<ul style="list-style-type: none"> <li>Carry the Commercial Design Standards (numbered 8-200 in the amendments) forward into the <i>Development Standards</i> article.</li> </ul>
8-500	Light Industrial ("LI") District	<ul style="list-style-type: none"> <li>Review the classifications and definitions of all industrial uses. Staff notes they need better description of heavy industrial uses (.e.g., biofuel facility).</li> </ul>
8-600	Industrial Manufacturing ("IM") District	<ul style="list-style-type: none"> <li>Some interviewees noted that residential and commercial encroachment is threatening the city's supply of industrial land. While this is not an issue with the zoning code per se, there may be a need in phase 2 of the project to look at designation of additional industrial areas on the zoning map.</li> </ul>
8-700	Downtown Business ("DB") District	<p>It appears that some housekeeping issues have made this district especially difficult to understand. An early version of this district appears in the hard copy of our zoning ordinance in the "nonresidential districts" section, but it was deleted as part of Ordinance 05-094, which added a new "DB" base district for the downtown as a new "special purpose district." Many interviewees were confused by the downtown regulations and seem to think that the new district is an overlay and that the older base district is still in place, but that does not appear to be the case. Our understanding is that all the standards in this 8-700 have been repealed, and the new DB district is the base district that appears in Ordinance 05-094. The DB district should be moved back to the non-residential district section in the new UDC.</p>

<sup>2</sup> NOTE: The amendments contain a rewrite of the allowed uses in the O, NS, LS, CS, B, LI, IM districts that will be incorporated into the *Use Regulations* article.

## ARTICLE IX: SPECIAL PURPOSE DISTRICT REGULATIONS

This lengthy article includes all of the regulations for “special purpose” districts, including some base districts (like Agriculture), the planned development (PD) district, and all of the city’s overlay districts. The structure of each district generally follows that of the residential and nonresidential districts as discussed above, starting with a purpose statement and then a use list. This article, however, also includes a substantial amount of district-specific development and dimensional standards for each special purpose district. The PD district section also includes procedures for PD approval.

To make this article even more complex, the majority of the recent zoning amendments (most of which have not been folded into the zoning ordinance) supplement this article, including the lengthy new overlay districts like Lamar Collins Mixed Use and Entertainment District Overlay. While these recent additions have each been written differently, each contains a substantial amount of district-specific standards, including uses, development, dimensional, and design standards.

We heard generally that the special purpose and overlay districts should be reviewed carefully for any opportunities for streamlining and simplification. Some of the districts are obsolete and perhaps can be removed (e.g., transitional overlay). Some of the districts can be simplified by converting their district-specific standards into new city-wide generally applicable standards (e.g., the Entertainment District). We will also remove all procedural regulations, particularly those set forth in the PD section, for placement into the *Review Procedures* article.

Generally, the applicability of the overlay districts must be clarified. The norm in most communities is that overlay district standards are mandatory and supplement any applicable base district standards. However, we understand that in Arlington the overlay districts are inconsistent in this regard, with certain districts such as the LCMU district having the option of complying or not complying with certain standards. Some applicants, for example, choose to comply with uses in the base zone district and design standards in the overlay. We recommend that any overlay standards be clearly established as mandatory (e.g., those in the Entertainment District), and that in cases of conflict between overlay and base district standards, the overlay standards apply. In some cases, it may be more appropriate to structure standards as general development standards rather than district-based standards, to ensure that an applicant can’t simply ask for a rezoning to avoid complying with a certain standard.

Specific changes to this article include the following:

ARTICLE IX: SPECIAL PURPOSE DISTRICT REGULATIONS		
Section #	Section Title	Suggested Modification(s)
9-200	Transitional Overlay	Consider deleting district. The only substantive regulation appears to be a waiver of the height setback envelope. The compatibility issues this district was designed to address may be accomplished through general development standards.

<b>ARTICLE IX: SPECIAL PURPOSE DISTRICT REGULATIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
9-300	Planned Development ("PD") District	<ul style="list-style-type: none"> <li>• See general discussion about minimizing the use of the PD district in the Key Themes section of this Diagnosis.</li> <li>• Relocate PD procedure into the new procedures article. Clarify this is a particular type of rezoning, and general rezoning criteria apply in addition to PD-specific criteria.</li> <li>• Propose minimum size thresholds for PDs.</li> <li>• State that PDs may not be used when a minor modification or variance could be used to accomplish the same result.</li> <li>• We will evaluate the effectiveness of the concept brief option for PDs. Larger applications should not necessarily have the option of taking the concept brief alternative.</li> <li>• Clarify that there are minimum code standards that cannot be varied in a PD. Further discussion necessary about what these standards may be.</li> <li>• The "Planned Development – Commercial Adjacency" section is very complex. Further discussion is necessary as to whether this should be retained, or whether the intent can be accomplished through simpler alternative tools.</li> </ul>
9-400	Manufactured Home ("MH") District	<p>Consider deleting district. Manufactured housing typically is included in residential districts, subject to design standards.. Review all definitions and regulations to ensure compliance with state regulations.</p> <p>The City cannot, under state or federal law, completely prohibit manufactured homes. However, it has wide discretion in regulating the location of manufactured homes through zoning. The zoning regulations should consider and distinguish the various categories of factory-built homes, not all of which qualify as "manufactured homes." A "manufactured home" is a factory built home that complies with the standards promulgated by the United States Department of Housing and Urban Development (the "HUD Code"). Manufactured homes are constructed after June 15, 1976, which is the effective date of the HUD Code. Federal law prohibits local government from establishing standards for the safety and construction of manufactured homes that differ from federal standards. However, local governments have wide discretion in applying zoning regulations to manufactured homes. For example, zoning regulations can restrict manufactured homes to parks or subdivisions. However, the definitions of manufactured and mobile homes must conform to those found in the state legislation.</p> <p>Factory built homes with a permanent chassis built before this date are normally referred to as "mobile homes," and do not enjoy the same protections as manufactured homes. In fact, the Texas statutes expressly allow local governments to completely ban the installation of new mobile homes in a city, although nonconformities are protected.</p> <p>"Industrialized housing," otherwise known as "modular housing," is assembled on-site from modular components. Modular housing normally complies with local building codes, while manufactured housing complies only with the federal HUD Code. Texas law specifically allows local governments to apply land use and zoning controls to industrialized housing, but also requires that regulations</p>



