

## **CHAPTER 1**

### **GENERAL**

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## CHAPTER 1 GENERAL

### ARTICLE 1-1 HOW CODE DESIGNATED AND CITED

The ordinance embraced in the following chapters and sections shall constitute and be designated "The Code of the Town of Duncan, Arizona," and may be so cited. Such code may also be cited as the "Duncan Code."

### ARTICLE 1-2 CONSTRUCTION OF ORDINANCES

The rules and the definitions set forth in this chapter shall be observed in the construction of this code and the ordinances of the town unless such construction would be inconsistent with either the manifest intent of the council or the context of this code or the ordinances of the town.

### ARTICLE 1-3 DEFINITIONS

1-3-1 General Rule Regarding Definitions

1-3-2 Specific Definitions

#### Section 1-3-1 General Rule Regarding Definitions

All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

#### Section 1-3-2 Specific Definitions

- A. Acts by Agents. When this code or an ordinance requires an act to be done which may by law be as well done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.
- B. Town. Whenever the word "town" is used, it shall mean the Town of Duncan, Arizona.
- C. Code. The words "the code" or "this code" shall mean "The Code of the Town of Duncan, Arizona," unless the context indicates otherwise.
- D. Council. Whenever the word "council" is used, it shall be construed to mean the common council of the Town of Duncan, Arizona.

- E. Day. A "day" is a period of time between any midnight and the midnight following.
- F. Daytime, Nighttime. "Daytime" is the period of time between sunrise and sunset. "Nighttime" is the period of time between sunset and sunrise.
- G. Department, Board, Commission, Office, Officer or Employee. Whenever any "department, board, commission, office, officer or employee" is referred to, it shall mean a department, board, commission, office, officer or employee of the town unless the context indicates otherwise.
- H. Gender; Singular and Plural. Words of the masculine gender include feminine; words in the singular number include the plural and words in the plural include the singular.
- I. In the Town. The words "in the town" or "within the town" shall mean and include all territory over which the town now has, or shall hereafter acquire, jurisdiction for the exercise of its police powers or other regulatory powers.
- J. Joint Authority. All words purporting to give a joint authority to three or more town officers or other persons shall be construed as giving such authority to a majority of such officers or other persons unless it shall be otherwise expressly declared in the law giving the authority.
- K. Month. The word "month" shall mean a calendar month.
- L. Oath. "Oath" includes affirmation or declaration.
- M. Or, And. "Or" may be read "and," and "and" may be read "or" if the sense requires it.
- N. Person. The word "person" shall extend and be applied to firms, corporations or voluntary associations, as well as to individuals, unless plainly inapplicable.
- O. Personal Property. "Personal Property" includes every species of property, except real property as defined in this article.
- P. Preceding, Following. The words "preceding" and "following" mean next before and next after, respectively.
- Q. Property. The word "property" shall include real and personal property.
- R. Real Property. "Real Property" shall include real and personal property.
- S. Shall, May. "Shall" is mandatory and "may" is permissive.

T. Shall Have Been. The words "shall have been" include past and future cases.

U. Signature or Subscription by Mark. "Signature" or "subscription" includes a mark when the signer cannot write, such signer's or subscriber's name being written near the mark by a witness who writes his own name near the signer's or subscriber's name; but a signature or subscriptions by mark can be acknowledged or can serve as signature or subscription to a sworn statement only when two witnesses so sign their own names thereto.

V. State. The words "the state" shall be construed to mean the State of Arizona.

W. Tenant or Occupant. The word "tenant" or "occupant" applied to a building or land shall include any person holding a written or an oral lease or who occupies the whole or part of such building or land, either alone or with others.

X. Tenses. The present tense includes the past and future tenses, and the future includes the present.

Y. Time-Computation. The time within which an act is to be done as provided in this code or in any order issued pursuant to any ordinance, when expressed in days, shall be computed by excluding the first day and including the last, except that if the last day is a Saturday, Sunday or holiday it shall be excluded; and when such time is expressed in hours, the whole Saturday, Sunday or a holiday, from midnight to midnight, shall be excluded.

