

# **CHAPTER 10: ADMINISTRATION AND ENFORCEMENT**

## **10.1 ADMINISTRATION**

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The provisions of this Ordinance shall be administered by the Building Inspector appointed by the Chief Legislative Body. They shall have the power to make inspections of buildings or premises necessary to carry out these duties in the enforcement and administration of this Ordinance.

## **10.2 BUILDING PERMITS**

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Building permits are required and it shall be unlawful to commence the excavation for the construction of any parking lot or building, including accessory, until the building inspector has issued a permit for such work.

No building permit shall be issued for construction of any building or structure located on a lot or plat subdivided or sold in violation of any provisions of the Ordinance. Any individual requesting a building permit for a lot located in an established subdivision shall provide evidence that the plat of subdivision wherein such lot is located has been approved and appropriately recorded.

It shall be unlawful to place mobile homes or manufactured homes until the building inspector has issued a building permit for such placement.

### **10.2.1 Site Plan**

A site plan is to be submitted by the applicant for a building permit. The site plan shall be drawn by a licensed surveyor or licensed engineer showing the actual dimensions and shape of the lot to be built on; any proposed excavations and drainage treatments; the size and location on the lot of buildings already existing, if any; the location and dimensions of the proposed use, building or alteration; the location of all driveways and entrances; and the location and provisions for parking as required by the Ordinance. The building inspector may waive the requirement of having a site plan in those cases deemed appropriate.

### **10.2.2 Additional Building Permit Information**

The applicant shall include such other information as may be required by the building inspector. The information shall include the existing and proposed uses of the buildings and land, the number of families, housekeeping units or rental units on the lot; and other such matters as may be necessary to determine conformance with the provisions for the enforcement of this Ordinance. No building permit shall be issued until the building inspector receives written approval of the proposed provisions for water supply and sewage disposal for the proposed use.

### **10.2.3 Issuance of Building Permit**

If the proposed excavation or construction as set forth in the application is in conformity with the provisions of this Ordinance and other Ordinances of Arlington, Tennessee, then in force, the building inspector shall issue a building permit for such excavation or construction. If a building permit is refused, the building inspector shall state such refusal in writing with the cause. This issuance of a building permit shall in no case be construed as waiving any provision of this Ordinance. A building permit shall become void six (6) months from the date of issuance unless substantial progress has been made by the date on the project described therein.

### **10.2.4 Certificate of Occupancy**

No land or building or part thereof hereafter erected or altered in its use of structure shall be used or occupied until the building inspector shall have issued a certificate of occupancy stating that such land, building, or part thereof and the proposed uses thereof are found to be in conformity with the provisions of this Ordinance and the Building Code. Within fourteen (14) days of receipt by the building inspector of a written notification that a building or premises or part thereof is ready for occupancy or use, it shall be the duty of the building inspector to make a final inspection thereof and issue a certificate of occupancy if the land, building or part thereof are found to conform with the provisions of this Ordinance; or, if such certificate is refused to state such refusal in writing with the cause.

## **10.3 ARLINGTON MUNICIPAL PLANNING COMMISSION**

**10.3.1** The Arlington Municipal Planning Commission is created and established pursuant to the provision of the Town of Arlington Municipal Code and the applicable provisions of Tennessee Code Annotated.

## **10.4 ARLINGTON DESIGN REVIEW COMMITTEE**

### **10.4.1 Composition**

The Design Review Committee shall consist of seven (7) members.

### **10.4.2 Qualifications of Members**

Members shall be recognized practitioners in any of the following fields: Architecture, Engineering, Landscape Architecture, Urban Planning, Art, or Building. It is desired that at least one (1) architect and one (1) engineer serve on the Board at all times; however, an individual with building experience may be substituted for the architect and an individual with construction experience may be substituted for the engineer, should there be no one to serve in those positions.

#### **10.4.3 Appointment of Members**

Each member of the Design Review Committee shall be appointed or re-appointed by the Mayor with the approval of the Board of Aldermen. Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term.

#### **10.4.4 Term of Members**

Each member shall be appointed for a term of two (2) years, except that to obtain the benefits of carry-over membership, the initial appointments will consist of one (1) year for three (3) of the members and two (2) years for four (4) of the members.

#### **10.4.5 Removal of Members**

Members of the Design Review Committee may be removed without cause at the will of the Mayor and the Board of Aldermen.

#### **10.4.6 Meetings**

Meetings of the Design Review Committee shall be held status quo and at such other times as the Committee may determine. Four (4) members shall constitute a quorum.

#### **10.4.7 Responsibilities**

It shall be the duty of the Design Review Committee to develop specific review procedures for construction of development for all non-residential properties, multiple-family residential, and any entrances to residential or non-residential development and to apply such procedures in either approving or disapproving proposals for such improvements in the Town of Arlington. The Committee may adopt rules and regulations to govern the procedure before the Committee. Such rules shall be adopted by a majority of the Committee.

#### **10.4.8 Building Applications – Submittals to Committee**

Prior to application for a building permit, all non-residential properties, multiple-family residential, and any entrances to residential or non-residential development shall be submitted to the Design Review Committee, along with plans, elevations and landscape plans. A preliminary submittal prior to completion of detailed plans and specifications is recommended but not mandatory.

#### **10.4.9 Building Applications – Due Consideration**

Following application to the Design Review Committee, submitted in accordance with the then-existing deadlines as periodically set by the Town, the Town staff shall examine same and present it to the members of the Committee for examination and determination of whether the proposed structure will conform to proper urban design standards and be conducive to the proper architectural

development of the Town. At said meeting, the Design Review Committee shall examine the plans, elevations and specifications, and any other evidence that may be pertinent or requested. The Chairman of the Design Review Committee may request the applicant or his representative to appear at the Committee meeting. The Design Review Committee shall act as expeditiously as practicable and in no event shall any applicant be caused unreasonable delay. The applicant may waive the time frame for consideration of the request.

#### **10.4.10 Building Applications – Approval or Disapproval**

At said meeting or at any meeting within fifteen (15) days subsequent thereto, the Design Review Committee shall approve the application if, in its opinion, the proposed development will conform to proper design standards and be conducive to the proper development of the Town. The Design Review Committee shall disapprove and return the application if it determines that the proposed development will be unsightly or unsuitable in appearance or detrimental to the environment of the community. However, the Design Review Committee may make comments and recommendations if it sees fit, toward the end of informing the applicant, the building official, and the Board of Aldermen why the proposal is unsuitable and what might be done to help bring it into conformance.

#### **10.4.11 Building Applications – Issuance of Permit**

If the Design Review Committee approves the application, the Town staff may submit the plans to the building official for the permit. If the Design Review Committee returns the application with its disapproval and recommendations, the Town staff shall not submit the project for a building permit until such time as appropriate changes have been made and re-submitted in such form that meets the approval of the Design Review Committee. If, in the opinion of the Chairman of the Design Review Committee, the re-submittal clearly meets the design standards and recommendations of the Design Review Committee, he may approve the application for the Committee without further delay.

#### **10.4.12 Appeals**

An applicant may appeal any decision of the Design Review Committee to the Planning Commission. The appeal will be considered at a regular meeting of the Planning Commission, at which time the Commission shall hear all parties who desire to be heard, and after said hearing, shall approve or disapprove the request for appeal. If the Planning Commission approves the appeal and overturns the decision of the Design Review Committee, the request may be submitted to the building official for issuance of a permit.

