

CHAPTER 14

PUBLIC WAYS AND PROPERTY

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CHAPTER 14
PUBLIC WAYS AND PROPERTY

ARTICLE 14-1 SIDEWALKS

14-1-1 Damaging Sidewalks and Streets

Section 14-1-1 Damaging Sidewalks and Streets

It shall be unlawful for any person to recklessly damage, injure, destroy, deface, alter or change any sidewalk or street without first obtaining a permit to do so from the clerk.

Any person receiving a permit to alter or change any sidewalk or street shall do so upon such restrictions and conditions as may be imposed by the town clerk for the protection of the public and shall further repair any damage to said sidewalk or street as required by the town clerk as soon as is reasonably possible.

Any person damaging a sidewalk or street without a permit shall be guilty of a misdemeanor and shall further be required to pay any and all expenses of repairing such sidewalk or street or shall be required to repair such damages as directed by the town clerk.

ARTICLE 14-2 TREES AND SHRUBBERY

- 14-2-1 Trees To Be Trimmed
- 14-2-2 Hedges and Shrubbery
- 14-2-3 Trees Outside of Property Line

Section 14-2-1 Trees To Be Trimmed

Any owner or occupant of any real property shall trim all trees on property owned or occupied by him, overhanging any public thoroughfare, so that the branches thereon will not interfere with pedestrians or public travel.

Section 14-2-2 Hedges and Shrubbery

Any owner or occupant of any real property shall maintain all hedges and shrubbery adjacent to public sidewalks so that no part of said hedges and/or shrubbery shall extend over any part of a public sidewalk in the municipality.

Rev. 05/05

Section 14-2-3 Trees Outside of Property Line

The Duncan Town Council is hereby provided full and complete control over all trees which are outside the property lines of privately owned real property.

ARTICLE 14-3 WEEDS

- 14-3-1 Definition
- 14-3-2 Removal of Weeds Required
- 14-3-3 Failure to Comply

Section 14-3-1 Definition

Weeds shall include all vegetable growth that is troublesome, useless or noxious.

Section 14-3-2 Removal of Weeds Required

All occupants or owners are hereby required to destroy all weeds upon their premises to the center of the street or alley.

Section 14-3-3 Failure to Comply

Whenever the growth of weeds advances to a condition prohibited by this chapter, the town or its designated official shall notify such occupant or owner to remove same. In default of this being done, the town shall remove the same and the cost thereof shall become a lien upon the property. Said lien shall be collected as provided by law.

ARTICLE 14-4 CEMETERY REGULATIONS

- 14-4-1 Supervision
- 14-4-2 Rules and Regulations
- 14-4-3 Interment
- 14-4-4 Records To Be Kept
- 14-4-5 Desecration of Markers
- 14-4-6 Removal of Excess Dirt
- 14-4-7 Penalty
- 14-4-8 Sale of Plots
- 14-4-9 Grave Opening and Closing
- 14-4-10 Indigent Burials
- 14-4-11 Restrictions
- 14-4-12 Disclaimer
- 14-4-13 Schedule of Fees
- 14-4-14 Definitions

Rev. 05/05

Section 14-4-1 Supervision

The mayor shall be the chairman of the cemetery committee and deputy chairman shall be the vice-mayor. The members of the Town Council shall serve as members of the Cemetery Committee and additional members of the committee shall be such other citizens of the town as shall be appointed to the committee from time to time by the Mayor and Council.

The cemetery manager shall be the town manager and the deputy cemetery manager shall be the town clerk.

The sitting town council may serve as the cemetery committee in regularly scheduled council meetings for the purpose of conducting such business as shall apply to the town cemetery.

Section 14-4-2 Rules and Regulations

The cemetery committee shall establish rules and regulations for the use of the town cemetery relating to:

- A. Subdividing the cemetery into lots.
- B. Capacity of each lot.
- C. Location of graves.
- D. Type of planting, monuments and markers that will be permitted for the proper and most attractive development of the town cemetery.