<b>ARTICLE IX: SPECIAL PURPOSE DISTRICT REGULATIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		that govern transportation, erection, installation, or use of these homes must be reasonable and uniform. Local regulations cannot discriminate between industrialized and site built homes. The statute also allows local governments to require consistency with the design of site built homes, and to require that industrialized housing have a value equal to single family homes within 500 feet of the lot.
9-500	Airport Overlay ("AP") District	Carry forward with no major substantive changes.
9-600	Landmark Preservation Overlay ("LP") District	<ul style="list-style-type: none"> <li>Carry procedures forward with no major substantive changes.</li> <li>"Guidelines" should be removed from the districts chapter. If they are retained in the new UDC, we recommend they be in the Development Standards chapter. However, these appear to be voluntary guidelines, and we typically recommend that only mandatory standards be codified.</li> </ul>
9-700	Business Park ("BP") Overlay District	<ul style="list-style-type: none"> <li>This is one of the most complex and unwieldy sections of the current Arlington ordinance, taking up 74 pages and including one overlay district and 10 "suffix" districts. We heard numerous comments that the district is confusing to understand and administer. Indeed, we are still unsure of the district's real purpose. We understand the district was originally intended to function as a true office park district, but that it has now become more of an auto sales corridor district along the interstate and highways (despite the fact that the general BP language says auto sales should be restricted).</li> <li>Generally, we will need to work with staff and the committee to significantly simplify and streamline this material. This is a major opportunity to streamline the code. Our initial reaction is that the city needs a true Business Park base zoning district to handle high-tech, research, and light industrial campuses; and there also is a need for separate standards for highway-oriented uses like auto sales – but those uses should be handled separately and not in one overlay district. The concept of "suffix" districts also should be discussed; our initial reaction is that it is unnecessarily complex and should not be carried forward. We also need to clarify the relationship of the commercial design standards to properties in this district.</li> </ul>
9-800	Festival ("F") District	This district should carry forward. The Festival district should be a base zoning district and moved to the non-residential district section in the new UDC.
9-900	Special Commercial Transition ("SCT") District	This hasn't been repealed, but we suggest recommending that it be taken out of the new UDC. There are no properties that have this zoning designation.
9-1000	Downtown Business ("DB") District	This is a recently adopted code amendment and should be carried forward. Clarify that this is a base district, not an overlay. Move the DB district to the non-residential district section as a base zoning district, which is what it is. Clarify that the relevant design standards from Sections 9-1200 and 9-1300 apply as part of this base district.
9-1100	Downtown Neighborhood ("DN") Overlay District	This is a recently adopted code amendment, and so we recommend it be carried forward with no major substantive changes. Each suffix district has its own set of uses, but no specific development standards. Similar to the DB district, keep the DN overlay district as an overlay, and include the relevant design standards from Section 9-1200 and 9-1300 that apply to the DN overlay.



<b>ARTICLE IX: SPECIAL PURPOSE DISTRICT REGULATIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
9-1200	Downtown Design Standards	<ul style="list-style-type: none"> <li>• These standards apply to development in the Downtown Business (DB) and Downtown Neighborhood Overlay (DN) districts. These standards should be carried forward in the new <i>Development Standards</i> article. Where possible, we will consider whether these downtown-specific standards could form the basis for generally applicable city-wide standards, consistent with the Key Themes discussion, <i>Raise the Bar for Development Quality</i>.</li> <li>• Where there are dimensional standards (e.g., height, setback, etc.) these will be carried forward into the <i>Dimensional Standards</i> article.</li> </ul>
9-1300	Mixed Use District	<ul style="list-style-type: none"> <li>• This is a new district adopted at the same time as the new downtown districts. As noted in the Key Themes discussion, we will propose a set of new mixed-use districts for the city as part of this project. This existing could become one of those districts, or we may recommend replacing it with the new districts.</li> <li>• We need to work with staff to better understand the applicability of this district. Currently, it is stated this district is for “target areas identified by city council.”</li> <li>• The mixed-use development standards appear thoughtful and should form a basis for the new city-wide development standards.</li> </ul>
9-1400	Lamar Collins Mixed Use Overlay	These are recently adopted code amendments and should be carried forward with no major substantive changes. We will look for opportunities to streamline and simplify the districts wherever possible. In particular, we will look at the Entertainment District Overlay as a possible source for new city-wide development standards.
9-1500	Village on the Green at Tierra Verde Overlay	
9-1600	Entertainment District Overlay	

## ARTICLE X: SUMMARY OF USES

This article consolidates the city’s permitted land uses into a single set of tables for quick reference. These tables duplicate the lists of permitted uses that are listed in the zoning district regulations. A new set of updated tables should replace the permitted uses that are listed separately in each district. The list of uses is discussed here in order to describe how the city can modernize and clarify its use descriptions.

The uses listed should be keyed to a classification system, such as American Planning Association’s Land Based Classification System (LBCS) or the North American Industrial Classification System (NAICS). This provides a thorough list of uses, helps to determine where unlisted uses are classified, and furnishes an external source of definitions.

<b>ARTICLE X: SUMMARY OF USES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
Table X-1	Agricultural/Animal Related	<ul style="list-style-type: none"> <li>• This listing can be streamlined, as the city does not have a large or growing agricultural presence.</li> <li>• Additional uses could include greenhouses and aquaculture.</li> </ul>

<b>ARTICLE X: SUMMARY OF USES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
Table X-2	Auto-Related	<ul style="list-style-type: none"> <li>These uses range from those that are appropriate in general commercial districts (such as gasoline sales) to those that belong in industrial (such as wrecker service).</li> <li>Additional uses could include auto storage/towing.</li> </ul>
Table X-3	Commercial	<ul style="list-style-type: none"> <li>Only 10 uses are listed.</li> <li>This should be expanded to include the more comprehensive listing and distribution of uses in the recent NS, LS and CS district amendments.</li> </ul>
Table X-4	Industrial / Manufacturing	<ul style="list-style-type: none"> <li>Only 6 uses are listed.</li> <li>The High Impact, Heavy Manufacturing and Light Manufacturing classifications are broad, but are defined in Article II with specific examples of uses. The uses listed in Article II could be listed here.</li> <li>Additional light industrial uses could include research laboratories, medical laboratories.</li> </ul>
Table X-5	Institutional	<ul style="list-style-type: none"> <li>Additional uses could include emergency services (fire, law enforcement), crematoria. Some of the language should be modernized – for example, “funeral chapel” should be broadened to include funeral services, and “prison” should be changed to “correctional facilities”.</li> <li>“Public or private school” should be broken out to art/dance schools and specialty schools such as beauty, business management, computer training, driving education, flight training (not including airports, helipads, heliports, or runways), and sports or recreation education, which are similar to commercial uses. Note that “business school” is current listed under “Retail and Personal Services” in Table X-9.</li> <li>“Women’s shelter” should expand to include non-profit services such as licensed community living facilities including foster homes, group homes, halfway houses, or other types of residential facilities.</li> <li>Many uses are missing, such as libraries, museums (these are listed under Retail and Personal Services in Table X-9), community food and social services, and post offices.</li> </ul>
Table X-6	Offices	<ul style="list-style-type: none"> <li>While this category is necessarily broad, only “offices” are listed.</li> <li>This could expand to include offices over storefronts, banks and financial institutions, and offices with and without drive-through facilities, and medical/dental clinics or offices, ambulatory or outpatient care, family planning and care, and blood or organ banks.</li> </ul>
Table X-7	Recreation / Entertainment	<ul style="list-style-type: none"> <li>The categories could expand to include amphitheaters/bandstands; amusement or theme parks; aquaria or planetaria; exhibition/ convention/conference structures; fitness clubs; hunting and trapping/ game/fishing preserves; membership clubs; movie theaters; performing arts theaters; museums and art galleries; day camps; motorized race tracks; recreational vehicle parks/campgrounds; skating rinks; sports stadiums; design/art/music studios; carnivals; and zoos, botanical gardens, and arboreta.</li> </ul>