#### **10.4.13 Design Guidelines Manual**

In order to facilitate the purposes of this section, the Town of Arlington Design Guidelines Manual, is incorporated herein by reference. Any amendment to the Design Guidelines Manual shall be made by resolution approved by the Board of Mayor and Aldermen upon recommendation of the Design Review Committee.

## **10.5 ARLINGTON BOARD OF ZONING APPEALS**

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### **10.5.1 Purpose**

The Board of Zoning Appeals (BZA) is created as an appellate board to review: actions of the building inspector; applications for uses permitted by conditional use and requests for variances. In all cases the actions of the Board of Zoning Appeals for the Town of Arlington shall be governed as set forth below.

### **10.5.2 Creation and Appointment**

A Board of Zoning Appeals is hereby established in accordance with Section 13-7-205, Tennessee Code Annotated. The BZA shall consist of five (5) members, one (1) of whom shall be a member of the Planning Commission, and one (1) of whom will be a Board of Aldermen member and three (3) of whom will be at-large members. The members shall be appointed by the Mayor of Arlington for three (3) year terms, except that the terms of the two (2) members first appointed shall be one (1) and two (2) years respectively. Vacancies shall be filled for an unexpired term by the Mayor and Board of Aldermen.

All members of the Board shall serve with such compensation as may be fixed by the Town Board and may be removed from membership by a majority vote of the Town Board for continued absence or just causes. Any member being so removed shall be provided, upon his request, a public hearing upon the removal decision.

### **10.5.3 Appeals**

Any appeal to the BZA may be taken by any person, firm, or corporation aggrieved, or by any governmental officer, department, board or bureau affected by any decision of the building inspector based in whole or in part upon the provisions of this Ordinance. The building inspector shall be required to specify in writing to the applicant either his approval or rejection of the appeal as aforesaid may be taken by filing with the BZA a Notice of Appeals, specifying the grounds thereof. The building inspector shall transmit to the Board all papers constituting the record of actions taken prior to the request for an appeal. The Board shall fix a notice there as well as due notice to the parties in interest and decide same within a reasonable time. Upon the hearing, any person or party may appear in person or agent or by attorney.

### **10.5.4 Powers**

The Board of Zoning Appeals (BZA) shall have the following powers:

- 1) **Administrative Review:** To hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, permit decision, determination or refusal made by the building inspector or other administrative official in carrying out or enforcement of any provisions of the Ordinance and for interpretation of the Zoning Map.
- 2) **Conditional Uses:** To hear and decide, in accordance with the provisions of this section, requests for conditional use permits. For the purpose of

administration of this section, conditional uses shall be construed as synonymous with special exceptions, as such latter term is used in Tennessee Code Annotated §§ 13-7-206 and 13-7-207.

- a) Procedure: The following procedure is established to integrate properly the conditional uses after consideration by the BZA with other uses located within the zoning classification. These uses shall be reviewed by the BZA and authorized or rejected utilizing the procedures set forth in this section.
- b) Application for Conditional Use Permit: A written application for a conditional use permit shall be filed with the BZA by the property owner or his or her designated agent on a form provided by the Town. The application shall contain information and exhibits as may be required. An incomplete application or an application that fails to meet minimum submittal requirements shall be returned to the applicant by the Town, and shall include a written statement enumerating the deficiency(ies) in the application. The completed application or any proposed supplement thereto shall be submitted in compliance with the then-existing required deadlines as set periodically by the Town.
- c) General Provisions for Conditional Use Permit: The following general provisions are established that shall apply to all applications for conditional use permits. The BZA may impose such other conditions and restrictions upon the premises benefited by a conditional use permit as may be necessary to comply with the provisions set forth in this section in order to reduce or minimize the injurious effect of such conditional use upon surrounding areas and insure compatibility with surrounding property and in the furtherance of the general purposes of this section. A conditional use shall not be approved unless it:
  - i) is so designated, located, and proposed to be operated so that the public health, safety, and welfare will be protected;
  - ii) will not adversely affect other property in the area in which it is located;
  - iii) is within the provision of conditional uses as set forth in the Zoning Ordinance;
  - iv) conforms to all applicable provisions of this Zoning Ordinance for the district in which it is to be located and is necessary for public convenience in that location; and
  - v) conforms to the established specific provisions, where applicable, as set forth in Chapter 4, Section 4.9 of this Zoning Ordinance.

- d) Denial of a Conditional Use: The BZA may deny a conditional use permit when it is determined that the proposed conditional use does not conform with the grounds for issuance of a conditional use permit contained herein and/or the specific provisions for conditional uses provided in Chapter 4, Section 4.9.
  - e) Effective Period of Approval: BZA approval shall become effective thirty (30) days from the date at which the conditional use permit was granted. No building permit, however, shall be issued prior to the effective date of approval and verified compliance with any applicable site plan, nor prior to any required subsequent approvals from the Planning Commission, Design Review Committee and Board of Mayor and Aldermen. Building permits shall be issued subject to all conditions and requirements stipulated by the BZA in the issuance of the conditional use permit.
  - f) Failure to Establish Conditional Use: The applicant is required to begin construction of the conditional use authorized by the BZA within one (1) year of approval granted by the BZA and/or to fully establish the conditional use within two (2) years of approval in conformance with all applicable provisions of the Zoning Ordinance and conditions of approval imposed by the BZA and other boards and commissions. Failure to begin construction on the approved conditional use or to establish the conditional use within the prescribed time period shall result in the voiding of approval of the conditional use permit. The applicant may request an extension from the BZA not to exceed one (1) year. The BZA may consider such requests after the expiration of the time periods set forth herein.
  - g) Validity of Plans: All approved plans, conditions, restrictions and requirements made part of the approval by the BZA shall run with the land, once the conditional use is established as provided herein, and the permitted conditional use on the land shall conform to same at all times. Conditional use approval shall not be transferable prior to the establishment of the conditional use as provided herein.
  - h) Limitation on Re-Applications: If the BZA denies an application for a conditional use permit, a re-application pertaining to the same property and requesting the same conditional use permit may not be filed within one (1) year of the date the BZA took final action on the previous application, unless the Board of Mayor and Aldermen authorizes such re-application.
- 3) **Variance:** To hear and decide applications for variance from the terms of this Ordinance, except use variances, which are not permitted.
- a) Procedure: The following procedure is established for the consideration of any request for a variance from the Ordinance. The request shall be approved or denied utilizing the procedures set forth in this section.

- b) Application for Variance: A written application for a variance shall be filed with the BZA by the property owner or his or her designated agent on a form provided by the Town. The application shall contain information and exhibits as may be required. An incomplete application or an application that fails to meet minimum submittal requirements shall be returned to the applicant by the Town, and shall include a written statement enumerating the deficiency(ies) in the application. The completed application or any proposed supplement thereto shall be submitted in compliance with the then-existing required deadlines as set periodically by the Town.
  
