

**PART ONE: PURPOSE AND INTENT, ADMINISTRATION, VARIANCES AND APPEALS**

**§1-1: PURPOSE AND INTENT, ADMINISTRATION, VARIANCES AND APPEALS**

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**§1-1 TITLE**

This Ordinance shall be known as and may be cited as the City of Arnoldsville, Georgia Zoning and Land Use Ordinance.

**§1-2 PURPOSE AND INTENT**

The purposes of this Ordinance include but are not limited to the following: Implement the comprehensive plan including goals and policies not currently implemented by land use regulations of the City of Arnoldsville, Georgia;

- (a) Promote the health, safety, welfare, morals, convenience, order, and prosperity of the citizens in the City of Arnoldsville, Georgia;
- (b) Promote responsible growth, lessen congestion in the public streets, secure safety from fire and health dangers, and promote desirable living conditions;
- (c) Provide adequate access to natural light and air;
- (d) Regulate the height, bulk, and the size of buildings, structures and land activities;
- (e) Classify land uses, set out land use and overlay districts, establish procedures for the handling of certain land use matters, and regulate the distribution and density of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population;
- (f) Prevent the encroachment of incompatible land uses within residential areas, protect property against blight, preserve property values, and promote desirable living conditions and stable neighborhoods;
- (g) Maintain the integrity and individual character of established communities and settlements, and promote desired character in new developments;
- (h) Attain attractive and functional business and employment areas, reserve suitable land for industry, and prevent land-inefficient and poorly functioning strip-type development;
- (i) Insure a planned approach to community needs for infrastructure expansion and improvements, and provide for planned and orderly growth consistent with the provision of needed public and private facilities and services;
- (j) Protect and preserve sensitive natural areas and vital natural resources and avoid environmental degradation and other undesirable consequences of irresponsible or shortsighted land management;
- (k) Minimize or eliminate visual clutter and traffic hazards resulting from excess business advertising and other signs, while retaining forms of protected speech;
- (l) Those additional purposes and intentions as articulated in the various sections of this ordinance.

## §1-3 DEFINITIONS AND INTERPRETATIONS

### §1-3-1 DEFINITIONS

Except as specifically defined herein, or in other sections of this ordinance containing definitions, all words used in this ordinance have their customary dictionary definitions. Unless otherwise expressly stated, the following words shall have the meaning herein indicated.

Appeal: A request for a review of the Land Use Officer's interpretation of any provision of this ordinance, or a request for a review of an action taken by the Land Use Officer in the application or enforcement of this ordinance.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Code Enforcement Officer: The person authorized to administer and interpret this ordinance or authorized designee. Said title, "Code Enforcement Officer" shall be synonymous and interchangeable with "Land Use Officer."

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; any land-disturbing activity which alters the elevation of the land, removes significant vegetation, or causes structures of any kind to be erected or removed.

Improvement: The physical addition and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

Land-disturbing activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices.

Land Use Officer: That person authorized by the Governing Body to administer and interpret this ordinance, or authorized designee. Said title, "Land Use Officer" shall be synonymous and interchangeable with "Code Enforcement Officer."

Land use permit: An official authorization issued by the Land Use Officer in accordance with this ordinance to proceed with land disturbance and grading, or to occupy land for a use or activity, or to authorize any other activity regulated by this ordinance.

Occupy: The word "occupy" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Structure: Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground. For purposes of this ordinance, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Driveways and parking lots are not considered structures.

Used: The word "used" as applied to any land, building or structure shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Variance: A grant of relief from the requirements of this ordinance which permits construction or use in a matter otherwise prohibited by this ordinance, which may be approved in individual cases upon application and applied to specific property where compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit. A variance is a minimal relaxation or modification of the strict terms of the regulations of this ordinance which are dimensional in nature as applied to specific property.

#### §1-3-2 INTERPRETATIONS

In the interpretation and application of this Ordinance all provisions shall be considered as minimum requirements. Where the literal interpretation is clear to the Land Use Officer, it shall be construed literally. Where the section or subsection has a statement of purpose and intent, the Land Use Officer shall consider said purpose and intent in making the interpretation. Where ambiguity exists the Land Use Officer shall interpret this ordinance in favor of the least restrictive use of property.