<b>ARTICLE X: SUMMARY OF USES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
Table X-8	Residential and Lodging	<ul style="list-style-type: none"> <li>The list is fairly comprehensive.</li> <li>Distinguish manufactured and industrialized (modular) homes (factory built homes that conform to the local building code).</li> <li>The list could add accessory dwellings (carriage houses, granny flats, garden apartment); patio homes; quadruplexes/triplexes; rowhouses; single room occupancy units; zero lot line dwellings; dormitories; and guest/tourist homes.</li> </ul>
Table X-9	Retail and Personal Services	<ul style="list-style-type: none"> <li>The list could categorize retail at a finer grain based on size, with smaller scale retail (e.g., less than 10,000 square feet) permitting in NS and the larger facilities in LS and CS. This would allow for neighborhood scale stores near residential areas.</li> <li>Expand “copy center” to include business service centers and mailing services.</li> <li>The “restaurant” category should be broken out to include those with and without drive-through facilities; snack bars; delis; fast food; and sit down versus carry out. Consider distinguishing restaurants by seating capacity or size in order to provide a better distinction for the NS, LS and CS districts.</li> <li>Address mixing of uses, such as commercial uses in multifamily developments and storefronts in mixed use buildings.</li> <li>The broad categories can be significantly expanded to include animal hospitals, veterinary services/animal pet services; auction sales; bakeries; bicycle (non motorized) sales and/or repair; books, magazines, music, etc.; building supplies; camera and photographic supplies; candy or confectionary making; carpet, rug and upholstery cleaning; etc.</li> </ul>
Table X-10	Temporary	This list is comprehensive, but could expand to include auction or estate sales to liquidate assets; and temporary agricultural stands that are incidental to crops grown on the premises; and perhaps temporary batch plants.
Table X-11	Utilities / Communications / Transportation	Expand to include commercial or public parking lots or garages; environmental monitoring stations; taxi or limo companies; bus maintenance; solid waste; and water supply /wastewater treatment.
Table X-12	Wholesale, Distribution, and Storage	This list is comprehensive, but could also recognize gasoline/petroleum storage.
Table X-13	Accessory	This is a comprehensive list. Accessory caretakers and dwellings could be listed as residential uses.



## ARTICLE XII: SPECIFIC USE STANDARDS

This section establishes specific standards for uses that are permitted by right. Standards are available for only eight particular uses: nightclubs, teen clubs, trailer camps, salvage yards, home-based businesses, wireless telecommunication facilities, lodging (hotels/motels), and large scale retail. One section addresses an adjacency, rather than a use, issue. Standards for some uses, such as adult businesses, are found in other parts of the City Code. This material will be carried forward (with modifications as noted) as part of the new *Use Regulations* article. The city could consider expanding these standards to include uses that have been problematic (e.g., tattoo parlors, convenience stores) or to address unique protections they have under state or federal law (e.g., religious institutions).

ARTICLE XII: STANDARDS FOR SPECIFIC USES		
Section #	Section Title	Suggested Modification(s)
12-200	Nightclubs in the "CS" District	Consider moving the district names in titles to an applicability section. This will streamline the table of contents.
12-300	Teen clubs in the "CS" District	This prohibits smoking, which is not a land use issue and is better addressed by City nuisance or health and safety ordinances.
12-400	Trailer Camps in the "B", "LI" and "IM" Districts	<ul style="list-style-type: none"> <li>Reconsider whether these should be allowed in business or industrial districts.</li> <li>Consider a wider landscaped buffer in lieu of screening devices. This allows wood fences, which can deteriorate and contribute to a blighted appearance.</li> </ul>
12-500	Salvage or Reclamation of Products in the "IM" District with a Specific Use Permit	<ul style="list-style-type: none"> <li>Require submittal of all state permits or licenses with the zoning application.</li> <li>Combine 12-500 and 12-600 into a single section titled "Salvage Yards."</li> </ul>
12-600	Special Standards for Existing Salvage Yards	
12-700	Home Based Businesses in Residential Zoning Districts	<ul style="list-style-type: none"> <li>Relocate to the new section on Accessory Uses.</li> <li>Consider dividing these into 3 categories: (1) home occupations, (2) "no-impact" home occupations with no visible changes to residence, and (3) rural home occupations, which could allow somewhat more intensive activities on larger, more remote lots.</li> </ul>
12-800	Wireless Telecommunication Facilities	<ul style="list-style-type: none"> <li>Permit and appeals sections should have time limits for approval and written findings requirements to comply with the federal Telecommunications Act.</li> <li>The section includes a very detailed table that designates the type of district (residential, non-residential, LP) where a facility is allowed or required to have a stealth design based on its height and structural characteristics. Many of these provisions are 10 years old and could be updated. For example, a master facility plan could replace specific standards for projects that require discretionary review.</li> <li>Consider eliminating the section's enforcement provisions</li> </ul>

<b>ARTICLE XII: STANDARDS FOR SPECIFIC USES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		(reverting to the general enforcement provisions) or moving them to a different section.
12-900	Special standards for properties adjacent to "PD-CA" zoning	Move to the PD-CA regulations (§ 9-300, following subsection H). It is probably codified here because it technically does not apply to PD-CA, but rather to properties outside of PD-CA. However, consolidating the PD-CA regulations with transitional regulations that relate directly to it will make it easier for applicants and readers to find information and streamline the regulations.
12-1000	Special Standards for Full Service Hotels, Motels and Residence Hotels / Motels	<ul style="list-style-type: none"> <li>• Subsection A.2 is very general. The existing language should become a purpose statement. The City has already adopted new design standards.</li> <li>• Should include a purpose statement that covers the minimum square footage, conference facility, and related standards.</li> <li>• Definitions of each facility type should be included in this section to avoid flipping back and forth in the document.</li> </ul>
12-1100	Standards for Development of Large Scale Retail Uses in the "CS", "B", "L", "IM", and "BP-CS" Zoning Districts	<ul style="list-style-type: none"> <li>• Relocate to the new <i>Development Standards</i> article.</li> <li>• The standards are very thorough. Because they are design-based, it would assist applicants and the public to have graphics.</li> </ul>

### **ARTICLE XIII: RESIDENTIAL ADJACENCY STANDARDS AND GENERAL FENCE REQUIREMENTS**

These standards identify the screening and buffering measures that must be taken between different zone districts. They are intended to protect residential neighborhoods from adjacent nonresidential uses. There also are general standards for fences.