- c) Standards for a Variance: The BZA may hear and decide a request for a variance, but only where by reason of exceptional narrowness, shallowness or shape of specific piece of property which at the time of adoption of this Ordinance was a lot of record; of where, by reason of exceptional topographic conditions or other extraordinary or exceptional situation or conditions of a piece of property the strict application of the provisions of the ordinance would result in exceptional difficulties or the exceptional and undue hardship upon the owner of such property, provided that such relief may be granted without the substantial detriment to the public and without substantially impairing the intent and purpose of this Ordinance. No variance from Chapter 4, Section 4.8, Uses Permitted in Zoning Districts, may be considered or granted by the BZA. Financial disadvantage to the property owner is no proof of hardship within the purpose of zoning and as further explained below:
  - i) The particular physical surroundings, shape, or topographic conditions of the specific property involved would result in a particular hardship upon the owner as distinguished from a mere inconvenience, if the strict application of this ordinance were carried out.
  - ii) The conditions upon which the petition for variance is based would not be applicable, generally, to other property within the same district.
  - iii) The variance will not authorize activities in a zoning district other than those permitted by this Ordinance.
  - iv) Financial returns alone shall not be considered basis for granting a variance.
  - v) The alleged difficulty or hardship has not been created by any person having an interest in the property after the effective date of this Ordinance.
  - vi) That granting the variance requested will not confer on this applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district.



- vii) The variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - viii) The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the area in which property is located.
  - ix) The proposed variance will not impair an adequate supply of light and air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values with the area.
  - x) The variance is not based on the fact of nonconforming use of neighboring lands, structures or buildings in the same district.
  - xi) Under no circumstances shall the BZA grant a variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.
- d) Conditions and Restrictions by the Board: The Board may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to reduce or minimize the injurious effect of such variation upon surrounding property and better carry out the general intent of this Ordinance.
- e) In any decision made by the BZA on a variance, the BZA shall:
- i) indicate the specific section of this Ordinance under which the variance is being considered, and shall state its findings beyond such generalities as “in the interest of public health, safety and general welfare”; and
  - ii) in cases pertaining to hardship, specifically identify the hardship warranting such action by the Board.

#### **10.5.5 Rules and Proceedings of the Board**

The Board of Zoning Appeals (BZA) shall adopt rules for the conduct of its meetings. Such rules shall at the minimum require that:

- 1) The presence of three (3) members shall constitute a quorum and the concurring vote of the majority of those members present and voting shall be necessary to deny or grant any application before the Board.

- 2) The Board shall elect from its members its own chairman, vice chairman, and secretary who shall serve for one (1) year and may upon election serve succeeding terms.
- 3) Any member of the Board who shall have direct or indirect interest in any property which is the subject matter of, or affected by a decision of the Board shall be disqualified from participating in the discussion, decision, and proceedings of the Board in connection therewith. The burden of revealing any such conflict rests with individual members of the Board. Failure to reveal any such conflict shall constitute grounds for removal from the Board.

#### **10.5.6 Meeting of the Board of Zoning Appeals**

- 1) Meetings shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public and proper public notice of such meetings shall be given.
- 2) No action shall be taken by the Board on any case until after a public hearing and notice thereof. Said notice of public hearing shall be published in a newspaper of general circulation in Arlington at least five (5) days before the date set for a public. Written notice of the hearing shall be sent by mail at least five (5) days before the date sent for a public hearing to the appellant and all property owners according to the following standards:
  - a) Public hearings for requests of a variance or an administrative review: written notice of the hearing shall be sent to all directly effected property owners. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all street, roads or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of names and address of the owners of property shown on the vicinity map.
  - b) Public hearings for requests of a conditional use permit: written notice of the hearing shall be sent to all property owners whose property is within five hundred (500) feet of the land which is the subject of the request, or the property owners of a minimum of twenty-five (25) properties, whichever results in the greatest number of properties. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all street, roads or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of names and addresses of the owners of property shown on the vicinity map.

- c) Written notice of the public hearing shall be sent to the appellant of said request by registered mail.
- 3) Any request for a Use and Occupancy requires a sign be placed on the subject property by the applicant, and at his/her own expense, at least fifteen (15) days prior to the public hearing of the Board of Zoning Appeals. The sign must meet the following specifications:
- a) **Duration:** The sign shall be placed on the property at least fifteen (15) days prior to the public hearing, and removed within five (5) days of the public hearing.
  - b) **Size:** The sign shall be 4' x 4' in size, single-sided. The maximum height of the sign, including posts, shall be six (6) feet.
  - c) **Location:** One (1) sign shall be placed on each side of the parcel facing a public right-of-way and shall be placed ten (10) feet from the public right-of-way. The sign must be completely visible to the public, not obscured by shrubbery, weeds, buildings or other objects.
  - d) **Content:** The sign shall state, at a minimum, the purpose of the request and the date, time and place of the public hearing. The specific wording shall be approved by the Town Planner prior to installation.
  - e) **Construction:** The sign must be made of weather-durable materials and the letters and numbers must be prepared using templates, stencils or attachable letters. Hand-lettered signs are not acceptable. The sign must be posted on durable wood or metal posts.
  - f) **Maintenance:** The applicant or requesting party is responsible for maintenance of the sign in good order until the sign is required to be removed. The status of the sign shall be checked frequently by the applicant, and immediately replace any sign that has fallen or been destroyed.
  - g) **Colors:** The sign background must be black with white letters and numbers.
- 4) The Board may call upon any other office or agency of the town government for information in the performance of its duties, and it shall be the duty of such other agencies to render such information to the Board as may be reasonable required.
- 5) The Arlington Planning Commission shall be permitted to submit an advisory opinion on any matter before the Board and such opinion shall be made part of the record of such public hearing.

- 6) At the public hearing of the case before the Board, the appellant shall appear in his own behalf or be represented by counsel or agent. The appellant's side of the case shall be heard first and those in objection shall follow. To maintain orderly procedure, each side shall proceed without interruption from the other.

#### **10.5.7 Appeal of Decision of BZA**

Any person, including any agency of the Town government, aggrieved by a decision of the BZA relative to a conditional use permit may appeal by certiorari to a court of competent jurisdiction. The judgment and findings of the BZA on all questions of fact that may be involved in any appeal, cause, hearing or proceeding under this section shall be final and subject to review only for illegality or want of jurisdiction.

#### **10.5.8 Right to Entry Upon Land**

The Board, its members and employees, in the performance of its work, may enter upon any land within its jurisdiction and make examinations and survey and place or remove public notices as required by this Ordinance.

## **10.6 SITE PLAN REVIEW REQUIREMENTS**

The following procedures and standards are established for those sections of this Ordinance which require the submission and approval of a site plan prior to the issuance of a building permit or certificate of occupancy for any affected lands, structures, or buildings. Site plans shall be reviewed and approved or disapproved under the following procedures and standards as specified by this Ordinance.

#### **10.6.1 Site Plan Submission and Review**

Site Plan review is required in the following instances by the Arlington Municipal Zoning Ordinance. These instances include:

- 1) The review and approval of a site plan shall be conducted by the Arlington Mayor or his Designee for all single-family and two-family residential structures.
- 2) The review and approval by the Planning Commission for non-residential property and multi-family residential, as identified in Chapter 4, Section 4.8 of the Ordinance, Uses Permitted in Zoning Districts.
  - a) All new buildings and building additions for any permitted use or conditional use, in accordance with specifications required in Chapter 4, Section 4.8.
  - b) Site alterations, including the construction of driveways, loading areas and parking area.