Section 14-4-3 Interment

The cemetery manager or deputy manager shall issue a permit for burial in the town cemetery upon being informed of the name of the deceased, the date and place of death, the name and address of the funeral director or person in charge, the ownership of the lot and location of the proposed grave within the lot, and having entered this information on the map and records of the Town of Duncan. No burial in the town cemetery shall be permitted without prior permission of the cemetery manager or deputy manager.

No deceased person shall be interred in the cemetery until it is found:

- A. That a death certificate has been obtained in accordance with state law.
- B. That the lot in which burial is to be made has been fully paid for.

- C. That the person arranging for such burial has the right to use such lot.
- D. That such lot is not used beyond its capacity.
- E. That persons wishing to conduct funeral operations or exhumations at the town cemetery shall notify the cemetery manager or deputy manager at least two (2) working days (excluding weekends and holidays) in advance of the services to be conducted.

Section 14-4-4 Records To Be Kept

The person in charge of any premises on which interments are made shall not inter or permit the interment or other disposition of a body unless it is accompanied by a burial, removal or transit permit upon the form prescribed by the state register.

The cemetery manager or deputy manager shall endorse upon the burial permit, over their signature, the date of interment and return the permit to the local registrar of their district within ten (10) days of the interment or within the time fixed by the Town Board of Health. They shall keep a public record of all bodies disposed of on the premises under their charge which states the name of each deceased person, place of death, date of burial or disposal and the name and address of the undertaker.

An undertaker who interms a body in a burial ground which has no person in charge shall so endorse, sign and file the permit and write across the face of the permit the words "No person in charge."

The cemetery manager or deputy manager is designated as the person to sign after burial, the "Burial – Transit Permit" as required by the State of Arizona pursuant to Section 36-333 and regulation of the State Health Department No. R9-19-125.

Section 14-4-5 Desecration of Markers

A person who willfully and maliciously defaces, breaks, destroys or removes a tomb, monument or gravestone erected for a dead person, or a memento, memorial, ornamental plant, tree or shrub placed at the sepulcher of a human being, or who marks, defaces, injures, destroys or removes a fence, post, rail or wall of the cemetery, is guilty of a misdemeanor.

Section 14-4-6 Removal of Excess Dirt

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After a burial has been completed all excess dirt left shall be immediately removed from the cemetery so that it is left in a clean and orderly condition.

Section 14-4-7 Penalty

Any person opening a grave in the town cemetery without first obtaining the permission of the cemetery manager or deputy manager is in violation of this section and shall be guilty of a misdemeanor and upon conviction thereof be punished a fine of not more than three hundred dollars (\$300.00) or imprisonment in the county jail of not more than 90 days or both.

Section 14-4-8 Sale of Plots

Burial plots are generally purchased at time of need only, except that burial sites for both spouses may be purchased at the time of one spouse's death. The cemetery manager or deputy manager may make exceptions to this policy.

Burial plots shall be sold only to residents or taxpayers of the town for the purpose of burial of such purchaser or their heirs at law or next of kin. No sales shall be made to funeral directors or others without the express consent of the town council. The cemetery manager or deputy manager may grant waivers to this restriction when the purchaser discloses sufficient personal reason for burial within the town through previous residence or relationship to other person(s) interred in the town cemetery.

Lot owners shall not allow interments in their lots for remuneration of any kind.

Section 14-4-9 Grave Opening and Closing

The opening and closing of any burial space, prior to and following a burial therein, and including the interment of ashes, shall be at a cost to be determined from time to time by the cemetery manager and/or deputy manager, approved by the town council and payable to the Town of Duncan, as owner of the cemetery.

Grave closing shall be made immediately following the service. The ceremony participants shall be permitted to place a symbolic amount of material on top of the casket, if desired. The grave will then be filled in after the departure of the loved ones and under the direction of the funeral director.