We heard mixed reviews on these standards. On the one hand, they have made the city generally more comfortable with allowing a wider range of commercial uses in the vicinity of residential neighborhoods. We also heard that some people like the standards because they are simple and easy to understand.

On the other hand, we heard that the standards work well for new construction but not as well for redevelopment or for areas that are slowly converting from residential to nonresidential. The biggest concern we heard was that the standards do not account for use, as opposed to district, in their applicability. In other words, the emphasis is on which districts are adjacent to each other, but within these districts there may be a wide range of uses allowed with varying impacts on residential properties in the vicinity. This often requires the staff to make administrative decisions and interpretations as to how best to apply the standards.

Generally, we will look to carry forward the intent of these standards in the new *Development Standards* article, and will explore ways to strengthen the provisions to better match the intent – to protect incompatible uses, particularly residential adjacent to

nonresidential, on the basis of use in addition to zone district. Further discussion will be necessary as to whether we continue to call these “residential adjacency” standards, or whether they should more accurately be called something like “screening and buffering” standards, which is more common in most communities. There are also some signage, lighting, and fence provisions in this article that are in addition to generally applicable standards elsewhere in the code, and we will review those to determine if they should stay separate or may be consolidated into new, general standards.

## ARTICLE XIV: LANDSCAPE AND SCREENING STANDARDS

The article begins with a purpose statement and very detailed applicability language, followed by the standards for landscaping, screening, and tree protection. Generally, the most frequently heard comment on this material was that the tree protection standards, including the points system and tree removal permitting, is quite complex and could be simplified.

We also heard that the applicability of these provisions to residentially zoned property is unclear in many instances. In Article VII, *Residential Zone District Regulations*, each of the districts refers to this landscaping and screening article for applicable landscaping provisions. When a code user looks at this section, however, it is unclear how these standards apply to non-multi-family residential uses and districts. For instance, are the landscape setback provisions in Section 14-300(A) applicable to all residential districts or just multi-family? Along these lines, staff made the comment that the city lacks a residential landscaping ordinance.

The language in this article will be relocated as a chapter in the new *Development Standards* article. There are also some good illustrations (e.g., visibility triangles) that will be carried forward into this new chapter. Additional specific changes are noted below:

ARTICLE XIV: LANDSCAPE AND SCREENING STANDARDS		
Section #	Section Title	Suggested Modification(s)
14-200	Administration	<ul style="list-style-type: none"> <li>• The relationship of the landscaping plan to site plans and other required types of applications should be clarified.</li> <li>• Subsection F, Submittal Requirements, can be removed from the code to a user’s guide.</li> <li>• Subsection G, Enforcement, can be addressed in the <i>Enforcement and Penalties</i> article, where all such provisions will be consolidated.</li> <li>• The substitute landscape plan option will be evaluated, and perhaps incorporated into a general “alternative compliance” procedure in the new code. This type of alternative compliance can be effective for a range of development standards, beyond just landscaping.</li> </ul>
14-300	Requirements	<ul style="list-style-type: none"> <li>• Generally, the applicability of these requirements to specific uses and districts should be clarified.</li> <li>• The transitional buffers section has significant overlap with the residential adjacency standards, and those perhaps could be</li> </ul>

<b>ARTICLE XIV: LANDSCAPE AND SCREENING STANDARDS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		<p>consolidated.</p> <ul style="list-style-type: none"> <li>Tree protection standards will be consolidated with those in Section 14-600 (discussed below from the amendments) for placement into the <i>Development Standards</i> article.</li> <li>There are standards for tree protection in the underlying code in this article, and there are also tree protection standards in the amendments set forth in the Festival District (Section 9-800) so we will work to ensure consistency between these two.</li> </ul>
14-600	Residential Tree Preservation Requirements	These new provisions (from the amendments) will be consolidated with the tree protection standards in Section 14-300 of the current code for placement into the <i>Development Standards</i> article.

## **ARTICLE XV: OFF-STREET PARKING AND LOADING REQUIREMENTS**

This material will be restructured and new provisions added. It will be contained as a subsection within the new development standards article. Clear purpose and intent language will be added. The table of parking requirements needs to be expanded and updated to match the new use table; all uses allowed in the use table should have a minimum parking requirement in this section. The need for compliance with parking requirements for expansions and enlargements will be clearly stated. A provision for reduction in required parking in mixed-use districts and the downtown will be proposed. A new subsection entitled “Parking Alternatives” will also be drafted that includes language authorizing shared and off-site parking and other specified alternatives. We may incorporate other parking alternatives to provide greater flexibility. We will prepare language proposing maximum parking requirements for some uses for consideration.

As part of the detailed drafting, staff has suggested adding a set of rules that require additional improvements (landscaping, storm water BMPs or similar) tied to the amount of parking or paving over a set standard. So, as the parking lot size increases, the design standards increase.

Other specific comments are noted below:

<b>ARTICLE XV: OFF-STREET PARKING AND LOADING REQUIREMENTS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
15-300	Special Parking Standards for all Zoning Districts	<ul style="list-style-type: none"> <li>The shared parking option is currently only available for shopping centers. We suggest expanding on the applicability for instances outside of shopping centers for nonresidential uses. Make shared parking agreements an administrative function.</li> <li>The occupancy rates table and methodology for shared parking is unusually detailed. Further discussion is necessary as to whether the approach should be retained.</li> </ul>
15-400	Minimum Off-Street Parking Standards	<ul style="list-style-type: none"> <li>As noted above, the use list and corresponding parking standards will be evaluated and revised based on planning best practices.</li> </ul>



<b>ARTICLE XV: OFF-STREET PARKING AND LOADING REQUIREMENTS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		<ul style="list-style-type: none"> <li>We will incorporate all other parking requirements from the various amendments and overlay districts.</li> </ul>

## ARTICLE XVI: SIGN STANDARDS

Rewriting the sign standards is currently not part of Phase 1 of this project, and instead will take place as part of “Phase 2: Future Tasks.” An analysis of the strengths and weaknesses of the sign standards will be prepared at that time.

The City Attorney’s office has suggested that perhaps the sign regulations not be carried forward in the UDC, but rather maintained as a separate ordinance. Some communities maintain a separate sign code because they see the rules governing placement of signs on a site as fundamentally different than the rules affecting how that site is laid out and developed. Communities also maintain separate sign codes for administrative efficiency (because the removal of signs results in a shorter land use code), and to allow for more frequent updates of the sign regulations without going through amendments of the land use code. On the other hand, many communities choose to integrate their sign regulations in their unified code to ensure that all possible issues affecting the use of land are covered in one document.