- 3) The following additional items shall require review and approval of the Design Review Committee, as provided for in Section 10.4:
  - a) New building exterior elevations and exterior alteration of buildings or structures or accessory structures with the exception of single-family and two (2)-family structures.
  - b) Site alterations, including alteration of landscaping, lighting, parking and loading areas and other spaces within the site, with the exception of single-family and two (2)-family residential structures and sites.
  - c) Fencing, landscaping, lighting, and buffering/screening measures for all non-residential development and multi-family residential development.

#### 10.6.2 Review Procedure

The following procedures shall apply:

- 1) **Mayor or his Designee:**
  - a) In instances of review by the Arlington Mayor or his Designee, the site plan shall be reviewed in light of the provisions of this Ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. In instances of disapproval, the applicant shall be notified in writing as to the reason the site plan was disapproved.
  - b) An incomplete application or an application that fails to meet minimum submittal requirements shall be returned to the applicant by the Town and shall include a written statement enumerating the deficiencies in the application.
- 2) **Planning Commission Review:**
  - a) An application for review shall be submitted to the Planning Commission. The application may be made by the property owner or his or her designated agent and filed, in writing, on forms provided by the Town along with payment of an application fee as prescribed in and shall contain information and exhibits as may be necessary in accordance with this section. The completed application, information and exhibits shall be submitted in compliance with the then existing deadlines as periodically set by the Town.
  - b) An incomplete application or an application that fails to meet minimum submittal requirements shall be returned to the applicant by the Town and shall include a written statement enumerating the deficiencies in the application.

- c) Prior to the regular Planning Commission meeting, copies of the proposed site plan shall be distributed to affected Town departments for review of areas under their concern. Once Town staff has reviewed the proposed development and has submitted a written review, a copy of these reviews shall be distributed to members of the Planning Commission and to the applicant prior to the scheduled meeting. To assist in resolving any potential problems, the owner, developer, or agent shall be required to attend the meeting at which the item is to be heard.
- d) The site plan shall be reviewed by the Planning Commission in light of the provisions of this Ordinance and approved or disapproved. The plans shall then be returned to the owner or agent with the date of such approval or disapproval noted thereon. When approval has been granted, the site plan shall be signed and dated by the Secretary of the Planning Commission. In instances of disapproval, the applicant shall be notified in writing as to the reason the site plan was disapproved.

3) **Design Review Committee Review**

Following application to the Planning Commission, an application for review shall be submitted to the Design Review Committee, in accordance with the review procedures established in Section 10.4.

**10.6.3 Contents of the Site Plan**

- 1) In instances where site plan review is required by the Mayor or his Designee, the site plan shall be drawn to a scale of not less than 1" = 50' and shall include, at a minimum, the following:
  - a) all property lines and their surveyed distances and courses;
  - b) all building restricting lines, setback lines, easements, covenants, reservations and rights-of-way;
  - c) total land area;
  - d) present zoning of site and abutting properties;
  - e) name, address and phone number of owner of record and applicant;
  - f) provisions for utilities (water, sewer, etc.); and
  - g) location and dimensions of the proposed structures.
- 2) In instances where site plan review is required by the Planning Commission, the site plan shall include, at a minimum, the following, as well as any items specified on the application form provided by the Town and information requested by staff or the Planning Commission to satisfactorily

review the request. Where appropriate, the information may be provided on separate plans:

- a) name and address of development;
- b) name, address and phone number of the applicant and owner of record;
- c) present zoning of the site and abutting properties;
- d) date, graphic scale, and north point with reference to source of meridian;
- e) courses and distances of center of all streets and all property lines, highway setback lines, property restricting lines, easements, covenants reservations and rights-of-way;
- f) the total land area;
- g) existing and proposed topography of the ground and paved areas and elevations in relation to mean sea level of streets, alleys, utilities, sanitary and storm sewers, buildings and structures. Topography to be shown by illustrating two (2') foot contours and by spot elevation where necessary to indicate flat areas;
- h) plans for collecting storm water and methods of treatment of natural and artificial water courses;
- i) certification as to the accuracy of the plan by a licensed architect or engineer licensed to practice in the State of Tennessee;
- j) Certificate of Survey by a registered land surveyor licensed to practice in the State of Tennessee.;
- k) a certificate, with a space for a signature and date, which states that the site plan has been approved by the Arlington Municipal Planning Commission;
- l) the location, dimensions, site and height of the following existing and proposed:
  - i) sidewalks, streets, alleys, easements and utilities;
  - ii) buildings and structures;
  - iii) public waste water systems;
  - iv) slopes, terraces and retaining walls;
  - v) driveways, entrances, exits, parking areas and sidewalks;
  - vi) water mains and fire hydrants;

- vii) existing tree cover, noting those trees to be preserved and those to be removed;
- viii) tree density information, in accordance with Chapter 6, Section 6.3.
- ix) recreational areas and swimming pools;
- x) natural and artificial water courses;
- xi) limits of flood plains;
- xii) estimates of the following when applicable:
  - (1) number of dwelling units
  - (2) number of parking spaces
  - (3) number of loading spaces; and
  - (4) number of commercial or industrial tenants and employees.

**10.6.4 Criteria for Determining Conformance with Applicable Regulations**

The criteria to be considered in determining whether a proposed structure or other site plan request will conform to proper standards and principles and the general character of the area are as follows:

- 1) The proposed development is in conformity with appropriate and acceptable planning standards, the general character of the surrounding neighborhood and the community and the orderly development of the community.
- 2) The proposed development indicates that any proposed structure is reasonably protected against external and internal noise, vibrations and other conditions that might tend to make the environment less desirable.
- 3) The proposed plan is not in its exterior design and appearance of such inferior quality as to cause the area to depreciate in appearance or value.
- 4) The proposed development is in compliance with all applicable ordinances and statutes governing the location and appearance of buildings and structures and related site improvements. In particular, the Design Review Committee will review a request in accordance with the provisions established in Section 10.4.
- 5) The proposed development will not place an undue burden upon the Town and other public entities in the provision of public infrastructure and services to accommodate needs for such services and facilities associated with the proposed development.

**10.6.5 Certification by Owner/Applicant**



- 1) The owner/applicant shall provide a certification upon the plan document that the owner/applicant adopts the plan and dedicates all streets, rights-of-way and public and private easements shown on the plan and agrees to make any required improvements within such streets, rights-of-way and easements as required by the Town. The certification shall serve as the commitment by the owner/applicant that the site will be developed as shown on the approved final site plan.
- 2) If, during the process of construction, the Building Inspector or other inspection personnel of the Town notes variations from the approved plan documents, the Official shall promptly notify the owner/applicant in writing of these variations and shall direct that the variations be corrected within a specified time period. If, after proper notice by the Building Inspector or other inspecting official, the owner has not complied with the provisions of the approved site plan, the Building Inspector or other inspecting official shall have the authority to cite the owner/applicant to the appropriate court for violation of this section. The issuance of a Certificate of Occupancy may also be withheld until such time as corrections are provided by the owner/applicant.

