

Ordinance No. 24- 017

An ordinance amending the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, through the amendment of Article 3, Use Standards; Article 5, Design and Development Standards; Article 6, Subdivision Regulations; Article 8, Enforcement and Penalties; Article 10, Review Procedures; and Article 12, Definitions; related to providing clarification and consistency; providing for a fine of up to \$2,000 for each offense in violation of the ordinance; providing this ordinance be cumulative; providing for severability; governmental immunity; injunctions; publication and an effective date

WHEREAS, after notice and public hearing on the 7th day of February, 2024, the Planning and Zoning Commission heard and recommended amendment to the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, as amended; and

WHEREAS, after notice and public hearing, and upon consideration of the recommendation of the Commission and of all testimony and information submitted during the public hearing, the City Council has determined that it is in the best interest of the public and in support of the health, safety, morals, and general welfare of the citizens that the amendments relative to the "Unified Development Code" Chapter be approved; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ARLINGTON, TEXAS:

1.

That the "Unified Development Code" Chapter of the Code of the City of Arlington, Texas, 1987, is hereby amended through the amendment of **Article 3, Use Standards, Section 3.1.2, Explanation of Table Abbreviations**, with the addition of **Subsection H: Permitted by PD Only Uses**, which shall read as follows:

H. Permitted by PD Only Uses

"PD" in a cell indicates that the use is permitted only through the PD process. The use is allowed only if it complies with Tables 3.1-1 and 3.1-2 in accordance with the supplemental use standards in this article and the requirements of Article 5, Design and Development Standards. The use is subject to all other applicable regulations of this Code and the defined use standards requirements for the PD.

Further, that **Section 3.1.5, Table of Allowed Uses, Subsection B., Non-residential and Mixed-Use Districts, Table 3.1-2: Allowed Uses – Non-Residential and Mixed-Use Districts, Use Category, Auto Sales, Equipment, and Repair, Use Type,** “Gasoline Sales,” is hereby renamed to “Motor Vehicle Fueling Facility.” All cells in the row shall remain unchanged.

Further, that **Section 3.1.5, Table of Allowed Uses, Subsection B., Non-Residential and Mixed-Use Districts, Table 3.1-2: Allowed Uses – Non-Residential and Mixed-Use Districts, Use Category, Wholesale Distribution and Storage, Use Type,** “Self-storage facility” is hereby amended to require a Specific Use Permit in the Flex Hybrid use district and the cell in the Self-Storage Facility row under the FH column shall be amended from “P*” to “S*.”

Further, that **Section 3.2.3, Commercial Uses, Subsection E., Lodging Facilities, Table 3.2-3: Demo and Rebuild,** is hereby amended to delete the following language in its entirety: “* In the EDO, Upscale rebuilds to the Upper-Upscale classification requires a Specific Use Permit (SUP).” In addition, the “*” under the Approval Requirement column is hereby deleted.

Further, that **Section 3.3.4, Use Tables for Accessory Uses and Structures, Subsection A., Accessory Uses – Residential Districts, Table 3.3-1: Accessory Uses – Residential Districts,** is hereby amended through the amendment of the requirement for a “Swimming Pool (Private)” in the RE, RS-20, RS-15, RS-7.2, RS-5, RM-12, RMF-22 and VG use districts from “P” to “P*.” Said use type shall be subject to Supplemental Use Standards in Section 3.3.6.P and the cell in the row shall be amended to reflect said section.

Further, that **Section 3.3.4, Use Tables for Accessory Uses and Structures, Subsection B., Accessory Uses – Non-Residential and Mixed-Use Districts, Table 3.3-2: Accessory Uses – Non-Residential and Mixed-Use Districts,** is hereby amended through the amendment of the requirement for a Sidewalk Cafe in the LO, OC, NC, CC, GC, HC, DB, BP, FH, LI, IM, NMU, and RMU use districts from “P” to “P*.”

Further, that **Section 3.3.4, Use Tables for Accessory Uses and Structures, Subsection B., Accessory Uses – Non-Residential and Mixed-Use Districts, Table 3.3-2: Accessory Uses – Non-Residential and Mixed-Use Districts,** is hereby amended through the amendment of the requirement for a “Swimming Pool (Private)” in the DB, NMU and RMU use districts from “P” to “P*.” Said use type shall be subject to Supplemental Use Standards in Section 3.3.6.P and the cell in the row shall be amended to reflect said section.