Extra charges shall apply for the closing of graves on any town holiday or on a Saturday or Sunday. Such charges to be determined by the cemetery manager or deputy manager and approved by the town council.

Section 14-4-10 Indigent Burials

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In any case in which the county is required by Arizona Revised Statutes §36-831(B) and 11-251(27) to bury an indigent who was a resident of the Town of Duncan and/or the County of Greenlee at the time of death, the town shall charge the county a reasonable fee which shall be set from time to time through a written agreement with the county.

Section 14-4-11 Restrictions

No burials shall be made in the town cemetery for other than human remains.

No burial plot or lot may be utilized for other than the burial of human remains.

No interment of two or more bodies shall be made in one plot in the town cemetery except as follows:

- A. Spouses may be stacked atop one another provided the lot has been dug sufficiently deep to do so.
- B. A parent and one infant child may be buried together.
- C. Two children may be buried together.
- D. Cremations may be interred at the foot of an existing lot, occupied or not.
- E. Two cremations per adult lot are permitted.

Section 14-4-12 Disclaimer

The town disclaims all responsibility for loss or damage from causes beyond its reasonable control and from damage caused by the elements, acts of God, acts of the common enemy, and acts of thieves, vandals, strikers, malicious mischief makers, explosions, riots or order of any military or civil authority, whether the damage is direct or collateral.

Section 14-4-13 Schedule of Fees

A schedule of fees shall be maintained in the town hall by the cemetery manager and/or deputy manager, updated regularly, available to the public and furnished to the funeral directors in the area.

Section 14-4-14 Definitions

- A. Chairman of the Cemetery Committee – The mayor of the Town of Duncan.
- B. Cemetery Manager – The town manager of the Town of Duncan.

- C. Deputy Cemetery Manager – The town clerk of the Town of Duncan.
- D. Members of the Cemetery Committee, de facto – Members of the town council of the Town of Duncan.
- E. Members of the Cemetery Committee – Such citizens of the town as shall be appointed to the committee from time to time by the mayor and town council.
- F. Lot – A parcel of land in the Town of Duncan Cemetery sufficient in size to bury either four or eight people.
- G. Plot – A parcel of land within a lot for the burial of one person (except as noted above in section 14-4-11).

ARTICLE 14-5 TRASH AND LITTER CONTROL

14-5-1	Purpose
14-5-2	Definitions
14-5-3	Violations
14-5-4	Litter Receptacles
14-5-5	Penalties

Section 14-5-1 Purpose

The purpose of this article is to accomplish litter control in the Town of Duncan. This article is intended to place upon all persons within the Town of Duncan the duty of contributing to the public cleanliness and appearance of the Town of Duncan in order to promote the public health, safety and welfare and to protect the economic interest of the people of the Town of Duncan against unsanitary and unsightly conditions. It is further the intent of this article to protect the people against the health and safety menace and expense incident to littering. Nothing in this article should be construed to conflict with Greenlee County or State of Arizona regulations. In case of conflict, the strictest regulation shall apply.

Section 14-5-2 Definitions

County Regulations – means the regulations duly promulgated (published) and adopted by Greenlee County.

Litter – means abandoned property, garbage, refuse, rubbish, trash and other waste material including household pet waste and any motorized vehicle which, if thrown, deposited or left as herein prohibited, tends to create a danger to public health, safety and welfare.

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Park – means a park, playground, recreation center or any other area in the Town of Duncan devoted to active or passive outdoor recreation.

Person – means any individual, industry, public or private corporation, copartnership, association, firm or any other entity whatsoever.

Public Litter Receptacle – means a container with permanently mounted lids for the disposal of litter of not more than sixty (60) gallon capacity, provided that special containers of larger capacity such as those referred to as “dumpsters”, and garbage containers or other waste containers with permanently mounted lids serving single or multi-family residences are not included within this definition and their use is in no way regulated or affected by this article.

Public Place – means any area used or held out for use by the public whether owned or operated by public or private interests.