#### **10.6.6 Development Agreement**

Where public improvements are required as part of a site plan approval or where fees are to be assessed by the Town of Arlington in relation to a development project, the developer shall enter into a development agreement with the Town of Arlington for all required public improvements and/or fees assessed for development of a project, pursuant to Chapter 9, Sections 9.5, 9.6 and 9.7.

#### **10.6.7 Expiration of Approval and Renewal**

A site plan approved by the Planning Commission shall lapse unless a building permit, based thereon, is issued within one (1) year from the date of such approval. For good cause shown, the applicant may request and obtain from the Planning Commission one (1) extension of approval of the same plan for a period not to exceed one (1) year.

#### **10.6.8 Appeals**

In the event any site plan application is refused under the provisions of this Ordinance, the applicant may make an appeal to the appropriate body, in accordance with the following procedures:

- 1) An appeal of the decision of the Mayor or his Designee for single-family or two (2)-family residential structures shall be made to the Board of Zoning Appeals, in accordance with the provisions established in Section 10.5.
- 2) An appeal of a decision of the Planning Commission shall be made to the Board of Mayor and Aldermen. Said Board shall listen to all parties who desire to be heard and, after said hearing, shall approve or disapprove the application. If approved by the Board of Mayor and Aldermen, the project

may be submitted to the building official for approval in accordance with all conditions approved by the Board.

- 3) An applicant may appeal a decision of the Design Review Committee, except appeals relating to Chapter 7, Regulations Governing Signs, to the Planning Commission. The appeal will be considered at a regular meeting of the Planning Commission, at which time the Commission shall hear all parties who desire to be heard, and after said hearing, shall approve or disapprove the request for appeal. If the Planning Commission approves the appeal and overturns the decision of the Design Review Committee, the request may be submitted to the building official for issuance of a permit.

## 10.7 SIGNS

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**10.7.1** All signage that requires review and approval shall be subject to the following review procedures. Following review by the appropriate authority, a sign permit may be issued. No sign shall be erected, altered or relocated in the Town of Arlington with the exception of real estate signs for sale of a single-family residence, two (2)-family lots within a recorded subdivision, unless a sign permit has been issued. A sign permit shall become null and void if work is not commenced within one hundred eighty (180) days from the issuance of such permit.

Prior to the issuance of a sign permit, the review of a sign is required as follows:

- 1) **Review by the Mayor or His Designee:** All sign requests that pertain to the alteration or relocation of any sign and all temporary signs shall be reviewed and approved as if it were a building permit under the provisions of the Site Plan Review requirements in Section 10.6 of this Ordinance.

All sign requests that meet the requirements of the Zoning Ordinance and applicable provisions of the Design Guidelines Manual may be approved by the Mayor or his designee. The request for review shall be accompanied, at a minimum, by the same information required for a sign permit, as described in Section 10.7.2. At the discretion of the Mayor or his designee, a request may be forwarded for review and consideration to the Design Review Committee. The applicant shall have the right to seek approval of the Design Review Committee if approval is not granted by the Mayor or his designee.

- 2) **Review by the Design Review Committee:** All signs, other than temporary signs, exempted signs or signs reviewed by the Mayor or his designee shall be reviewed and approved by the Design Review Committee. The application for review shall be accompanied, at a minimum, by the same information required for a sign permit, as described in Section 10.7.2.

### **10.7.2 Application for Permit**

All applications for sign permits shall be reviewed by the Mayor or his designee, and shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the Town of Arlington and any requirements of the Design Review Committee including:

- 1) Names and address of the owner of the sign
- 2) Name and address of the owner or the persons in possession of the premises where the sign is located or to be located
- 3) A clear and legible drawing drawn to scale of one (1") inch equals ten (10') feet, with a description definitely showing the location of the sign which is the subject of the permit and all other existing signs whose construction would require permits, when such signs are on the same premises
- 4) A drawing showing dimensions, construction, support sizes, electrical wiring and components, material of the sign, and method of attachment and character of structural members to which attachment is to be made. The design, quality, materials and loading shall conform to the requirements of the currently-adopted Southern Standard Building Code (SSBC) as amended.
- 5) Signature of the applicant
- 6) Signature of the property owner, which shall be followed by the following statement: "I am aware and in agreement with the application for the above requested sign, I am aware that provisions of the Arlington Zoning Ordinance shall revert to me if the applicant should no longer be located at the above address. This responsibility may include removal of the sign as required by this Ordinance."
- 7) The appropriate fee as authorized by Resolution of the Board of Mayor and Aldermen.

### **10.7.3 Fees and Inspection**

All sign permits shall be accompanied by a fee and all establishments with signs shall be subject to the annual inspection.

- 1) All sign permits shall be accompanied by a fee in the amount authorized by the appropriate enforcement agency designated by the Mayor.
- 2) All establishments shall be subject to an annual sign inspection. Inspection fees shall be in the amount authorized by the appropriate enforcements agency designated by the Mayor, and such inspection will be performed by that agency. The maintenance of the sign shall be reviewed in addition to other matters and if the signs are not properly maintained, corrective measures shall be ordered by the enforcement agency. Failure to remedy deficiencies noted during the inspection as instructed by the agency shall be a violation of the Zoning Ordinance.

#### **10.7.4 Violations**

Any of the following shall be a violation of this section and shall be subject to the enforcement remedies and penalties provided by this Ordinance:

- 1) to install, create or erect, any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which the sign is located; and
- 2) to install, create or erect, any sign requiring a permit without such permit; and
- 3) to install, create or erect, any sign in a way that is inconsistent with any plan or permit governing such sign or the zone lot on which sign is located; and
- 4) to fail to remove any sign that is installed, created, erected or maintained in violation of this or any other Town Ordinance/Resolution, or for which the sign permit has lapsed; and
- 5) to continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter.

#### **10.7.5 Enforcement and Penalties**

Any violation or attempted violation of this section or of any condition or requirement adopted pursuant hereto may be restrained, corrected or abated, as the case may be, by injunction or other appropriate proceedings pursuant to state law. A violation of this Ordinance shall be considered a violation of the Town of Arlington Zoning Ordinance. The remedies of the Town of Arlington shall include, but not be limited to the following:

- 1) issuing a stop-work order for any and all work on any signs on the same zoning lot; and
- 2) seeking an injunction or other order of restraint or abatement that requires the removal of the sign(s) or the correction of the non-conformity; and
- 3) imposing penalties that can be imposed directly by the Town of Arlington under the Town of Arlington; and
- 4) seeking in court the imposition of any penalties that can be imposed by such court under the Town of Arlington Zoning Ordinance; and
- 5) in the case of a sign that poses an immediate danger to the public health or safety, taking such measures as are available to the Town of Arlington under the applicable provisions of the Town of Arlington Zoning Ordinance and building code for such circumstances; and
- 6) all such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for

a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.

## **10.8 LAND DISTURBANCE PERMIT**

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### **10.8.1 Erosion and Sediment Control Plan**

No person may engage in any land disturbing activity until he has submitted to the Planning Commission a request for a land disturbance permit and an erosion and sediment control plan for such land disturbing activity and such request has been reviewed and approved by the Planning Commission, except as provided herein.