#### §1-3-3 USE OF WORDS AND PHRASES

For the purpose of this ordinance, the following shall apply to the use of words and phrases:

- (a) Words used in the present tense include the future tense. Words used in the singular tense include the plural tense, and words used in the plural tense include the singular tense.
- (b) The masculine person "he" or "his" also means "her" or "hers."
- (c) The word "person" is intended to include any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, county, municipality or other political subdivision of this State, any interstate body or any other legal entity.
- (d) The words "shall" and "must" are always mandatory and not discretionary, while the word "may" is permissive. The word "should" is suggestive but not required.
- (e) Where a term is defined in this section, it shall be construed to have meaning and application throughout all other sections of this Ordinance, unless the context clearly indicates otherwise.
- (f) Where a term is defined in any section other than this section, it is generally the intent that such definition applies only within the section it appears, since it is positioned in the section to which it most readily refers; provided, however, that this provision shall not prevent the Land Use Officer from interpreting that defined term as applying outside the strict context of the section in which it appears, and to that end, all definitions, regardless of location within this ordinance, apply equally to the use of such terms throughout the ordinance.

**§1-3-4**      **USE OF FIGURES**

Figures associated with defined terms or regulatory paragraphs in this Ordinance are provided for illustration only and do not limit or change the meaning of the term as defined or the requirements of the regulation as written.

**§1-4**      **APPLICABILITY**

Unless this ordinance clearly indicates otherwise, this ordinance shall apply within the incorporated limits of The City of Arnoldsville, Georgia.

**§1-5**      **EXEMPTIONS**

The following uses and activities are hereby exempted from the requirement of Section 1-6 of this ordinance to obtain a Land Use Permit:

- (a) Public buildings, uses, and structures and semi-public uses and structures, along with the land disturbance associated with such buildings and/or uses.
- (b) The plowing of fields, the cultivation of crops, or timber/forestry management operations, regardless of area disturbed, provided such activities do not involve the preparation of land for a building or structure with an area of 150 square feet or more.
- (c) Any structure less than 150 square feet in area, when not attached to an existing building or made part of a new building (i.e., "accessory" structures).
- (d) The addition of appurtenances, including antennas, satellite receiving dishes, and chimneys, and the installation of ancillary equipment, to existing buildings.
- (e) The removal of trees, grading, or other land disturbance of an area less than 200 square feet, or grading less than 50 cubic yards, provided such activities do not involve the preparation of land for a building or structure with an area of 150 square feet or more.
- (f) The resurfacing or graveling of a driveway serving a single-family residential use or manufactured home.
- (g) Temporary sale or other temporary activity, including but not limited to yard sales, garage sales, and rummage sales, provided that the duration of such sale or other temporary activity does not exceed seventy-two (72) consecutive hours and does not occur more frequently than once in any consecutive ninety (90) day period.
- (h) Erection of fences, provided that they are not comprised of materials prohibited by this Ordinance.
- (i) Fallout shelters.
- (j) Replacement of existing septic tanks and septic tank drainfields; provided, however, that such uses must meet applicable requirements of the Oglethorpe County Health Department.
- (k) The installation, relocation, or replacement of utility lines serving individual buildings or uses.
- (l) Land disturbance related to the installation of a well; provided, however, that such uses must meet applicable requirements of the Oglethorpe County Health Department

**§1-6            REQUIREMENTS**

**§1-6-1        LAND USE PERMIT REQUIRED**

Unless specifically exempted or otherwise provided by this ordinance, no building, sign, or other structure shall be erected, moved, added to, or structurally altered without a Land Use Permit issued by the Land Use Officer. It shall be unlawful to use or occupy or permit the use or occupancy of any building, structure, land, water, or premises, without a Land Use Permit for such use or occupancy. Unless specifically exempted or otherwise provided by this ordinance, no land use activity including land disturbance or improvement shall be initiated without a Land Use Permit issued by the Land Use Officer, and except in conformity with said Land Use Permit. It shall be unlawful to erect, move, add to, structurally alter any building or structure, use or occupy or permit the use of any occupancy of any building, structure, land, water, or premises, or initiate any land use activity that is in violation of an approved Land Use Permit.

