

# **ARTICLE 1. GENERAL PROVISIONS**

## **1.1 TITLE**

The regulations of this Land Development Code shall be officially known and cited as the "Arvada Land Development Code," although it may be referred to hereafter as the "Land Development Code" or "this Code."

## **1.2 AUTHORITY**

This Land Development Code is enacted pursuant to the City of Arvada Charter and the powers granted and limitations imposed on municipalities by the Constitution and laws of the State of Colorado, including without limitation C.R.S. §29-20-101 et seq. (Local Government and Land Use Enabling Act).

## **1.3 PURPOSE AND INTENT**

The regulations of this Code are intended to implement the City of Arvada Comprehensive Plan, as amended, and more specifically are intended to:

- 1.3.1** Promote the public health, safety, convenience, comfort, prosperity, and general welfare;
- 1.3.2** Secure safety of persons and property from fire, flood, and other dangers, and to secure adequate open spaces for light, air, and amenity;
- 1.3.3** Conserve and stabilize property values through the most appropriate uses of land in relation to one another;
- 1.3.4** Preserve and protect existing trees and vegetation, agricultural lands, floodplains, stream corridors, wildlife corridors, wetlands, lakes and other water bodies, significant ridgelines, and other sensitive environmental areas from adverse impacts of urban and suburban development;
- 1.3.5** Facilitate the economic provision of adequate public facilities such as transportation, water, sewage disposal, drainage, electricity, public schools, parks, and other public services and requirements;
- 1.3.6** Coordinate transportation and land use planning, including the evaluation of transportation impacts from proposed new development, to provide a safe and efficient transportation system in Arvada and to improve air quality;
- 1.3.7** Prevent congestion in travel and transportation, reduce community dependence on automobile travel, encourage trip consolidation, and facilitate development of alternatives to automobile usage such as commuter or light rail, other public transit, bikeways, and trails;
- 1.3.8** Conserve and enhance the architecture, history, pedestrian-orientation, mixed-use, and small-town character of the historic Olde Town Arvada core;

- 1.3.9 Conserve and enhance the character of Arvada's older, established residential neighborhoods through elimination of adverse factors, promotion of a balanced mix of housing types, and through appropriately scaled and planned infill development;
- 1.3.10 Encourage innovative and quality residential development so that growing demand for housing may be met by greater variety in type, design, and layout of dwellings, and by conservation and more efficient use of open space ancillary to such dwellings;
- 1.3.11 Encourage pedestrian and vehicular connections between new residential neighborhoods and adjacent neighborhoods, and between new residential neighborhoods and near-by employment centers, shopping, and community services such as parks and schools;
- 1.3.12 Encourage quality, nonresidential development that preserves and protects the character of the community, including its natural landscape, and that minimizes objectionable noise, glare, odor, traffic, and other impacts of such development, especially when adjacent to residential uses or to the Olde Town core;
- 1.3.13 Manage overall community growth, including population and employment growth, to benefit the community and to encourage fiscally efficient and orderly development;
- 1.3.14 Encourage a balance of residential and non-residential uses and development in the community so that future growth occurs in a fiscally prudent manner; and
- 1.3.15 Ensure the provision of adequate amounts of parks, trails, and open spaces to promote the public health, safety and welfare of the citizens of Arvada, and to protect the desired character for each area of the City as set forth in the City of Arvada Comprehensive Plan.

## **1.4 APPLICABILITY AND JURISDICTION**

The provisions of this Code shall apply to:

- 1.4.1 All land and land development within the incorporated areas of the City of Arvada;
- 1.4.2 Use of all structures and land within the incorporated areas of the City of Arvada;
- 1.4.3 Except as stated herein, all structures and land owned by the City or its agencies or departments, by Jefferson County or its agencies or departments, or by utilities, school districts, and special or metropolitan districts located within the incorporated areas of the City of Arvada. The provisions of this Code shall not require formal subdivision of land as a result of actions taken by the City to acquire land or interests in land (e.g., easements) for public purposes;
- 1.4.4 All structures and land owned by state or federal governmental agencies within the incorporated areas of the City of Arvada, to the greatest extent permitted by law; and

- 1.4.5** When an emergency threatening life, safety, or property exists and it is impossible to submit to the normal procedures and requirements of this Code, the land use activities of the City or any city agency, department, district, or utility responsible for the facility involved in the emergency, may be exempt from the provisions of this Code. Provided, however, that the City or agency shall complete any improvements or revegetation that would have been required if normal procedures had been followed as soon as reasonably practicable after the necessary emergency actions are taken. The City Council shall ratify such exemption after-the-fact at its next regularly scheduled public meeting, and shall base its ratification on specified findings of fact related to the emergency involved.