- 1) The following activities are exempt from obtaining a land disturbance permit, unless occurring in a designated floodplain:
  - a) Grading as a maintenance measure, or for landscaping on existing developed lots or parcels, provided the following criteria are met:
    - i. The aggregate area affected or stripped at any one time does not exceed 10,000 square feet, and is not within a designated flood plain
    - ii. The grade change does not exceed eighteen (18) inches at any point and does not alter the direction of the drainage flow path
    - iii. Temporary or permanent soil stabilization measures will be applied to denuded areas within 15 days of disturbance
    - iv. The grading does not involve a dirt quantity in excess of 100 cubic yards.
  - b) Finish grading or excavation below finished grade for the following structures.
    - i. Basements and footings of a single family or duplex residential structure.
    - ii. Retaining walls
    - iii. Swimming pools
    - iv. Human or animal cemeteries
  - c) Accessory structures related to single family residence or duplex structures authorized by a valid building permit, provided the disturbed material or fill is handled in such a manner as to conform to the approved erosion control plan for the area or, where no such erosion

control plan is in effect, that such work is done in a manner which presents no significant erosion hazard.

- d) A structure within a major subdivision or PUD, which has an approved grading, draining, and erosion control plan.
  - e) Accepted agricultural land management practices (such as plowing and cultivation)
  - f) Nursery operations such as the removal or transplanting of cultivated sod and trees.
  - g) Tree cutting at or above existing ground level.
  - h) Logging operations leaving the stump, ground cover, and root mat intact.
  - i) Installation of public utilities such as sewer, electric, gas, or telephone lines by a public utility or its agent.
- 2) Activities exempt from obtaining a land disturbance permit must comply with all storm water regulations of the Town and of the State of Tennessee, including erosion and sediment control guidelines. The Town can revoke any of the aforementioned exemptions if an activity violates these provisions.

#### **10.8.2 Plan Review and Approval:**

- 1) The Planning Commission shall review the request for a land disturbance permit in accordance with the site plan review procedures outlined in Section 10.6.
- 2) No person acting on behalf of the Town, including a building inspector, or any other agency authorized under any other law to issue grading, building or other permits for activities involving land disturbing activities, may issue any such permit unless the applicant submits with his application the approved erosion and sediment control plan or certification of such approved plan.
- 3) The permit requirement for land disturbing activities shall not apply to agricultural farming operations, commercial nursery operations or to residential landscaping or gardening activities.

#### **10.8.3 Plan Requirements**

Erosion and sediment control plans submitted for review and approval by the Planning Commission shall contain, at a minimum, the following information, as well as any additional information required by staff or the Planning Commission to adequately review the request.

- 1) **A written narrative shall be provided which includes:**

- a) A brief description of the nature and purpose of the land disturbing activity, and the amount of grading involved.
- b) A description of the existing topography, vegetation, and drainage.
- c) A description of neighboring areas such as streams, lakes, residential areas, roads, etc., which might be affected by the land disturbance.
- d) A brief description of the soils on the site giving such information as soil name, mapping unit, erodibility, permeability, depth, texture and soil structure.
- e) A description of areas of the site which have potentially serious erosion problems.
- f) A description of the methods which will be used to control erosion and sedimentation on the site.
- g) A brief description, including specifications, of how the site will be stabilized after construction is completed.
- h) The plan must address if development of the site will result in increased peak rates of runoff, result in flooding or channel degradation downstream, and determine what considerations should be given to stormwater control structures on the site.
- i) A schedule of regular inspections and repair of erosion and sediment control structures shall be set forth.
- j) Any calculations made for the design of such items as sediment basins, diversions, waterways, and calculations for runoff and stormwater detention basin design.

2) **The plans shall be submitted which contain the following:**

- a) A vicinity map showing the location of the site in relation to the surrounding area.
- b) The direction of north in relation to the site.
- c) Certification as to the accuracy of the plan by a licensed architect or engineer licensed to practice in the State of Tennessee
- d) Certificate of Survey by a registered land surveyor licensed to practice in the State of Tennessee.
- e) Existing and proposed topography of the ground and paved areas and elevations in relation to mean sea level of streets, alleys, utilities, sanitary and storm sewers, buildings and structures.

Topography to be shown by illustrating two (2') foot contours and by spot elevation where necessary to indicate flat areas.

- f) Areas with potentially serious erosion problems.
- g) The dividing lines and the direction of flow for the different drainage areas.
- h) Limits of Clearing and Grading: Areas which are to be cleared and graded shall be outlined on a map.
- i) Location of Practices: The locations of the erosion and sediment control and stormwater management practices used on the site shall be shown on a map.
- j) Detail Drawings: Any structural practices indicated on the plan shall be explained and illustrated with detail drawings.
- k) The existing tree lines, grassy areas, or unique vegetation.
- l) A tree survey showing the location, species and size of all trees on the site, as well as a notation of those that are proposed to remain and those proposed to be removed.
- m) The boundaries of the different soil types.

#### **10.8.4 Plan Amendment**

An approved plan may be amended upon recommendation by the Planning Commission when the person responsible for carrying out the approved plan finds that because of changed circumstances or for other reasons the approved plan cannot be effectively carried out, and proposed amendments to the plan, consistent with the requirements of this act, are agreed to by the Planning Commission and the persons responsible for carrying out the plan.

#### **10.8.5 Expiration of Approval and Renewal**

A land disturbance permit approved by the Planning Commission shall lapse unless work on the site, based thereon, commences within one (1) year from the date of such approval. For good cause shown, the applicant may request and obtain from the Planning Commission one (1) extension of approval of the permit for a period not to exceed one (1) year.

#### **10.8.6 Required Bonds for Land Disturbance Permits**

Applicants for land disturbance permits shall file security in the form of a letter of credit, bond or other security in an amount deemed sufficient by the Town Engineer to cover all costs of improvements, landscaping, and maintenance of improvements. The security amount shall include engineering and inspection costs sufficient to cover the cost of failure or repair of improvements installed on the site.



#### **10.8.7 Release of Security – Project Closure**

Security will not be released to the property owner, site operator or permit holder until all of the following have been completed:

- a) All temporary stormwater control Best Management Practices (BMP's) have been removed and the site has been fully stabilized.
- b) All permanent stormwater control Best Management Practices (BMP's) have been completed.
- c) All final inspections/certifications have been completed by the Town Engineer, Town Planner and Public Works Department.

#### **10.8.8 Inspections**

The designated agent shall provide for periodic inspections of the land disturbing activity to ensure compliance with the approved plan. The owner, occupier, or operator shall be given an opportunity to accompany the inspectors.