**§1-7            PROCEDURES**

The Land Use Officer is hereby authorized to establish administrative procedures for the handling of applications for permits, variances, appeals, and other actions necessary to administer this ordinance, where such procedures are not already fully set forth in this ordinance.

**§1-8            ADMINISTRATION**

It shall be the duty of the duly appointed Land Use Officer to administer and interpret this ordinance. To this end, the Land Use Officer is authorized to prepare administrative procedures, guidelines, application forms, to tend to other administrative details not inconsistent with the provisions of this ordinance, and to implement the provisions of this ordinance. The Land Use Officer may delegate administrative functions, powers and duties assigned by this ordinance to other staff as may be appropriate, without the need to reflect such delegation by formal action.

**§1-9            ENFORCEMENT AND PENALTIES**

**§1-9-1        GENERALLY**

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved site plan or permit may be subject to any or all of the enforcement actions and remedies described in this section.

**§1-9-2        STOP WORK ORDER**

The Land Use Officer, upon learning or discovering a violation of this ordinance or any approved site plan or permit issued pursuant to this ordinance, may immediately issue a stop work order which shall be posted on the job site and mailed to the applicant shown on the permit or approved site plan. In cases where the Land Use Officer discovers that a violation is clearly imminent, he may issue a "cease and desist" order to prevent such a clearly imminent violation from occurring. Such "cease and desist" order shall have the same effect as a stop work order.

The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.

§1-9-3      NOTICE OF VIOLATION

Prior to or concurrent with the issuance of a Stop Work Order, if the Land Use Officer determines that an applicant or other responsible firm, person or corporation has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this ordinance, he shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured the required permit, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

§1-9-4      CONTENT OF NOTICE OF VIOLATION

Notices of violation shall contain the following:

- (a) The name and address of the owner or the applicant or the responsible person;
- (b) The address or other description of the site upon which the violation is occurring;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this ordinance and the date for the completion of such remedial action, and a date set forth for completion of remedial measures, after which further enforcement action will be taken; and
- (e) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed.

In preparing notices of violations, the Land Use Officer is authorized to require, as remedial measures, the restoration of land or property disturbed to its original condition or to undertake mitigation in another location where irreversible damage has occurred.

§1-9-5      FAILURE OF REMEDIAL MEASURES

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more actions or penalties described in this section as appropriate may be taken or assessed against the person to whom the notice of violation was directed.

§1-9-6      SUSPENSION, REVOCATION OR MODIFICATION OF PERMIT

The Land Use Officer may suspend, revoke or modify any permit or approval authorizing an activity or land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the enforcement officer may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

§1-9-7            WITHHOLDING OF UTILITY SERVICE

The Land Use Officer may request or direct any utility service provider to withhold utility service to any property on which a violation has occurred.

§1-9-8            CITATION

The Land Use Officer shall have authority to issue citations and to prosecute violations before a court of competent jurisdiction. Violations of ordinances in the City of Arnoldsville, Georgia may be tried upon citation with or without a prosecuting attorney as well as upon accusations.

§1-9-9            CIVIL PENALTIES

Any person, firm or corporation violating, neglecting or refusing to comply with any of the provisions of this ordinance, or any site plan approval or permit issued pursuant to this ordinance shall be guilty of a misdemeanor. Any violation of any such provision of this ordinance shall be punished by a fine not exceeding \$1,000.00 or by imprisonment not exceeding six months, or by a combination of such punishments. Each day any violation of this ordinance shall continue shall constitute a separate offense.

§1-9-10          COMPLAINTS

Whenever a violation of this ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state clearly and fully the causes and bases of the complaint and shall be filed with the Land Use Officer. The Land Use Officer shall record properly such complaint, investigate, and take action thereon as may be appropriate to enforce this ordinance.