## ARTICLE XVII: MISCELLANEOUS PROVISIONS

This brief article is something of a “grab bag” of unrelated provisions. There should be no miscellaneous chapters in the new code, and we will find new, more logical locations for all of this material that is carried forward.

<b>ARTICLE XVII: MISCELLANEOUS PROVISIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
17-100	Historical Amendments to This Ordinance	We will consult with the City Attorney’s office about whether this material needs to be carried forward. If it does, it should go either to the <i>General Provisions</i> article or (better) an appendix.
17-200	Publication	If this is carried forward, it should be moved to the <i>General Provisions</i> article.
17-300	Ordinance Violations	Relocate these sections to the <i>Enforcement and Penalties</i> article.
17-400	Right of Entry	
17-500	Permits and Certificate of Occupancy	<ul style="list-style-type: none"> <li>Relocate to the <i>General Provisions</i> article.</li> <li>The language addressing sexually-oriented businesses will be placed in the new <i>Use Regulations</i> article.</li> </ul>
17-600	Newly Annexed Lands	<ul style="list-style-type: none"> <li>Language to be carried forward will be relocated to either the <i>General Provisions</i> article or the <i>Zoning Districts</i> article.</li> </ul>
17-700	Plats with Previous Construction	Relocate to the <i>Dimensional Standards</i> article.
17-800	Property on Lake Arlington	Relocate to the <i>Development Standards</i> article.

<b>ARTICLE XVII: MISCELLANEOUS PROVISIONS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
17-900	Road Adequacy Requirements	
17-1000	Appeals from Requirement to Dedicate Rights-of-Way	This language sets forth appeals from the provisions in 17-900 of this article. We will clarify with staff if these provisions are being utilized, and if so, they will be carried forward with 17-900.

## **ARTICLE XVIII: SPECIAL EXCEPTIONS**

The uses in this article are allowed subject to approval as a “special exception” by the Board of Adjustment. Each use is subject to conditions for it to be approved. For instance, offsite advertising and development signs may be allowed in any zone district, subject to certain conditions such as the sign’s size and placement. These standards should be carried forward as part of the new *Use Regulations* article. We will evaluate each special exception listed in this section to see if it can be converted to a conditional use that we can approve administratively or removed altogether. While it is unusual to have both a special exception process and also a specific use permit process, the City Attorney’s office has stated that the both procedures should remain in the new UDC.

## **ARTICLE XIX: NONCONFORMING USES AND EXEMPT STRUCTURES**

This article was described by one staff member as the “right to be ugly.” Based on this observation and conversations with the City Attorney’s office, review of Article XIX is a high priority and it should be comprehensively rewritten to clarify the City’s intent to discontinue nonconforming uses and clarify the process by which nonconforming uses may be terminated, modified, or continued. Special attention will be paid to the amortization process. We will also evaluate whether provisions for nonconforming signs and billboards should be included here or in the sign regulations.

## **ARTICLE XX: SEVERABILITY OF PROVISIONS**

We will incorporate this language into the new *General Provisions* article.

## **SUBDIVISION REGULATIONS**

The subdivision regulations in Arlington are separate from the zoning ordinance. As discussed earlier, we propose consolidating the zoning and subdivision regulations into one Unified Development Code (UDC). As part of that consolidation, the provisions in most of the following articles would be carried forward as one “Subdivision” article in the UDC.

Generally, we heard fewer comments on subdivision issues than on zoning issues. Except where indicated below, we propose carrying forward much of the current subdivision regulations with no major substantive changes, though reorganized into a more logical structure and reformatted consistent with the rest of the new UDC.

## ORDINANCE HISTORY

As with the similar section in the zoning ordinance, we recommend that this list not be carried forward, unless it is required by state law and/or for purposes of determining vested rights. We will discuss the issue with the city attorney's office.

## ARTICLE 1: GENERAL PROVISIONS

Similar to the general provisions article in the zoning code, this article sets forth general standards related to such things as the city's legal authority to regulate the subdivision of land and the purpose and intent of the subdivision regulations. We will carry forward most of this language into a new general provisions section within the subdivision article, with a few of the provisions moved to other parts of the code to consolidate all similar provisions.

ARTICLE I: GENERAL PROVISIONS		
Section #	Section Title	Suggested Modification(s)
1.03	Policies	Some language in this section is vague – for example, subdivisions should “build a sense of community” and “contribute to a sense of place.”
1.06	Enforcement	Relocate these provisions to one consolidated <i>Enforcement and Penalties</i> article applicable to both subdivisions and zoning.
1.07	Interpretation and Conflict	Relocate to the new <i>General Provisions</i> article.
1.09	Modifications	This language includes the term “hardship,” and so it reads like a variance. How has this authority been used in the past? We recommend this be distinguished from a variance, perhaps by using a waiver or modification procedure. Relocate to the <i>Review Procedures</i> article and better define the procedure for requesting modifications to the subdivision regulations.
1.10	Incorporation of Design Manuals	Clarify whether amendment to manuals requires public hearing. While a design manual change may not require a public hearing, any change may not legally apply to subdivision plats unless it follows the mandatory procedures to revise subdivision regulations.

## ARTICLE 2: DEFINITIONS

Like the definitions article for the zoning code, we will relocate this language into one consolidated set of definitions in the new UDC. We will carefully review the two sets of definitions side-by-side to identify inconsistencies and redundancies and suggest modified language where necessary. We also heard that many of the definitions are vague and difficult to administer, so where this is the case we will provide new definitions in line with modern planning practice. For instance, we will work with staff to clarify how “informal plats” (where land conveyances are done without notifying the city) are dealt with in the code.

### ARTICLE 3: PLAT SUBMITTAL AND APPROVAL PROCEDURES

Subdivision plat approval procedures should be clear and consistent with the time limits imposed by state statute. The plat procedures should provide for sufficient information, adequate public review, and expedient processing. The platting procedures established in Article III of the subdivision regulations largely achieve this objective. They will be folded into the new *Review Procedures* article in the new UDC and the new general procedures (e.g., the Director's authority to define application completeness, and to process only complete applications) will apply. Specific comments are provided below.