## **1.5 MINIMUM STANDARDS AND COMPLIANCE**

### **1.5.1 Minimum Standards**

The provisions of this Code shall be considered the minimum requirements necessary for the promotion of the public health, safety, comfort, convenience, prosperity, and general welfare.

### **1.5.2 Compliance--Use or Occupancy**

No building, structure, or land shall hereafter be used or occupied, and no building or structure or portion thereof shall hereafter be erected, moved, constructed, reconstructed, extended, enlarged, or altered contrary to the provisions of this Code, including without limitation the provisions of Article 8 (Nonconformities).

### **1.5.3 Compliance--Multiple Use of Space Prohibited**

No part of a yard or other open space or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code shall be included as part of a yard, open space, or off street parking or loading space similarly required for any other building, except as allowed in an approved development.

### **1.5.4 Compliance--Future Reduction or Creation of Lots and Yards**

No yard or lot existing at the time of the passage of this Code shall be reduced in dimensions or area below the minimum requirements set forth in this Code. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

### **1.5.5 Property Annexed to the City**

Any territory annexed to the City shall be zoned pursuant to the applicable procedures and requirements of this Code and of the Arvada City Code. No lands within the corporate limits of the City of Arvada shall be without a zoning district designation for more than ninety (90) days, during which period no building permit shall be issued.

### **1.5.6 Non-Conforming Uses, Structures, and Lots**

See Article 8 of this Code for regulations regarding non-conforming uses, structures, and lots.

## **1.6 OFFICIAL ZONING AND FLOODPLAIN MAPS**

### **1.6.1 Official Zoning Maps**

The location and boundaries of the zoning districts designated in Article 4 of this Code are hereby established as shown on the map entitled "Official Zoning Maps of the City of Arvada," and hereafter referred to as the Official Zoning Maps, as may be amended.

### **1.6.2 Official Floodplain Maps**

The location and boundaries of the regulatory floodplain designated in §6.13 of this Code are hereby established as shown on the series of maps entitled "Official Floodplain Maps," and hereafter referred to as the Official Floodplain Maps, as may be amended.

### **1.6.3 Adopted by Reference**

The Official Zoning Maps and the Official Floodplain Maps, together with all explanatory notations and matter thereon, are hereby adopted by reference and declared to be a part of this Code.

### **1.6.4 Location of Official Zoning Maps and Official Floodplain Maps**

The Official Zoning Maps and Official Floodplain Maps shall be located in the Arvada Municipal Building. The City Council shall be the final authority as to the zoning status of all land, water, and floodplain areas in the City.

### **1.6.5 Procedure for Replacing Official Zoning Maps and Official Floodplain Maps**

In the event that the Official Zoning Maps or Official Floodplain Maps become damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Planning Commission and City Council may, by resolution, adopt new Official Zoning Maps and new Official Floodplain Maps which shall supersede the prior Official Maps. The new Official Zoning and Floodplain Maps may correct drafting or other errors or omissions in the prior Official Zoning and Floodplain Maps, but no correction shall have the effect of amending the original Official Zoning and Floodplain Maps or any subsequent amendment thereof, unless the procedures established by §3.6 (for Official Zoning Maps) or §3.31 (for Official Floodplain Map) have been followed. The new Official Zoning and Floodplain Maps shall be identified by the signature of the Mayor, attested by the City Clerk, bearing the Seal of the City under the following words, "This is to certify that these Official [Zoning or Floodplain, as applicable] Maps are accepted (date of adoption) as a part of the Land Development Code of the City of Arvada, Colorado".