### **10.9 COMMON OPEN SPACE, COMMON IMPROVEMENT AND OWNERS ASSOCIATIONS**

The requirements set forth in this section shall apply to the following features in all residential and non-residential developments where such features are proposed to be dedicated or conveyed for public use or are to be held in common ownership by the property owners of the development:

**10.9.1** All lands in common open space, not a part of individual lots, designed for the mutual benefit of a group of persons owning property in the development, where such lands are not to be dedicated or conveyed for public use, whether or not such lands are required by the provisions of the Ordinance, and

**10.9.2** All private streets, detention or retention facilities, driveways, parking bays, uses, facilities, and buildings or portions thereof, as may be provided for the common use, benefit and/or enjoyment of the occupants of the development, whether or not such improvements are required by the provisions of the Ordinance, and

**10.9.3** Where a condominium development is proposed, such shall be established and regulated in strict accordance with the provisions of the laws of the State of Tennessee, and

**10.9.4** All lands to be deeded or conveyed for public use.

**10.9.5** General Requirements

All lands and improvements set forth above shall be established and maintained in accordance with the following requirements:

- 1) The applicant or developer shall provide for and establish a corporation the laws of the State of Tennessee for the ownership, care and maintenance of all such lands and improvements.
- 2) Such corporation shall be created by covenants and restrictions running with the land and shall be composed of all persons having ownership within the development. Such corporation shall be responsible for the perpetuation, maintenance and function of all common lands, uses and facilities.
- 3) All covenants and restrictions shall be recorded with the Shelby County Register of Deeds.
- 4) All lands and improvements shall be described and identified as to location, size, use and controlled in a restrictive covenant, and such covenant shall set forth the method of assessment for the maintenance of such land. These restrictive covenants shall be written so as to run with the land and be in full force and effect for a period of not less than twenty (20) years, and shall be automatically extended for successive periods of twenty (20) years unless terminated in a manner set forth hereinafter. These covenants shall become part of the deed to each lot or parcel within the development.
- 5) Such restrictive covenants and corporation shall continue in effect so as to control the availability of the facilities and land thereby provided, to maintain the land and facilities for their intended function, and to protect the development from additional and unplanned densities of use. Such corporation shall not be dissolved nor shall such corporation dispose of any common open space.
- 6) No lands on common open space shall be denuded, defaced or otherwise disturbed in any manner at any time without the approval of the Mayor's designee. However, routine maintenance of common open space limited to the removal of dead, diseased, dying or hazardous trees or shrubbery; removal and replacement of dead landscaping and screening materials; installation of supplemental plantings; removal of noxious vegetation; lawn care and maintenance; or repair and replacement of picnic and play equipment; or similar routine maintenance shall be permitted without approval of the Mayor's designee, provided such maintenance is allowed under any applicable conditions, applicable conditions of special permits or special exceptions or other applicable laws and ordinances and further provided that such common open space does not contain areas used to comply with floodplain or conservation easements.

- 7) If the Mayor's designee determines that such corporation responsible for maintenance of common open space/improvements has failed to adequately maintain such areas in reasonable order so that the area poses a threat to the health, safety and welfare of the public interest, the Town may serve notice in writing upon such corporation or upon the property owners of the development describing the manner in which the corporation and/or the property owners has failed to maintain the common open space/improvements in reasonable condition, and said notice shall contain a demand that such deficiencies of maintenance be corrected within ten (10) days.
- 8) If the deficiencies set for in the notice are not corrected, the Town, in order to protect the healthy, safety and welfare of the public and to prevent the common open space/improvements from becoming a public nuisance, may enter upon said common open space and correct said deficiencies. The expense for such repair and maintenance by the Town will be expensed to the corporation and/or upon the property owners in the development and record a notice of lien against each lot or parcel not otherwise designated as common open space, for all costs incurred, plus an administration fee not to exceed \$100 per lot or parcel owned, other than the common open space lots.
- 9) The covenants creating such corporation shall further provide that the cost of such maintenance by the Town shall be assessed jointly and severally against the properties within the development that have a right of enjoyment of the common open space/improvements.
- 10) Said entry and maintenance shall not vest in the public any rights to use the common open space/improvements except when the same is voluntarily dedicated to and accepted by the Town from the corporation and/or property owners.
- 11) The Town shall not be responsible for the maintenance of any common open space or common improvement, except as otherwise provided above.
- 12) Notwithstanding the above provisions, an adjacent development may join the corporation for the purposes of utilizing and maintaining the open space and improvements thereon.

#### **10.9.6 Submission Requirements**

- 1) Prior to dedication of conveyance of those features described in Section 10.9.1 through 10.9.3 above, the following documents shall be submitted

to and approved by the Mayor or his designee, including but not limited to the Town Attorney.

- a) The articles of incorporation or other corporation documentation.
  - b) The by-laws of the corporation.
  - c) The covenants or restrictions related to the use of common property, including the system of assessments for perpetuation and maintenance.
  - d) A document granting the right of entry upon such common property to law enforcement officers, rescue squad personnel, and fire fighting personnel while in the pursuit of their duties and permitting the enforcement of cleared emergency vehicle access.
  - e) A complete list of all land, buildings, equipment, facilities and other holdings of the corporation, as such is proposed, and a complete description of each.
- 2) The documents set forth in 10.9.6. 1) above shall be reviewed by the Town, the Mayor or his designee, including but not limited to the Town Attorney, and such approval shall be obtained before any final plat is recorded or final site plan is approved.
  - 3) The review and any approval of the above described documents by the Town, the Mayor or his designee, including but not limited to the Town Attorney, shall be solely and exclusively for the benefit of the Town and not for the Developer, Owner's Association and/or its members. The Town, the Mayor or his designee, including but not limited to the Town Attorney, by their review and any approval make no representations or warranties either stated or implied as to the legality, suitability or sufficiency of any or all of the above described documents.

## **10.10 AMENDMENTS**

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### **10.10.1 General**

The Board of Mayor and Aldermen may, from time to time, amend this Ordinance, including maps, by changing the boundaries of districts or by changing any other provisions whenever it is alleged that there was an error in the original Zoning Ordinance, or whenever the public necessity, convenience and general welfare require such amendment.

### **10.10.2 Initiation of Amendments**

Amendments may be initiated by Board of Mayor and Aldermen (BMA), Planning Commission (PC), or by an application of one or more owners or agents of property affected by the proposed amendment.

#### **10.10.3 Application for Amendment**

- 1) An application by an individual for an amendment shall be accompanied by a fee set by the Board of Mayor and Aldermen of the Town of Arlington and shall also be accompanied by maps, drawings and data necessary to demonstrate that the proposed amendment is in sound conformance with the general plan of the area and that public necessity, convenience and general welfare require the adoption of the proposed amendment.
- 2) The application, information and exhibits shall be submitted in compliance with the then-existing deadlines as periodically set by the Town. The application shall contain, at a minimum, the following information:
  - a) name, address and telephone number of applicant;
  - b) if different from the applicant, the name, address and telephone number of the owner or other person having a contractual interest in the property for which a zoning district amendment is requested;
  - c) a plot plan/legal description of each parcel of property proposed to be reclassified;
  - d) present zoning classification and use of such parcel of property for which a zoning amendment is requested;
  - e) if an amendment to the zoning map is requested, the zoning classification requested for each parcel which is the subject of the application; and
  - f) if an amendment to the text of the Zoning Ordinance is requested, the language of the proposed text amendment and a statement of the reason for the requested amendment; and
  - g) justification and statement of purpose of the request.

An incomplete application or an application that fails to meet the minimum submittal requirements shall be returned to the applicant by the Town and shall include a written statement enumerating the deficiency(ies) in the application.

#### **10.10.4 Review and Recommendations by the Planning Commission**

The Planning Commission shall review and make recommendations to the Board of Mayor and Aldermen on all proposed amendments to this Ordinance.