State Regulations – means the regulations duly promulgated (published) and adopted by the State of Arizona.

Section 14-5-3 Violations

Violations including, but not limited to:

1. No person shall throw, drop, deposit, discard or otherwise dispose of litter on any street, alley, sidewalk or other public place or upon a private residence or other private property not controlled or owned by such person within the Town of Duncan, or in any body of water or waterway within the jurisdiction of the Town.
2. Any person who accumulates or permits the accumulation of litter on property which it is prohibited by this section may be deemed to create a public nuisance by such action by the Common Council, and the enforcement agency is hereby authorized to enter into and upon such property to abate such nuisance.
3. No person shall sweep into or deposit in any gutter, street, alley or other public place the accumulation of litter from any building, lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep their property and the sidewalks in front of their premises free of litter.

Section 14-5-4 Litter Receptacles

1. Litter receptacles shall be such a container with a permanently mounted lid in such a manner so that the litter will not be strewn or blown about or otherwise carried away and deposited by the elements upon any public place or private property of another.
2. Litter receptacles shall be placed in all parks, trailer parks and other similar public places in respect to the service of transient habitation of quantity appropriate to

the need for such receptacles, all as specified by and in accordance with state regulations.

3. Litter receptacles placed on sidewalks and other public places shall be used only for such litter material as persons may have for disposal while passing along the street or other public places and in no event shall such litter receptacles be used for the disposal of other solid waste accumulation in residences or places of business.

4. It shall be unlawful for any person to willfully damage, deface or destroy any public litter receptacle.

5. It shall be the responsibility of the person owning or maintaining any public place where litter receptacles are placed pursuant to this chapter to remove and dispose of litter from such litter receptacles.

6. Residents shall be required to dispose of all litter in appropriate covered containers to be emptied on a weekly basis.

Section 14-5-5 Penalties

1. The owner of the premises from which it is removed shall pay the cost for the removal of the litter. If the owner fails to pay such cost, the Common Council is hereby authorized to hold a public hearing. After such hearing, if the decision of the Common Council or an appointed Hearing Officer is that the charges are just and owing to the Town, the same may be added to the next property tax roll delivered to the county treasurer for collection and collected in the same manner as property taxes are collected.

Any person convicted of violating any provision of this chapter shall be deemed to have committed an infraction and subject to a fine of no more that \$300 per day per infraction.