### **1.6.6 Retention of Prior Official Zoning Maps and Floodplain Maps**

Unless the prior Official Zoning Maps or Official Floodplain Maps have been lost or have been totally destroyed, the prior maps or sufficient parts thereof remaining shall be preserved together with all available records pertaining to their adoption or amendment for a period not less than ninety (90) days.

### **1.6.7 Zoning District Boundaries**

Unless otherwise specified, district boundaries are lot lines or the centerline of streets, rivers, or such lines extended. For example, where a lot located at the boundary between two zoning districts abuts a street or stream corridor, the zoning district boundary shall be the centerline of such abutting street or stream.

### **1.6.8 Changes to Official Zoning and Floodplain Maps**

Changes made in district boundaries or floodplain boundaries or other matter portrayed on the Official Zoning Maps or Official Floodplain Maps shall be made in accordance with the provisions of this Code. Changes shall be entered on the Official Zoning and Floodplain Maps promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning and Floodplain Maps as follows: "On the following dates, by action of the City Council, the following amendments to the Official [Zoning or Floodplain, as applicable] Maps, were made". Such entry shall be signed by the Mayor and attested by the City Clerk.

### **1.6.9 Omitted Land**

If any land subject to this Code has not been specifically included within any of the zoning districts shown on the Official Zoning Maps, such land shall automatically be classified in the A-1 Agricultural zoning district.

## **1.7 RULES OF CONSTRUCTION AND INTERPRETATION**

### **1.7.1 Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this Code shall be construed according to this Code's stated purpose and intent.

### **1.7.2 Text Controls**

In case of any difference of meaning or implication between the text of this Code and any heading, drawing, table, or figure, the text shall control.

### **1.7.3 Lists and Examples**

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples, not to be exhaustive lists of all possibilities.

#### **1.7.4 Computation of Time**

Periods of time defined by a number of days shall mean a number of consecutive calendar days, including all weekend days, holidays, and other non-business/working days; however, if the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded.

#### **1.7.5 Delegation of Authority**

Whenever a provision appears requiring the head of a department or division, or another officer or employee of the City to perform an act or duty, that provision shall be construed as authorizing the department/division head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

#### **1.7.6 Technical and Non-Technical Words**

Words and phrases not otherwise defined in this Code shall be construed according to the common and approved usage of the language, but technical words and phrases not otherwise defined in this Code that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

#### **1.7.7 Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of the City of Arvada, unless otherwise indicated.

#### **1.7.8 Mandatory and Discretionary Terms**

The word "shall" is always mandatory, and the words "may" or "should" are always permissive except that the word "should" as used in specific guidelines contained within the Design Guidelines for Olde Town Arvada shall be construed as mandatory.

#### **1.7.9 Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A. "And" indicates that all connected items, conditions, provisions, or events shall apply; and
- B. "Or" indicates that one or more of the connected items, conditions, provisions, or events shall apply.

#### **1.7.10 Tense and Usage**

Words used in one tense (past, present, or future) include all other tenses, unless the context clearly indicates the contrary. The singular shall include the plural, and the plural shall include the singular.

### 1.7.11 Gender

The masculine shall include the feminine, and vice versa.

### 1.7.12 Rules for Interpretation of District Boundaries

- A. Floodplain Boundary/Mapping Disputes. All boundary and mapping disputes with regard to Floodplain shall be administered as stated in §3.22 (Written Interpretations) of this Code.
- B. Zoning District Boundary Disputes. Where uncertainty exists as to the boundaries of zoning districts as shown on the Official Zoning Maps, the following rules shall apply and be administered by the Community Development Department with the final authority to determine the zoning status resting with the City Council:
  - 1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys, shall be construed to follow such centerlines.
  - 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
  - 3. Boundaries indicated as approximately following current City Limits shall be construed as following current City Limits.
  - 4. Boundaries indicated as approximately following railroad lines shall be construed to be midway between the main tracks.
  - 5. Boundaries indicated as approximately following shorelines shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of rivers, creeks, streams, canals, lakes or other bodies of water, shall be construed to follow such centerlines. In the event of a natural change in the shoreline or centerline, the district boundary shall be construed as moving with the actual shoreline or centerline. In the event of a change directly or indirectly the result of human actions, the district boundary shall not be construed as following the new shoreline or centerline unless a zoning amendment is approved by the Planning Commission and the City Council .
  - 6. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 and 5 above shall so be construed. Distances not specifically indicated on the Official Zoning Maps shall be determined by the scale of the map.
  - 7. Boundaries indicated as approximately following section lines or quarter section lines, shall be construed to follow such land lines.
  - 8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Maps, or in other circumstances not covered by subsections 1 through 7 above, an