Further, that **Section 3.3.6, Supplemental Accessory Use Standards, Subsection L., Secondary Living Unit,** is hereby amended by the addition of **Subsection 3,** and shall read as follows:

3. Only one secondary living unit is allowed per lot and that secondary living unit shall count towards the maximum number of accessory buildings allowed per lot in accordance with Table 3.3-4.

Further, that **Section 3.3.6, Supplemental Accessory Use Standards**, is hereby amended with the addition of **Subsection P., Swimming Pools**, to read as follows:

P. Swimming Pools

Swimming Pools shall not be located between the front property line and an imaginary building line drawn from each front corner of the main building to the side property line.

Further, that **Article 5, Design and Development Standards, Section 5.2.2, Landscaping Required, Subsection A., Residential Landscaping, Subsection 3., Residential Streetscape Design, Paragraph e., Streetscape Adjacent to Major Thoroughfares**, is hereby amended to read as follows:

- (1) Landscape buffer zones adjacent to major arterials, minor arterials, and major collectors shall be identified as open space lots on the plat. The landscaping and sidewalks on such lots shall be the same as required in Section 5.2.2.A.3.c, above, but it shall be maintained by the community's homeowners' association or public improvement district.
- (2) The Zoning Administrator may, but is not required to, temporarily defer the installation of perimeter landscaping if climate conditions are not conducive to the establishment of new plants. Said landscaping shall be installed immediately when the deferral period or any extension thereof expires.

Further, that **Section 5.3.1., Residential Screening and Buffering**, is hereby amended with the addition of **Subsection I., Lighting**, which shall read as follows:

I. Lighting

1. This section shall apply to all multi-family and non-residential uses that abut properties used for residential purposes.
2. Light sources must be indirect, diffused, or covered by shielded type fixtures, and be installed to reduce glare and interference with residential uses.

Further, that **Section 5.3.2., Mechanical and Utility Equipment Screening, Subsection B., Screening Standards, Subsection 2., Multi-Family, Mixed-Use, Commercial, and Industrial Screening, Paragraph a., Roof-Mounted Mechanical Equipment**, is hereby amended to read as follows:

a. Roof-Mounted Mechanical Equipment

Roof-mounted mechanical equipment shall be screened by a parapet wall or similar feature that is an integral part of the building's architectural design. The parapet wall or similar feature shall be of a height equal to or greater than the height of the mechanical equipment being screened so that such equipment is not visible from a point six feet above any portion of the opposing sidewalk or above the crown of the abutting street, whichever is greater.

Further, that **Section 5.3.2., Mechanical and Utility Equipment Screening**, is hereby amended with the addition of **Subsection D., Distinct Materials**, which shall read as follows:

D. Distinct Materials

Materials used to construct the mechanical and utility screening required by this Section 5.3.2 shall not count towards compliance with the design requirements of Article 5 for distinct building materials on facades.

Further, that **Section 5.3.4., Fences**, is hereby amended by renaming **Subsection A., Single-Family Residential Fencing** to read as **Subsection A., Single-Family and Two-Family Residential Fencing**.

Further, that **Section 5.3.4., Fences, Subsection A., Single-Family and Two-Family Residential Fencing**, **Subsection 2., Residential Fencing Types**, is hereby amended by the amendment and numbering of the introductory paragraph to read as follows and by the relettering of Subsections 2.a. – g. to 2.b. – h.

2. Residential Fencing Types

a. Residential fencing standards are divided into two main categories: perimeter fencing and privacy fencing.

- (1) Perimeter fencing is required to be completely installed by the developer for the boundary of the approved final plat in the areas as set forth below, prior to the issuance of a building permit. The Zoning Administrator may, but is not required to, authorize the issuance of building permits for up to 10 percent of the residential lots in the development prior to complete installation of perimeter fencing. No dwelling unit within the development shall be approved for occupancy until the perimeter fencing has been completely installed.
- (2) Privacy fencing is an option left up to the builder or homeowner, but if built it shall follow the standards listed below.