Z. Time-Reasonable. In all cases where any section of this code shall require an act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall be deemed to mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

AA. Week. A "week" consists of seven consecutive days.

BB. Writing. "Writing" includes any form of recorded message capable of comprehension by ordinary visual means. Whenever any notice, report, statement or record is required or authorized by this code, it shall be made in writing in the English language unless it is expressly provided otherwise.

CC. Year. The word "year" shall mean a calendar year, except where otherwise provided.

## ARTICLE 1-4 REFERENCE TO CHAPTERS, ARTICLES OR SECTIONS: CONFLICTING PROVISIONS

1-4-1 Additional Rules of Construction

1-4-2 References to This Code

1-4-3 Conflicting Provisions — Different Chapters

1-4-4 Conflicting Provisions — Same Chapter

### Section 1-4-1 Additional Rules of Construction

In addition to the rules of construction specified in Articles 1-2 and 1-3, the rules set forth in this article shall be observed in the construction of this code.

### Section 1-4-2 References to This Code

All references to chapters, articles or sections are to the chapters, articles and sections of this code unless otherwise specified.

### Section 1-4-3 Conflicting Provisions — Different Chapters

If the provisions of different chapters of this code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions growing out of the subject matter of such matter.

### Section 1-4-4 Conflicting Provisions — Same Chapter

If conflicting provisions are found in different sections of the same chapter, the provisions of the section which is last in numerical order shall prevail unless such construction is inconsistent with the meaning of such chapter.

## ARTICLE 1-5 SECTION HEADINGS

Headings of several sections of this code are intended as a convenience to indicate the contents of the section and do not constitute part of the law.

## ARTICLE 1-6 EFFECT OF REPEAL

When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision, unless it shall be expressly so provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect nor any suit, prosecution or proceeding pending at the time of the repeal, for any offense committed under the ordinance repealed.

## ARTICLE 1-7 SEVERABILITY OF PARTS OF CODE

It is hereby declared to be the intention of the council that the sections, paragraphs, sentences, clauses and phrases of this code shall be severable, and, if any provision of this code is held unconstitutional for any reason by a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining provision of the code.

## ARTICLE 1-8 PENALTY

Any person found guilty of violating any provisions of this code, except as otherwise provided in this code, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed one thousand dollars or by imprisonment for a period not to exceed six months, or by both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

## ARTICLE 1-9 REPEAL OF EXISTING ORDINANCES

1-9-1 Effective Date of Repeal

1-9-2 Ordinances Exempt from Repeal

### Section 1-9-1 Effective Date of Repeal

All ordinance of the town except those specially exempted in this article, now in force and effect are hereby repealed at twelve o'clock noon on the 7<sup>th</sup> day of June, 1995, by all rights, duties and obligations created by said ordinances shall continue and exist in all respects as if this code had not been adopted and enacted.

### Section 1-9-2 Ordinance Exempt from Repeal

The adoption and enactment of this code shall not be construed to repeal or in any way modify or affect:

- A. Any special ordinance or ordinances regarding franchises, annexations, dedications or zoning.
- B. Any ordinance making an appropriation.
- C. Any ordinance affected any bond issue or by which any bond issue may have been authorized.
- D. The running of the statute of limitations in force at the time of this code becomes effective.

- E. The continued existence and operation of any department, agency, commission or office heretofore legally established or held.
- F. Any bond of any public officer.
- G. Any taxes, fees, assessments or other changes incurred or imposed.
- H. Any ordinance authorizing, ratifying, confirming, approving or accepting any compact or contract with any other municipality, the State of Arizona or any county or subdivision thereof, or with the United States or any agency or instrumentality thereof.

#### ARTICLE 1-10 EFFECTIVE DATE OF CODE

Each and every section of this code as herein contained and hereby enacted shall take effect and be in force on and after twelve o'clock noon on the 7<sup>th</sup> day of June, 1995, except that where a later effective date is provided it shall prevail.