ARTICLE 14-6 HAZARD ABATEMENT REGULATIONS

14-6-1 TITLE AND PURPOSE

14-6-2 DEFINITIONS

14-6-3 ENFORCEMENTS

14-6-4 BOARD OF APPEALS

14-6-5 NUISANCE REMOVAL REQUIREMENT FOR REMOVAL

14-6-6 NOTICE OF VIOLATION

14-6-7 ASSESSMENT AND REMOVAL COST

14-6-8 APPEALS

14-6-9 HEARINGS

14-6-10 CONDUCT OF HEARINGS

14-6-11 COMPLIANCE WITH DECISION

14-6-12 ASSESSMENTS AND LIENS

14-6-13 DUMPING OR PLACING RUBBISH, TRASH, FILTH, OR DEBRIS UPON PROPERTY OF ANOTHER

SECTION 14-6-1 TITLE AND PURPOSE

- A. THESE REGULATIONS SHALL BE KNOWN AS THE "TOWN OF DUNCAN HAZARD ABATEMENT ORDINANCE", AND ARE IN CONJUNCTION WITH THE GREENLEE COUNTY HAZARD ABATEMENT ORDINANCE. THEY MAY BE CITED AS SUCH AND WILL BE CALLED HEREIN "THIS ORDINANCE".
- B. THE PURPOSE IF THIS ORDINANCE IS TO PROVIDE A JUST, EQUITABLE, AND PRACTICABLE METHOD TO BE CUMULATIVE WITH, AND IN ADDITION TO, ANY OTHER REMEDY OF THE TOWN OF DUNCAN, WHICH MAY BE OTHERWISE AVAILABLE AT LAW, WHEREBY ANY RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, OR DAMAGED AND DILAPIDATED BUILDINGS OR OBESOLETE VEHICLE WHICH CONSTITUTES A HAZARD TO THE PUBLIC HEALTH AND SAFETY MAY BE COMPELLED TO BE REMOVED FROM BUILDINGS, GROUNDS, LOTS, CONTIGUOUS SIDEWALKS, STREETS AND ALLEYS, LOCATED WITHIN THE TOWN OF DUNCAN.
- C. THE PROVISIONS OF THIS ORDINANCE SHALL APPLY TO ALL HAZARDOUS CONDITIONS AS HEREIN DEFINED, WHICH MAY HEREAFTER BECOME DANGEROUS IN THIS JURISDICTION.

SECTION 14-6-2 DEFINITIONS

FOR THE ORDINANCE, CERTAIN TERMS, PHRASES, WORDS AND THEIR DERIVATIVES SHALL BE CONSTRUED AS SPECIFIED IN THIS CHAPTER. WHERE TERMS ARE NOT DEFINED, THEY SHALL HAVE THEIR ORDINARY ACCEPTED MEANINGS WITHIN THE CONTEXT WITH WHICH THEY ARE USED. WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED, COPYRIGHT 1961, SHALL BE CONSTRUED AND PROVIDING ORDINARY ACCEPTED MEANINGS. WORDS USED IN THE SINGULAR. WORDS USED IN THE MASCULINE GENDER INCLUDE FEMININE AND THE FEMININE THE MASCULINE

- A. "DEBRIS"- BESIDES ITS ORDINARY ACCEPTED MEANING, SHALL INCLUDE ACCUMULATIONS OF COMBUSTIBLE OR FLAMMABLE MATERIALS, INCLUDING WEEDS, DETERMINED BY THE INSPECTOR TO CONSTITUTE A HAZARD TO THE PUBLIC HEALTH AND SAFETY.
- B. "DILAPIDATED BUILDINGS"- ANY REAL PROPERTY, STRUCTURE, MOVEABLE OR IMMOVEABLE, PERMANENT OR TEMPORARY, VACANT OR OCCUPIED, THAT IS IN SUCH DISREPAIR OR IS DAMAGED TO THE EXTENT ITS STRENGTH OR STABILITY IS SUBSTANTIALLY LESS THAN A NEW BUILDING, OR IT IS LIKELY TO BURN OR COLLAPSE AND ITS CONDITION ENDANGERS THE LIVES,

HEALTH, SAFETY, OR PROPERTY OF THE PUBLIC, INCLUDING POTENTIAL VAGRANT OR TRANSIENT OCCUPANT, WHETHER TRESPASSING OR NOT.

- C. "INTERESTED PARTY"- SHALL BE THE OWNER, LESSEE, AND/OR OCCUPANT, ON THE DATE OF THE FORMAL DEMAND FOR REMOVAL OR THE DATE OF THE REMEDIATION OR ABATEMENT ACTION, OBLIGATED TO COMPLY WITH THE DEMAND OR ACTUALLY INCURRING LIABILITY TO PAY THE ASSESSMENT.
- D. "NUISANCE"- INCLUDES ANY RUBBISH, TRASH, WEEDS, FILTH, DEBRIS, OR DAMAGED AND DILAPIDATED BUILDING OR OBSOLETE VEHICLE.
- E. "OBSOLETE VEHICLE"- ANY CAR, TRUCK, OR OTHER VEHICLE NORMALLY LICENSED BY THE STATE, OR UNLICENSED VEHICLE USED FOR OTHER PURPOSES, INCLUDING BUT NOT LIMITED TO AGRICULTURE OR RECREATION, WHICH IS VISIBLE FROM THE PUBLIC ROAD OR STREET AND OBVIOUSLY DISPLAYS ANY THREE (3) OF THE FOLLOWING CONDITIONS: 1) DOES NOT HAVE CURRENT VEHICLE LICENSE, 2) ANY PART OF THE DRIVE TRAIN (THE ENGINE, TRANSMISSION, OR DRIVE DIFFERENTIAL) IS MISSING, 3) A MINIMUM OF TWO TIRES ARE FLAT OR MISSING, 4) ANY MAJOR BODY PANEL (DOOR, HOOD, TRUNK, LID, FENDERS, ETC.) IS MISSING FROM AND NOT ATTACHED TO THE VEHICLE OR 5) ANY GLASS IS MISSING OR BROKEN.