Further, that **Section 5.4.5., Accessible Parking**, is hereby amended in its entirety and shall hereafter read as follows:

5.4.5 ACCESSIBLE PARKING

In addition to the required off-street parking identified in Section 5.4.3, *Off-Street Parking Standards*, accessible parking spaces are required for each parking facility on a site, such as lots and garages. Requirements apply equally to public, private, employee, and/or restricted parking. On sites with multiple parking facilities, the minimum number of accessible spaces must be calculated separately for each parking facility instead of on the combined total of parking spaces provided on the site. The required number of accessible spaces, including van spaces, is calculated separately for each parking lot and site. All accessible parking must be in compliance with the Americans with Disabilities Act (<https://www.ada.gov/topics/parking/>) and the Texas Accessibility Standards (<https://www.tdlr.texas.gov/ab/abtas.htm>).

Further, that Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings, is amended so that all references to “single-family” are hereby amended to read “single-family and two-family.”

Further, that **Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings, Subsection A., Purpose and Intent**, is hereby amended by replacing the words “single-family detached development” with “single-family and two-family developments.”

Further, that **Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings, Subsection B., Applicability, Paragraph 1., Subparagraph a.**, is hereby amended to read as follows:

- a. Planned Development districts that have specific residential design standards but only to the extent such standards differ from the standards of this Section 5.5.3,

Further, that **Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings**, is amended by the amendment of the title of **Subsection D.**, from Building Design Standards Applicable to All Detached Single-Family Residential, to Building Design Standards Applicable to Two-Family and Detached Single-Family Residential.

Further, that **Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings, Subsection D., Paragraph 5., Driveway**, is hereby amended so that the **title** and Paragraph shall hereafter read as follows:

5. Driveway and Front Yard Setback Pavement

- a. The driveway length of front loading, front facing garages shall be no less than 20 feet from the front property line. In case of communities with private streets, the 20-foot distance shall be measured from the edge of the sidewalk farthest away from the street and parallel to the street.
- b. The total area of all pavement in the required minimum front yard setback, including the driveway, shall not exceed one-half of the area of such setback, or 600 square feet, whichever is less.
- c. The installation of pavement in the required minimum front yard setback shall be prohibited, except when approved by permit and subject to the limitations of this Section.

Further, that **Section 5.5.3., Standards for Single-Family and Two-Family Residential Dwellings**, is amended by the amendment of the title of **Subsection E.**, from **Building Design Standards Applicable to All Attached Single-Family Residential**, to **Building Design Standards Applicable to All Two-Family and Attached Single-Family Residential**.

Further, that **Section 5.6.4., Building Design, Subsection I., Building Materials and Colors, Paragraph 1., Wall Materials**, is hereby amended by the addition of **Subparagraph f.**, which shall read as follows:

- f. Unless exempted or permitted by planned development ordinance or alternative equivalent compliance, the front façade of any building utilizing more than 20 percent (non-architectural) metal shall be screened from view by structures or landscaping comprised of evergreen trees, layered in two rows at a rate of not less than one tree per 300 square feet, with a minimum three-inch caliper and 10 feet in height at the time of installation.

Further, that **Section 5.8.1., Entertainment District Overlay | EDO, Subsection B., Land Uses, Paragraph 1., Permitted Uses**, is hereby amended to delete **Subparagraph b.** in its entirety and reletter **Subparagraphs c., d., e., f., g.** to **Subparagraphs c., d., e., f.**

Further, that **Section 5.8.1., Entertainment District Overlay | EDO, Subsection B., Land Uses, Paragraph 2., Prohibited Uses**, is hereby amended by the addition of **Subparagraph m.**, which shall read as follows:

- m. Motor Vehicles Sales, Used. This prohibition is limited to that part of the EDO west of State Highway 360.

Further, that **Article 6, Subdivision Regulations, Section 6.5.2, Drainage Features, Subsection B., Stormwater Mitigation**, is hereby amended through the addition of **Paragraph 4., Fencing**, that shall read as follows:

4. Fencing

Where certain situations exist, such as slope adjacency to the pond, depth of pond, and location of pond relative to vehicular or pedestrian traffic, a four (4) foot open fence adjacent to or surrounding drainage areas/detention/retention ponds may be required.

Further, that **Article 8, Enforcement and Penalties**, is hereby amended through the addition of **Subsection 8.2.10., Failure to Maintain Premises**, and **Subsection 8.2.11., Failure to Maintain Landscaping in Non-Residential, Multi-Family, and Mixed-Use Developments, as well as Common Areas in Residential Subdivisions**, which shall read as follows:

8.2.10. FAILURE TO MAINTAIN PREMISES

To fail to maintain, restore, replace, or otherwise keep in a state of good repair or condition the improvements, facilities, and appurtenances to property required by plat, site plan, development plan, specific use permit, variance, alternative equivalent compliance, permit, or amendments to the same, or the substantive standards of this Code.