#### **10.10.5 Grounds for an Amendment**

The Planning Commission in its review and recommendation and the Board of Mayor and Aldermen in its deliberations shall make specific findings with regard to the following grounds for an amendment and shall note the same in the official record as follows:

- 1) The amendment is in agreement with the general plan for the area.
- 2) It has been determined that the legal purposes for which zoning exists are not contravened.
- 3) It has been determined that there will not be adverse effect upon adjoining property owners unless such adverse effect can be justified by the overwhelming public good or welfare.
- 4) It has been determined that no property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

#### 10.10.6 Public Hearing and Notice of Hearing

No amendment may be approved until after two (2) public hearings in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. There shall be a public hearing at both the Planning Commission and Board of Mayor and Aldermen meetings.

At least fifteen (15) days notice of the time and place of such public hearings shall be published in a newspaper of general circulation in the city, and written notice given to the property owners whose property is within five hundred (500') feet of the land proposed for rezoning or the property owners of a minimum of twenty-five (25) properties, whichever results in the greatest number of properties. The applicant shall provide a vicinity map showing the property which is the site of the application and all parcels of property required to be notified. Such vicinity maps shall show any and all street, roads, or alleys and shall indicate the owner's name and dimensions of each parcel of property shown. The applicant shall also provide a list of names and addresses of the owners of property shown on the vicinity map.

The party requesting the rezoning must place a sign on the subject property at least fifteen (15) days prior to the public hearing at each, the Planning Commission and Board of Mayor and Aldermen. The sign must meet the following specifications:

- 1) **Duration:** The sign shall be placed on the property at least fifteen (15) days prior to the public hearing, and removed within five (5) days of the public hearing.
- 2) **Size:** The sign shall be 4' x 4' in size, single-sided. The maximum height of the sign, including posts, shall be six (6) feet.
- 3) **Location:** One (1) sign shall be placed on each side of the parcel facing a public right-of-way and shall be placed ten (10) feet from the public right-of-

way. The sign must be completely visible to the public, not obscured by shrubbery, weeds, buildings or other objects.

- 4) **Content:** The sign shall state, at a minimum, the purpose of the request and the date, time and place of the public hearing. The wording shall be approved by the Town Planner prior to installation.
- 5) **Construction:** The sign must be made of weather-durable materials and the letters and numbers must be prepared using templates, stencils or attachable letters. Hand-lettered signs are not acceptable. The sign must be posted on durable wood or metal posts.
- 6) **Maintenance:** The applicant or requesting party is responsible for maintenance of the sign in good order until the sign is required to be removed. The status of the sign shall be checked frequently by the applicant, and immediately replace any sign that has fallen or been destroyed.
- 7) **Colors:** The sign background must be black with white letters and numbers.

#### **10.10.7 Amendments Affecting Zoning Map**

Upon enactment of an amendment to the zoning map which is part of this Ordinance, the Mayor's designee shall cause such amendment to be placed upon the zoning map noting thereon the ordinance number and effective date of such amendatory ordinance.

#### **10.10.8 Effect of Denial of Application**

Whenever an application for an amendment to the text of this Ordinance or for a change in the zoning classification of any property is denied, the application for such amendment shall not be eligible for reconsideration for one (1) year following such denial, except in the following cases:

- 1) upon initiation by the Board of Mayor and Aldermen or Planning Commission;
- 2) when the new application, although involving any or a portion of the same property, is for a different zoning district than that for which the original application was made; and
- 3) when the previous application was denied for the reason that the proposed zoning would not conform to the general plan and the general plan has subsequently been amended in a manner which will allow the proposed zoning.

### **10.11 LEGAL STATUS PROVISIONS**

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### **10.11.1 Interpretation**

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

### **10.11.2 Relation to Other Laws and Private Restrictions**

- 1) Where the conditions imposed by any provision of this Ordinance upon the use of land or buildings, or upon the height or bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Ordinance or of any other law, resolution, ordinance, rule or regulation of any kind, the regulations which are more restrictive shall apply.
- 2) This Ordinance is not intended to abrogate any easement, covenant, or any other private agreement provided that where the regulations of this Ordinance are more restrictive (or impose higher standards or requirements) than such easements, covenants, or other private agreements, the requirements of this Ordinance shall govern.

### **10.11.3 Ordinance Provisions Do Not Constitute Permit**

Nothing contained in this Ordinance shall be deemed to be a consent, license or permit to use any property or to locate, construct, or maintain any building, structure, or facility or to carry on any trade, industry, occupation or activity.

### **10.11.4 Provisions are Cumulative**

The provisions of this Ordinance are cumulative with additional limitations imposed by all other laws and ordinances, heretofore passed or which may be passed hereafter, governing any subject matter appearing in this Ordinance.

### **10.11.5 Separability**

It is hereby declared to be the intention of the Town of Arlington, Tennessee, that the several provisions of this Ordinance are separable in accordance with the following:

- 1) if any court of competent jurisdiction shall adjudge any provision of this Ordinance to be invalid, such judgment shall not affect any provision of this Ordinance not specifically included in said judgment; and
- 2) if any court of competent jurisdiction shall adjudge the application of any provisions of this Ordinance to a particular property, building or other structure, such judgment shall not affect the application of said provisions to any other property, building, or structure not specifically included in said judgment.

### **10.11.6 Application of Regulations**



No building or other structure shall be constructed, erected, placed or maintained and no land use commenced within the Town except as specifically, or by necessary implication, authorized by this Ordinance. Conditional uses are allowed only on permits granted by the Board of Zoning Appeals. Where a lot is devoted to a permitted principal use, customary accessory uses and structures are authorized except as prohibited specifically or by necessary implication.

#### 10.11.7 Scope of Regulation

- 1) **New Uses, Lots, Buildings or Other Structures:** Upon the effective date of this Ordinance, any new building or other structure or any tract of land shall be used, constructed, or developed only in accordance with the use, bulk and all other applicable provisions of this Ordinance.
- 2) **Existing Use, Lots, Building or Other Structures:** Any existing use, lot, parcel, building or structure legally established prior to the effective date of this ordinance, which does not comply with the provisions, shall be subject to the nonconforming use provisions in Chapter 3, Section 3.2 of this Ordinance.
- 3) **Alteration of Existing Building and Other Structure:** All structural alterations or relocation of existing buildings or structures, occurring after the effective date of this Ordinance and all enlargements of, or additions to, existing building or structures occurring hereafter shall be subject to all regulations of this Ordinance which are applicable to the zoning districts in which such building or land shall be located.

#### 10.11.8 Violation and Penalty

Any person, firm, or corporation violating any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than fifty dollars (\$50.00). Each day's continuance of a violation shall be considered a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this Ordinance shall be placed, or shall exist, and any person who may have knowingly assisted the commission of any such violation, shall be guilty of separate offense.

## 10.12 ADOPTION

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#### Effective Date

This Ordinance shall be in full force and effect and after its passage on second and final reading and adoption, the public welfare requiring it.

- 1) Approved and certified by Planning Commission

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Chairman

Attest: \_\_\_\_\_  
Secretary of Planning Commission

2) Approved by the Board of Mayor and Aldermen in final reading:

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
Town Recorder

Passed 1<sup>st</sup> Reading: December 6, 2010

Passed 2<sup>nd</sup> Reading: January 3, 2011