ARTICLE III: PLAT SUBMITTAL AND APPROVAL PROCEDURES		
Section #	Section Title	Suggested Modification(s)
3.01	Platting Required	The section allows the utilities and public works directors to allow the construction of improvements without a plat if "inability to file the plat within a reasonable timeframe is the result of filing requirements that do not have a substantive impact upon the development." The city should also require a subdivision improvements agreement (discussed below) to ensure that all required improvements are required, and that a full plat is eventually filed. In addition, the section should establish a time frame for filing the full plat.
3.02	Rules Applicable to All Plats	This section should follow a sequence from earliest to latest - e.g., conveyance plat, preliminary plat, final plat.
C.	Plat Requirements for Acceptance for Review	Consider moving submittal requirements to an appendix, leaving this section to describe the processing procedures. This would put all required information into a convenient checklist for the applicant and reviewers.
D.	Procedures for Plat Approval	Define the term "administratively complete" in D.3 and establish a completeness review procedure.
F. G. I.	Dedication Underground utilities Perimeter Fencing	<ul style="list-style-type: none"> <li>These are specific standards that should be codified in subsequent articles.</li> <li>The fencing standards should be moved to the zoning regulations, with a cross-reference in the subdivision regulations.</li> </ul>
H.	Property Owners' Association Responsibility	<ul style="list-style-type: none"> <li>This should be codified in a section relating to general standards.</li> <li>Consider requiring a maintenance plan that shows how properties will be assessed in order to fund maintenance improvements over time. Allow utility districts or other mechanisms (such as Public improvement districts) as well in order to maintain improvements.</li> </ul>
3.04	Preliminary Plats	<ul style="list-style-type: none"> <li>Because the preliminary plat is not recorded, rename this to preliminary plan. Clarify that this is a process that must be followed in order to have a complete final plat for recording.</li> <li>Allow improvements to be installed before final plat approval subject to construction plan submittal and a subdivision improvement agreement (SIA). The SIA would include the detailed improvements (water, sewer, roads, and drainage) that the developer is required to install, along with financial security to ensure that the improvements are constructed.. At least four Texas cities currently use this approach. Staff prefers that applicants construct all public improvements before building permits are issued.</li> </ul>
D.	Revision to an Approved	<ul style="list-style-type: none"> <li>This requires reapproval of a preliminary plat if there are changes, unless the Planning Director determines that the changes</li> </ul>

<b>ARTICLE III: PLAT SUBMITTAL AND APPROVAL PROCEDURES</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
	Preliminary Plat	are "not substantive." Provide a list of changes that are considered minor, along with a minor plat approval procedure.
3.05	Final Plats	
C.	Final Action	<ul style="list-style-type: none"> <li>Allows the Planning Director to approve or deny the final plat. If the plat is denied, allow the applicant to seek formal approval by the Planning and Zoning Commission and Council. If approved, indicate that this is on behalf of the Planning and Zoning Commission and Council as all discretionary decisions by them have been made.</li> </ul>

#### **ARTICLE 4: STREET AND RIGHT-OF-WAY REQUIREMENTS**

This article sets forth provision for streets and rights-of-way in the subdivision process, including the city's design standards for roads, the layout of the streets and the lots, and the requirements for installation of such improvements. Staff should alert us to any inconsistencies between this material and the design criteria manual. Generally, the language will be carried forward and placed into the subdivision design standards section within the *Subdivisions* article along with Articles 5-7 below. A working copy of revisions being made by a staff committee from Community Development and Public Works/Transportation has been prepared over the past several years and will be useful during the drafting stage of the UDC.

<b>ARTICLE IV: STREET AND RIGHT-OF-WAY REQUIREMENTS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
4.05	Street Layout Requirements	<ul style="list-style-type: none"> <li>Consider reducing maximum block length to provide more connectivity for vehicles and pedestrians. Where long blocks are necessary, provide mid-block pedestrian access.</li> <li>Require pedestrian through-access where cul-de-sacs are necessary.</li> <li>Define "curvilinear."</li> </ul>

#### **ARTICLE 5: DRAINAGE AND ENVIRONMENTAL STANDARDS**

This article includes drainage and environmental standards for subdivisions, including stormwater management and erosion controls. Similar to Articles 4, 6, and 7, staff should alert us to any inconsistencies between this material and the design criteria manual. Generally, we will carry this language forward with no major substantive changes proposed. Procedural language will be relocated to the *Review Procedures* article as discussed below.

<b>ARTICLE V: DRAINAGE AND ENVIRONMENTAL STANDARDS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
5.02	General Requirements	<ul style="list-style-type: none"> <li>We will incorporate this language into the <i>Review Procedures</i> article for subdivisions. This states that subdivisions over one acre must</li> </ul>

<b>ARTICLE V: DRAINAGE AND ENVIRONMENTAL STANDARDS</b>		
<b>Section #</b>	<b>Section Title</b>	<b>Suggested Modification(s)</b>
		<p>have a pre-application meeting, preliminary stormwater and drainage plans, and a final plat submitted to the public works department.</p> <ul style="list-style-type: none"> <li>• Submittal requirements should be placed in an administrative manual.</li> </ul>

## **ARTICLE 6: WATER AND SANITARY SEWER REQUIREMENTS**

Similar to Articles 4, 5, and 7, this article will require careful evaluation and consultation with staff to identify inconsistencies with the design criteria manual. Generally, we will carry this language forward with few substantive changes for the subdivision design standards section within the *Subdivisions* article.

## **ARTICLE 7: LINEAR PARKS**

This article sets forth the standards for dedicating parks and open space as part of the subdivision process. Such provisions include platting of the land for parks and open space and siting of the land for such uses. We heard few comments on this article so we will carry this language forward with few substantive changes for the subdivision design standards section within the *Subdivisions* article.

# OUTLINE

## PART 4: ANNOTATED OUTLINE OF NEW DEVELOPMENT CODE

The annotated outline in this section provides an overview of the proposed structure of the new UDC, assuming that changes recommended in Parts 2 and 3 of this report are implemented in code form. The purpose of this outline is to allow the reader to examine the overall structure of the proposed new UDC without getting bogged down in the actual wording of each provision. For the sake of brevity, many of the corrections and suggestions identified in Parts 2 and 3 of this report are not repeated here.

This annotated outline divides the UDC into 12 major articles, as shown in the box at the right, plus a detailed table of contents and index. Most importantly, the outline consolidates and rearranges material from several current documents into a set of logical new articles that group provisions that will be used together or that relate to one another. For example, the procedural material will be consolidated from three current sources: the zoning ordinance, the post-2005 ordinance amendments, and also the subdivision regulations.

The following pages discuss this general outline in detail. General commentary is included, where appropriate, to explain the purpose or rationale behind certain sections. We view this diagnosis/outline as a vehicle for helping to define expectations about what is to be accomplished in the new code before we begin the detailed process of restructuring, reformatting, and rewriting the code. Although it is unlikely, it is possible that this structure will be modified as we proceed with detailed drafting – particularly if it becomes clear that some sections need significantly more or less detail.