8.2.11. FAILURE TO MAINTAIN LANDSCAPING IN NON-RESIDENTIAL, MULTI-FAMILY, AND MIXED-USE DEVELOPMENTS, AS WELL AS COMMON AREAS IN RESIDENTIAL SUBDIVISIONS

To fail to maintain all required landscaping in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping. Landscaped areas shall be kept free of trash, litter, weeds and other such material or plants not a part of the landscaping. All plant materials shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant materials which die shall be replaced with plant materials of similar variety and size.

Further, that **Section 8.7, Penalty for violation**, is hereby amended to read as follows:

Any person or corporation who shall violate any of the provisions of this Code or fail to comply with any of the requirements thereof, or who shall build or alter any building or use in violation of any detailed statement or plan submitted and approved hereunder shall be guilty of a misdemeanor punishable under this section.

The owner, manager, tenant, lessee, sublessee, occupant, or person in custody and control of any building or premises or part thereof, where anything in violation of this Code shall be placed or shall exist, and any architect, builder, contractor, agent, person, or corporation employed in connection therewith and who may have assisted in the commission of any such violation shall be guilty of a separate offense punishable under this section.

A person who violates any provision of this Chapter by performing a prohibited act or by failing to perform a required act shall be guilty of a misdemeanor. Each day on which a violation exists or continues to exist shall be a separate offense.

If the definition of an offense under this Chapter does not prescribe a culpable mental state, then a culpable mental state is not required. Such offense shall be punishable by a fine not to exceed Five Hundred Dollars and No Cents (\$500.00). Although not required, if a culpable mental state is in fact alleged in the charge of the offense and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, such offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

If the definition of an offense under this Chapter prescribes a culpable mental state and the offense governs fire safety, zoning, or public health and sanitation, including dumping of refuse, then a culpable mental state is required and the offense shall be punishable by a fine not to exceed Two Thousand Dollars and No Cents (\$2,000.00).

Further, that **Article 10, Review Procedures, Section 10.2., Table of Procedures, Table 10.2-1: Summary Table of Review Procedures**, is hereby amended under Zoning Procedures, with the addition of “✓” next to rows “Zoning Map Amendments”, “Multi-Family Development Plans”, “Mixed-Use Development Plans”, and “Specific Use Permits” under the “Pre-Application Meeting” column.

Further, that **Section 10.3.7., Approval Procedures, Subsection E., Tabling a Decision**, is hereby amended in its entirety and shall read as follows:

E. Tabling a Decision

1. A decision-making body may close a public hearing and table the decision. The request shall appear on each subsequent agenda unless the decision is deferred to a specific date.
2. By motion, the decision-making body may for any reason it deems appropriate continue a public hearing indefinitely without specifying a date of continuance.
3. The applicant is responsible for notifying the Zoning Administrator in writing of a proposed date to reschedule a postponed or indefinitely continued public hearing. The Zoning Administrator may reschedule the public hearing on the applicant’s proposed date or another date mutually convenient to the parties. The Zoning Administrator shall ensure that notice and publication of the rescheduled public hearing are provided as required by this Article 10 and by state law.

Further, that **Section 10.3.9., Withdrawal and Reapplication, Subsection A., Withdrawal of Application by Applicant**, is hereby amended by the addition of **Paragraph 6.**, that shall read as follows:

6. An application for which the public hearing is postponed at the applicant's request or continued indefinitely pursuant to Section 10.3.7 and not rescheduled for public hearing within one year from the date of complete submittal constitutes the applicant's withdrawal of the application.

Further, that **Section 10.4.3., Planned Developments, Subsection I., Scope of Approval, Paragraph 1., Actions Following Approval of Planned Developments, Subparagraph c.**, is hereby amended in its entirety and shall read as follows:

- c. Prior to a permit being issued for property with an approved PD Development Plan, the building permit shall be reviewed for compliance with the approved design standards. Unless stipulated in the enacting ordinance or specifically annotated on the Development Plan, all dimensional standards of the base zoning district and substantive standards of this Code shall apply, and the Development Plan shall be modified to conform to easements, rights-of-way, and dedications necessary to provide adequate public facilities.