interpretation shall be made through the Written Interpretation procedure set out in §3.22 of this Code. In making a decision, the Community Development Director, or City Council on appeal, shall consider the rules set forth in this subsection, the Comprehensive Plan policies and map of the area in dispute, adjacent and surrounding land uses, and if deemed necessary, an inspection of the area in dispute.

9. Where a district boundary line divides a lot that has a single ownership at the time of the passage of this Code, the lot shall be considered to be in the zoning district in which the majority of the land area of the lot falls, until such time as a rezoning is sought pursuant to §3.6 of this Code.

## **1.8 RELATIONSHIP TO OTHER CODES, ORDINANCES, AND REGULATIONS**

### **1.8.1 Conflict with State or Federal Regulations**

If the provisions of this Code are inconsistent with those of the state or federal government, the provisions of this Code will control, to the extent permitted by law.

### **1.8.2 Conflict with Other City Regulations**

Unless otherwise provided herein, if the provisions of this Code are inconsistent with one another, or if they conflict with provisions found in other adopted codes, ordinances, or regulations of the City of Arvada, the more restrictive provision will control. Notwithstanding the foregoing, where provisions of this Code conflict with the Design Guidelines for Olde Town Arvada, the Design Guidelines will control.

### **1.8.3 Conflict with Private Agreements**

It is not the intent of this Development Code to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. If the provisions of this Code impose a greater restriction than imposed by a private agreement, the provisions of this Code will control. If the provisions of a private agreement impose a greater restriction than this Code, the provisions of the private agreement will control. The City shall not be responsible for monitoring or enforcing private agreements.

## **1.9 TRANSITIONAL PROVISIONS**

This section addresses the applicability of new substantive standards enacted by this Code to activities, actions, and other matters that are pending or occurring as of the effective date of this Code.

### **1.9.1 Effective Date of Code**

The effective date of this Land Development Code is November 4, 2005.

### **1.9.2 Violations Continue**

Any violation of the previous land development regulations of the City shall continue to be a violation under this Code and shall be subject to the penalties and enforcement set forth in Article 9 of this Code, unless the use, development, construction, or other activity is clearly consistent with the express terms of this Code.

### **1.9.3 Completion of Development Plans Commenced or Approved Under Previous Codes**

#### **A. Buildings or Developments with Previously Issued Building Permits.**

1. Any building or development for which a building permit was granted prior to the effective date of this Code shall be permitted to proceed to construction even if such building or development does not conform to the provisions of this Code.
2. If construction is not commenced within 60 days from building permit issuance, and if work is not completed and the intended use not established in accordance with the applicable permit terms within 18 months of building permit issuance, the Planning Commission may, for good cause shown, grant not more than one extension of up to 1 year. If the building or development is not substantially completed within the 18-month period, or within any extension granted, then the building shall be constructed, completed, used, or occupied only in compliance with the requirements of this Code.

#### **B. Developments with Preliminary or Final Approval.** A development for which preliminary or final approval was granted prior to the effective date of this Code may be completed in accordance with the approved plat or plan and any other approved permits and conditions, even if the development does not comply with one or more general development standards set forth in Article 6 of this Code.

#### **C. Developments with Applications for Approval Pending.** Any development that has submitted a Complete Application for a preliminary subdivision plat, preliminary PUD plan, site plan, conditional use, or any other type of approval, but for which no final action had been taken by the appropriate Decision-Making Body on such application prior to the effective date of this Code, shall be reviewed and considered in accordance with either the provisions of the Code in place on the date of submittal or this Code, at the Applicant's option.

## **1.10 SEVERABILITY**

If a court of competent jurisdiction declares that any section, subsection, or provision of this Land Development Code is invalid, that ruling shall not affect the validity of any other part of this Code or of the Code as a whole, which shall remain in full force and effect.