### PROPOSED STRUCTURE OF THE NEW UDC

Article I:	General Provisions
Article II:	Zoning Districts
Article III:	Use Regulations
Article IV:	Dimensional Standards
Article V:	Design and Development Standards
Article VI:	Subdivision
Article VII:	Signs
Article VIII:	Enforcement and Penalties
Article IX:	Review Authorities
Article X:	Review Procedures
Article XI:	Nonconformities
Article XII:	Definitions

## ARTICLE I: GENERAL PROVISIONS

This article will contain general provisions that are relevant or apply to the UDC as a whole (e.g., statement of the code's general applicability). Some of this material is present in some form in the current zoning ordinance and can be carried forward, mostly in Article 1. Enforcement language in Article 1 will be moved to the new *Enforcement and Penalties* article. Additionally, Article IV (Planning Documents) will be integrated into this article, as well as some of the "Miscellaneous Provisions" from Article XVIII of the current zoning code as noted in Part 3 of this report.

A new section of transitional regulations is necessary in order to resolve the status of properties with pending applications or recent approvals and properties with outstanding violations. We recommend that this new section provide that complete applications either submitted or approved prior to the effective date of the new UDC may rely, in general,

on the current regulations, so long as the application does not violate any critical health and safety provisions of the new UDC (e.g., hazardous land uses requirements).

## ARTICLE II: ZONING DISTRICTS

This article will set forth four categories of zone districts: residential, non-residential, mixed-use, and other zoning and overlay districts. This article will contain primarily purpose statements for each category, as well as any district-specific regulations. Generally, we recommend keeping the current lineup of zone districts intact, with a few changes as noted below and in Parts 2 and 3 of this report. The substantive changes in the districts will be reflected in the development and dimensional standards (e.g., minimum lot size for the Estate District), as well as modifications to the set of allowed uses (e.g., the NS district).

Additionally, the Planned Development district will remain intact but with modifications based on discussions in Parts 2 and 3 of this report. Modifications generally reflect the need to reduce the reliance on negotiated approvals.

All districts will be significantly reorganized to improve clarity and user-friendliness. For example, information on uses that are permitted in each district will be summarized in table in the Use Regulations article, and dimensional requirements will be summarized in table in the Dimensional Requirements article.

The following table summarizes the districts to be carried forward, either intact or with modifications as discussed in this report

PROPOSED ARLINGTON ZONE DISTRICTS FOR NEW UDC	
Abbreviation	District Name
Residential Districts	
E	Estate
R	Residential
R1	Residential
R2	Residential
TH	Townhouse
D	Duplex
MF14	Medium Density Multi-Family
MF18	Medium Density Multi-Family
MF22	High Density Multi-Family
Nonresidential Districts	
RO	Residential Office
O	Office Service
NS	Neighborhood Service
B	Business
BP	Business Park
LI	Light Industrial
IM	Industrial Manufacturing
DB	Downtown Business
F	Festival
A	Agricultural



PROPOSED ARLINGTON ZONE DISTRICTS FOR NEW UDC	
Abbreviation	District Name
Mixed Use Districts (new)	
NMU	Neighborhood Mixed Use
CMU	Community Mixed Use
RMU	Regional Mixed Use
Other and Overlay Districts	
PD	Planned Development
AP	Airport Overlay
LP	Landmark Preservation Overlay
CD	Conservation District Overlay
DN	Downtown Neighborhood Overlay
LCMU	Lamar Collins Mixed Use Overlay
VG	Village on the Green at Tierra Verde Overlay
ED	Entertainment District Overlay

### ARTICLE III: USE REGULATIONS

As discussed throughout this report, we propose extensive changes to the city's system of classifying and regulating land uses. Under our proposed organizational scheme, this article will begin with a master use table that shows which uses are allowed in which zoning districts.

#### Table of Allowed Uses

The easy-to-read Table of Allowed Uses will summarize for each district whether a use is: (1) permitted as a matter of right, (2) permitted as a matter of right subject to specific standards, (3) allowed only if reviewed and approved as a specific use, or (4) prohibited. An example of this type of table (from another community) is provided below.

The use table will reflect new uses that do not appear in the current zoning ordinance, and will streamline the existing lineup of use classifications. In addition, a new final column of the use table will contain references to applicable use-specific standards, for those uses that are subject to specific regulations in addition to general development standards. Staff has also requested that the parking requirements be referenced in the use table.

#### 15.10.000.E Table of Allowed Uses <sup>2</sup>

		TABLE 15.10-1: TABLE OF ALLOWED USES																Use-Specific Regulations	
		P = Permitted, C = Conditional Use Permit Required																	
Use Category	Use Type	Residential and Agriculture							Non-Residential										
		AG	LR	R1	RR	R2	R2M	R3	B1	B2	NB	DC	C2	LM	I1	I2 <sup>3</sup>	O <sup>4</sup>	IP <sup>5</sup>	
RESIDENTIAL USES																			
Household Living <sup>6</sup>	Dwelling, Single-Family Detached	P	P	P	P			P			P <sup>7</sup>								
	Dwelling, Single-Family Attached					P	P	P			P								
	Dwelling, Two-Family					P	P	P			P								
	Dwelling, Multi-Family <sup>8</sup>					P	P	P			P	C							
	Dwelling, Townhouse					P	P	P			P	C							
	Dwelling, Live/Work <sup>9</sup>							C	C	C	P <sup>10</sup>	P	C	C			C		
	Apartment, Commercial <sup>11</sup>										P <sup>12</sup>	P							
	Manufactured/Mobile Home Community <sup>12</sup>						C	C	C										Section 15.10.010.A.1
	Conservation/Cluster Subdivisions <sup>14</sup>	P			P														

It will be important for the staff and the committee to provide feedback as to what types of land uses should be continued as specific uses and which land uses should be permitted subject to specified standards (e.g., site plan review). A major goal of this code revision effort will be to reduce the number of uses that are subject to the specific use permit process, making such uses by-right subject to new development and standards.

### **Use-Specific Regulations**

This section will contain all of the special standards and requirements that apply to individual (principal) use types listed in the use tables. The standards apply to uses regardless of whether they are permitted as a matter of right or subject to the conditional use process. As discussed above, the existing Arlington code contains many such use standards, mostly located within the listings of allowed uses.

### **Accessory Uses and Structures**

Accessory uses or structures are uses or structures that are subordinate to the principal use of a building or land. They are located on the same lot as the principal use or structure and are customarily incidental to such use or structure. For example, a garage is typically considered an accessory structure in a single-family residential area. The standards in this section will be substantially new, though the Arlington code does list accessory uses allowed in each district.

### **Temporary Uses and Structures**

Like accessory uses, temporary uses (e.g., seasonal sales, contractors' trailers) can be controversial if not carefully defined and limited. This new section will include new provisions designed to make the regulation of such uses more clear and efficient. These include, for instance, clarifying where on a development site a temporary building, such as a sales trailer, may be located.

## **ARTICLE IV: DIMENSIONAL STANDARDS**

Under our proposed approach, applicable zoning district dimensional requirements will be presented in a table or series of tables near the beginning of this article. An example is shown below from another community. We will likely present the standards in four or more separate tables, corresponding to the four classes of zoning districts: residential, nonresidential, mixed use, and special purpose/overlay districts.