Further, that **Section 10.4.22., Alternative Equivalent Compliance**, is hereby amended through the addition of **Subsection I., Acceptance of Conditions**, which shall read as follows:

I. Acceptance of Conditions

1. An applicant or owner of premises that constructs a building or sign or develops property and receives the benefit of an alternative equivalent compliance plan constitutes acceptance of the terms and conditions of the plan as approved by the Zoning Administrator.

Further, that **Article 12, Definitions, Section 12.3.2., Public, Institutional, and Civic Uses, Subsection A., Community and Cultural Facilities, Paragraph 8., Religious Assembly**, is hereby amended to read as follows:

8. Religious Assembly

A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery, or other structure, together with its accessory structures, including a parsonage, rectory, or columbarium. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools and other child care services are not accessory uses and shall require approval as separate principal uses.

Further, that **Section 12.3.3, Commercial Uses, Subsection C., Auto Sales, Equipment, and Repair**, is hereby amended by deleting **Paragraph 4., Gasoline Sales**, in its entirety and replacing it with the following **Paragraph 4., Motor Vehicle Fueling Facility**, to read as follows:

4. Motor Vehicle Fueling Facility

A facility or area for the retail sale of gasoline, electric, natural gas, and/or other refueling options for motor vehicles where that refueling or combination thereof is the main use, with a required associated structure (i.e., a convenience store or grocery store).

Further, that **Section 12.3.3, Commercial Uses, Subsection H., Personal Services, Paragraph 5., Tattoo Parlor or Piercing Studio**, is hereby amended to read as follows:

5. Tattoo Parlor or Piercing Studio

An establishment whose principal business activity, either in terms of operation or as held out to the public, is the practice of one or more of the following: (1) placing of designs, letters, figures, symbols, or other marks upon or under the skin of any person, using ink or other substances that result in the permanent coloration of the skin, by means of the use of needles or other instruments designed to contact or puncture the skin; (2) creation of an opening in the body of a person, other than the earlobe, for the purpose of inserting jewelry, implants, or other decoration. A Tattoo Parlor does not include establishments whose principal business activity is permanent cosmetics, microblading, micropigmentation, and similar personal care services.

Further, that **Section 12.3.3, Commercial Uses, Subsection I., Recreation and Entertainment, Indoor, Subsection 8., Nightclub | Live Entertainment Venue**, is hereby amended to read as follows:

8. Nightclub | Live Entertainment Venue

An establishment, facility, or room that offers or provides entertainment of any kind for remuneration, whether through fees, ticket sales, cover charges, membership, dues, or portion of funds generated in any other manner, usually collected at the time of customer entry into the establishment. Such establishments may provide accommodations for patron dancing; dispense alcoholic beverages for consumption on the premises; provide live, recorded, or televised music or comedy performances; and/or serve food as an ancillary service. This definition shall include nightclubs, lounges, karaoke lounges, and comedy clubs.

“Nightclub/Live Entertainment Venue” shall not include indoor theaters, auditoriums and stadiums with fixed row seating, private

clubs, bars, teen clubs, banquet halls, or establishments defined elsewhere in this Code or other City codes as a sexually oriented business.

2.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

3.

This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Arlington; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

4.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this ordinance.

5.

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Arlington in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

6.

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Arlington in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Arlington.

7.

The caption and penalty clause of this ordinance shall be published in a newspaper of general circulation in the City of Arlington, Texas, in compliance with the provisions of

Article VII, Section 15, of the City Charter. Further, this ordinance may be published in pamphlet form and shall be admissible in such form in any court, as provided by law.

8.

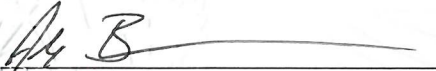
This ordinance shall become effective on the 1st day of May, 2024.

PRESENTED AND GIVEN FIRST READING on the 26th day of March, 2024, at a regular meeting of the City Council of the City of Arlington, Texas; and GIVEN SECOND READING, passed and approved on the 9th day of April, 2024, by a vote of 8 ayes and 0 nays at a regular meeting of the City Council of the City of Arlington, Texas.



JIM R. ROSS, Mayor

ATTEST:



ALEX BUSKEN, City Secretary

APPROVED AS TO FORM:
MOLLY SHORTALL, City Attorney

BY