SECTION 14-6-3 ENFORCMENT

- A. A HAZARD ABATEMENT OFFICER (HEREIN CALLED OFFICER) SHALL BE APPOINTED BY THE DUNCAN TOWN COUNCIL. THE OFFICER WILL BE THE TOWN MANAGER, IF NOT OTHERWISE APPOINTED. THE OFFICER, OR HIS AUTHORIZED REPRESENTATIVE, MAY TAKE SUCH ACTIONS AS MAY BE REQUIRED TO CARRY OUT PROVISIONS OF THE ORDINANCE.
- B. THE OFFICER, A HEALTH OFFICER, A REPRESENTATIVE OF A FIRE DISTRICT (IF ONE IS ESTABLISHED), A PEACE OFFICER, OR THEIR AUTHORIZED REPRESENTATIVES (HEREIN CALLED INSPECTOR) ARE HEREBY AUTHORIZED TO MAKE SUCH INSPECTIONS AS MAY BE REQUIRED TO ENFORCE THE PROVISIONS OF THE ORDINANCE. INSPECTORS ARE THOSE RECOGNIZED BY THE OFFICER. THE INSPECTOR SHALL REPORT HIS FINDINGS TO THE OFFICER.
- C. WHENEVER NECESSARY TO MAKE AN INSPECTION TO ENFORCE ANY OF THIS ORDINANCE, OR WHENEVER THE INSPECTOR HAS REASONABLE CAUSE TO BELIEVE THAT THERE EXISTS IN ANY BUILDING OR UPON ANY PREMISES ANY CONDITION WHICH MAKES SUCH BUILDINGS OR PREMISES UNSAFE, DANGEROUS OR HAZARDOUS, THE OFFICER MAY ENTER SUCH BUILDINGS OR PREMISES AT ALL REASONABLE TIMES TO INSPECT THE SAME OR TO PERFORM ANY DUTY IMPOSED UPON THE OFFICER BY THIS ORDINANCE. IF

SUCH BUILDING OR PREMISES BE OCCUPIED, HE SHALL FIRST PRESENT PROPER CREDENTIALS AND REQUEST ENTRY. IF SUCH BUILDING OR

PREMISES BE UNOCCUPIED, HE SHALL FIRST ATTEMPT TO LOCATE THE OWNER OR OTHER PERSONS HAVING CHARGE OR CONTROL OF THE BUILDING OR PREMISES AND REQUEST ENTRY. IF SUCH ENTRY IS REFUSED THE OFFICER SHALL HAVE RECOURSE TO EVERY REMEDY PROVIDED BY LAW TO SECURE ENTRY. WHEN THE OFFICER SHALL HAVE FIRST OBTAINED A PROPER INSPECTIONS WARRANT OR OTHER REMEDY PROVIDED BY LAW TO SECURE ENTRY, NO OWNER OR OCCUPANT OR ANY OTHER PERSONS HAVING CHARGE, CARE OR CONTROL OF ANY BUILDING OR PREMISES SHALL FAIL OR NEGLECT, AFTER PROPERTY REQUEST IS MADE AS HEREIN PROVIDED, TO PROMPTLY PERMIT ENTRY THEREIN BY THE INSPECTOR FOR INSPECTION AND EXAMINATION PURSUANT TO THIS ORDINANCE. TO MODERATE THE ACTIONS OF THE OFFICER, ALL OFFICIAL ACTIONS MUST BE CONSIDERED BY THE PLANNING AND ZONING COMMISSION AND THE TOWN COUNCIL OF DUNCAN.