**§1-10            BOARD OF APPEALS, VARIANCES AND APPEALS**

§1-10-1          PURPOSE

This Section establishes a Board of Appeals and provides a mechanism for relief in an individual case where certain dimensional requirements of this code pose undue hardship. The grant of authority and powers delegated by the Governing Body is limited to the provisions herein and shall be used sparingly by the Board of Appeals.

§1-10-2          BOARD OF APPEALS

A Board of Appeals is hereby established. Said board shall consist of three voting members, who are residents and registered voters of the City of Arnoldsville, Georgia, each of whom shall serve for terms of three years or less without compensation. None of the members of the Board of Appeals shall be a member of the Governing Body, but one member of the Planning Commission may serve on the Board of Appeals. The board members shall be appointed by the Mayor with the approval of the City Council. In case any vacancy should occur in the membership of the board for any cause, the Mayor shall fill such vacancy by making an appointment for the unexpired term with the approval of the City Council. Any members of the board may be removed by the Mayor for due cause or upon expiration of term, subject to the approval of the City Council.

§1-10-3 MEETINGS

The Board of Appeals shall adopt rules of procedure as are necessary to carry out the purposes of its authority. The Board shall establish a regular meeting date and time for its meetings; however, meetings shall be held only on an as-needed basis and shall be open to the public. The Board shall appoint a secretary, who shall be the Land Use Officer unless otherwise designated, to record the minutes of its proceedings, showing the action of each board member upon each question. The Board shall keep records of its examinations and other official actions, all of which shall be filed with the City of Arnoldsville, Georgia Clerk and be public records. The Land Use Officer shall serve as the advisor to the Board, except in cases of an appeal from a decision of the Land Use Officer. The Board may adjourn any public hearing or meeting in order to obtain additional information, or to serve further notice upon such other property owners as it decides may be interested in the application or appeal; provided however, that the Board shall act on all applications within 64 days of the date the initial public hearing on the matter was scheduled.

§1-10-4 AUTHORITY TO GRANT VARIANCES

The Board of Appeals is authorized to receive, consider, grant, grant with conditions, or deny applications for variances to the dimensional requirements of this code, after a public hearing and after making written findings of fact that the conditions for variances specified herein have been fulfilled. In granting a variance, the Board may impose such requirements and conditions with respect to the location, construction, maintenance and operation of any use or building, in addition to those expressly set forth herein, as may be deemed necessary for the protection of adjacent properties and the public interest. Decisions of the Board of Appeals shall be final; there shall be no appeal to the Mayor and City Council, but the applicant aggrieved by a decision of the Board of Appeals may pursue appeals to the Courts of proper jurisdiction of the State of Georgia as provided by law.

§1-10-5 VARIANCE APPLICATIONS

A property owner or his authorized agent may initiate a request for variance by filing an application with the Land Use Officer. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development. The Land Use Officer may require other drawings or materials essential to an understanding of the proposed use and variance requested and its relationship to the surrounding properties. A fee shall accompany variance applications as established by the Governing Body by Resolution from time to time.

§1-10-6 CONDITIONS AND CRITERIA FOR GRANTING A VARIANCE

The Board of Appeals, in cases where specifically authorized, may grant a variance only after consideration and adoption of findings of fact that all of the following conditions exist and criteria are met:

- (a) There are unusual, exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other property in the same vicinity or use district, and such conditions are not the result of the owner's or occupant's own actions. Such conditions may include topography, unique natural conditions, surroundings of the subject property, or the size or peculiar shape of the lot.
- (b) As a result of such unusual circumstance or conditions, there is an unnecessary hardship or practical difficulty in complying with the provisions of this code.



- (c) The authorization of such variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or district in which property is located, and the variance will be in harmony with the general purposes and intent of the provisions of this code.
- (d) The variance approved is the minimum variance that will make possible the legal use of the land, building or structure.
- (e) The variance does not permit a use of land, building or structure which is not permitted by right in the land use intensity district in which the proposed development is located.