The second half of the article will include text and appropriate illustrations to establish rules of measurement and permitted exceptions. Rules of measurement will be provided for each type of measurement listed in the dimensional standards table. These will include, at a minimum: lot area, lot width, lot depth, lot lines (front, side, and rear), building coverage, total lot coverage, setbacks, and height.

Illustrations will be provided showing how to make certain measurements, such as setbacks on flag lots and lots with no street frontage. We will work with staff throughout the drafting process to develop a list of measurements to be illustrated.

**15.12.000.B Residential District Standards <sup>2</sup>**

<b>TABLE 15.12-2: DIMENSIONAL REQUIREMENTS – RESIDENTIAL DISTRICTS</b>									
<b>District</b>	<b>Use</b>	<b>Lot Dimensions</b>			<b>Setbacks</b>			<b>Min. Floor Area (sq ft)</b>	<b>Max. Height(ft)</b>
		<b>Min. Lot Area (sq ft)</b>	<b>Minimum Lot Width (ft)</b>	<b>Min. Width of St. Frontage (ft)</b>	<b>Front (ft)</b>	<b>Side (ft)</b>	<b>Rear (ft)</b>		
<b>L-R</b>	Principal Building	9,000	75'	None	30'	10' [1]	10'	1,000	30'
	Accessory Building				15'	5'	5'		15'
<b>R-1</b>	Principal Building	7,000	60'	None	25'	5' [2]	7'	800	35'
	Accessory Building				45'	3'	3'		15'
<b>R-R</b>	Principal Building	16,000	75'	None	35'	10' [3]	10'	800	30'
	Accessory Building				60'	5'	5'		15'

*Example of a dimensional standards table from another community.*

## **ARTICLE V: DESIGN AND DEVELOPMENT STANDARDS**

The article will include zoning-related regulations and development standards that are not unique to zoning districts or individual uses. Some of this language will be taken from the current Articles XI, XIII, XIV, and XV, though some will be new, such as the residential design standards. Additional topics may be identified as we proceed with detailed drafting.

### **Residential Adjacency**

Based on the current Article XIII – see discussion above for proposed changes.

### **Landscaping and Screening**

Based on the current Article XIV – see discussion above for proposed changes.

### **Off-Street Parking and Loading**

Based on the current Article XV – see discussion above for proposed changes.

### **Multi-Family Residential Building Design**

New standards.

### **Nonresidential Building Design**

New generally applicable standards, based on already-adopted standards in Arlington overlay and special purpose districts (especially Entertainment District and Downtown).

## **ARTICLE VI: SUBDIVISION**

This article will carry forward from the subdivision regulations all design standards and requirements relating exclusively to land division. Where design and development standards could be applicable to either subdivision or site planning of an existing platted lot, the standards will be relocated to the development standards article, with a cross-reference here. In addition, this section will include a clear requirement that subdivision plats must comply with the development standards of the zone district in which they are located. All subdivision procedures will be relocated to the procedures article.

## **ARTICLE VII: SIGNS**

The current sign regulations will be carried forward here. The article will be rewritten as part of Phase 2 of the code rewrite.

## **ARTICLE VIII: ENFORCEMENT**

This article will consolidate all the UDC's enforcement-related provisions. Since the current code does not contain a statement of enforcement purpose, a new section will be drafted, emphasizing the need for corrective action when the terms of the code have been violated. This also article will define violations and identify who may be held responsible for violations of the code. Finally, this article will include provisions detailing a broad range of penalties and remedies available to the city under Texas law.

## **ARTICLE IX: REVIEW AUTHORITIES**

This article will clarify the different roles of the review and decision-making bodies in the zoning and land development review and approval process. Provisions such as these help establish clear lines of authority in the city's decision-making procedures. The majority of this article will carry forward the language set forth in Article III of the current code.

The table below (from another community) provides an example of a format that allows applicants and officials to quickly determine the review process for each type of application. In order to simplify and reduce the bulk of the LUDC we will put as much information as possible in tables like this, rather than text.

<b>TABLE 17.08-1: SUMMARY TABLE OF REVIEW AND APPROVAL AUTHORITIES</b> D = Decision (Responsible for Final Decision) R = Review (Responsible for Review and/or Recommendation) A = Appeal (Responsible for Hearing Appeals)			
Procedure	Planning and Zoning Director	Planning Commission	City Council
Zoning Text Amendments	R	R	D
Zoning Map Amendments (Rezoning)	R	R	D
Comprehensive Master Plan Amendments	R	R	D
Planned Unit Developments Preliminary	R	R	D
Planned Unit Developments Final	D	A	
Planned Community Districts	R	R	D
Mixed-Use Conceptual	D	A	
Developments Preliminary	R	R	D
Developments Final	R	R	D
Residential Design Incentive System	R	D	A
Site Plans Major	R	D	A
Site Plans Minor	D	A	
Conditional Uses Simple	D	A	
Conditional Uses Further Review	R	D	A
Special Use Permits Listed	R	R	D
Special Use Permits Other	R	D	A
Variances Variances	R	D	A
Variances Administrative Variances	D	A	
Waivers	R	R	D

## ARTICLE X: REVIEW PROCEDURES

This chapter will contain all of the UDC's review and approval procedures, which are scattered throughout the current zoning ordinance and subdivision regulations. Many revisions are planned, as discussed above under the Key Themes section. The first section of this new chapter, "General Procedures," will be an important new section that will contain regulations generally applicable to all procedures (e.g., application filing, notice of decision made without hearing, notice of hearing, conduct of hearing, notice of decision made after hearing). If permitted by Texas law, this section will document a new procedure for minor "administrative adjustments," which will allow staff to make minor adjustments to many dimensional standards where necessary to promote good site planning. The powers to approve administrative adjustments will not extend to adjustments in overall development density, however.

## ARTICLE XI: NONCONFORMITIES

This article will consolidate all provisions relating to nonconformities, including nonconforming lots, uses, structures, and signs.

## ARTICLE XII: DEFINITIONS

This chapter will contain three distinct sections. The first will set forth rules for interpreting UDC language (e.g., "shall" versus "should"). The second will define the general use categories and specific use types used in the code. The third section will include definitions of all other key terms beyond the land uses. New definitions will be added as necessary,

and obsolete definitions removed. (Note that we recommend removing and locating all measurement-related definitions (e.g., building height) in the new Dimensional Requirements article.)

This article will be based substantially on the existing definitions found throughout the current ordinances. We will revise them as necessary to ensure that the definitions do not contain substantive or procedural requirements, and we will verify that key definitions conform to federal and Texas constitutional requirements.

## **INDEX**

The new UDC will include a brief index of key terms.