§1-10-7      STAFF INVESTIGATION AND REPORT

The Land Use Officer shall make an investigation of all variance applications and shall prepare a report thereon, considering applicable criteria specified herein. Said investigation shall be submitted to the Board of Appeals. Said investigation shall also be made available to the applicant prior to any public hearing scheduled on the matter.

§1-10-8      APPEALS OF ADMINISTRATIVE DECISIONS

Any person who alleges there is an error in, or who is aggrieved by a decision of the Land Use Officer in the administration, enforcement, and/or interpretation of this code, may file an appeal with the City of Arnoldsville, Georgia Clerk stating the grounds for such appeal. The Board of Appeals is hereby authorized to hear and decide said appeals, after proper application, public hearing and adoption of relevant findings of fact.

An appeal from a ruling of the Land Use Officer shall stay all proceedings in furtherance of the action being appealed. The Board may affirm, overrule or modify, in whole or in part, the rulings of the Land Use Officer. In cases where an appeal is granted, the Board shall have all necessary powers of the Land Use Officer and may issue land use permits, or direct the issuance of land use permits not otherwise inconsistent with this code and any other code, resolution, or ordinance adopted by the Governing Body.

§1-10-9      NOTICE AND HEARING

Upon the filing of any complete application with the Land Use Officer, for a variance or for appeal, a public hearing shall be scheduled and notice provided of such public hearing in accordance with this subsection. Prior to acting upon an application for variance or appeal, the Board of Appeals shall convene and conduct a public hearing on the application. The Board of Appeals shall establish its own procedures for conducting public hearings.

For any application for a variance or appeal, a public notice shall be published in a newspaper of general circulation in the local jurisdiction at least 15 days, but not more than 45 days prior to the scheduled public hearing. Such notice shall state the purpose, location, time and date of the public hearing, and the nature of said application. For variance applications, the public notice shall specifically include the location of the property and the provision or provisions of the ordinance proposed to be varied. For appeals, the public notice shall specifically include the action of the Land Use Officer that is the subject of the appeal.

For all variance applications, in addition to the public notice published in a newspaper, the Land Use Officer shall post a sign, which shall be not less than 4 square feet in area, in a conspicuous place on said property not less than 15 days prior to the date of the public hearing. Said sign shall contain information concerning the location of the property, the provision or

provisions of the ordinance proposed to be varied, and the date, time and location of the public hearing before the Board of Appeals.

§1-10-10      ACTION ON VARIANCES AND APPEALS

The Board of Appeals shall make findings and render a decision in writing within 32 days after conducting the public hearing on the proposed variance or appeal. The Board's Secretary shall notify the applicant, in writing, of its decision within five days after the Board has rendered its decision.

§1-11            LEGAL STATUS PROVISIONS

§1-11-1        CONFLICT WITH OTHER LAWS

Whenever the regulations of this ordinance impose more restrictive standards than are required in or under any other statute or ordinance, the requirements of this ordinance shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this ordinance, the provisions of such more restrictive statute or ordinance shall govern.

§1-11-2        VALIDITY AND SEVERABILITY

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

§1-11-3        REPEAL OF CONFLICTING ORDINANCES

All ordinances and resolutions and parts thereof in conflict herewith are repealed to the extent necessary to give this ordinance full force and effect, except that any ordinances or resolutions repealed by this provision shall not limit or impair the city's authority to enforce such ordinances or resolutions to the extent that violations thereof occurred prior to repeal.

§1-11-4        CODIFICATION

It is the intention of the Mayor and Council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the official code of the City of Arnoldsville, Georgia , and the sections of this ordinance may be renumbered or reorganized to accomplish such intention.

§1-11-5 ADOPTION AND EFFECTIVE DATE

This ordinance is hereby adopted this 16 day of February, 2017, and shall be effective immediately upon its adoption, the public welfare demanding it.

Mayor and City Council

Members of the City Council:

Henry J. Norman

Dennis R. Marcom

[Signature]

Norma S. Radlock

Lee W. Norman

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[Signature]  
Mayor