SECTION 14-6-4 BOARD OF APPEALS

TO PROVIDE FOR FINAL INTERPRETATION OF THE PROVISIONS OF THIS ORDINANCE AND TO HEAR APPEALS PROVIDED FOR HEREUNDER, THERE IS HEREBY ESTABLISHED A BOARD OF APPEALS (BOARD) CONSISTING OF THE TOWN COUNCIL MEMBERS. THE BOARD SHALL ADOPT REASONABLE RULES AND REGULATIONS IN THE CONDUCTION OF ITS BUSINESS AND SHALL RENDER ALL DECISIONS AND FINDINGS IN WRITING TO THE APPELLANT, WITH A COPY TO THE OFFICER. APPEALS TO THE BOARD SHALL BE PROCESSED FOLLOWING THE PROVISIONS CONTAINED IN SECTION 14-6-8 OF THIS ORDINANCE. COPIES OF ALL REGULATIONS ADOPTED BY THE BOARD SHALL BE DELIVERED TO THE OFFICER WHO SHALL MAKE THEM FREELY ACCESSIBLE TO THE PUBLIC.

SECTION 14-6-5 NUISANCE REMOVAL REQUIREMENT FOR REMOVAL

WHEN A NUISANCE ACCUMULATES ON OR IN BUILDINGS, GROUNDS, LOTS, CONTIGUOUS SIDEWALKS, STREETS, OR ALLEYS AND THE OFFICER DETERMINES THAT THE ACCUMULATION OR CONDITION CONSTITUTES A HAZARD TO PUBLIC HEALTH AND SAFETY, THE OFFICER MAY REQUIRE AN INTERESTED PARTY OF THE BUILDING, GROUNDS, OR LOTS TO REMOVE SUCH NUISANCE TO A LEGAL, PERMITTED PLACE OR TO MEDIATE SUCH NUISANCE.

THE OFFICER SHALL CONSULT WITH THE DUNCAN PLANNING AND ZONING COMMISSION (THE COMMISSION) AT THE NEXT REGULAR MEETING, OR IF

AN IMMINENT DANGER EXISTS, A SPECIAL MEETING. THE COMMISSION MAY TAKE COMMENTS FROM THE PUBLIC REGARDING THE CONDITIONS. THE

COMMISSION SHALL PROVIDE A RECOMMENDATION TO THE DUNCAN TOWN COUNCIL ON THE INFORMATION PRESENTED. THE RECOMMENDATION WILL BE MADE A PART OF THE MINUTES OF THE COMMISSION MEETING.

SECTION 14-6-6 NOTICE OF VIOLATION

AFTER CONSULTING WITH THE COMMISSION AND THE DUNCAN TOWN COUNCIL, THE OFFICER SHALL PROVIDE A FORMAL, WRITTEN NOTICE OF THE ALLEGED VIOLATION TO THE INTERESTED PARTIES OF THE SUBJECT PREMISES NOT LESS THAN THIRTY (30) DAYS BEFORE THE DATE SET FOR COMPLIANCE. SUCH NOTICE SHALL INCLUDE THE ESTIMATED COST TO THE TOWN OF DUNCAN TO REMEDY, AND ADVISE ANY INTERESTED PARTIES THAT IF THE TOWN OF DUNCAN REMEDIES A NUISANCE, SAID EXPENSE SHALL BE ASSESSED TO SAID OWNER, OCCUPANT, OR LESSEE. SAID NOTICE SHALL BE MAILED TO THE OWNER AT HIS LAST KNOWN ADDRESS BY CERTIFIED MAIL, OR THE ADDRESS TO WHICH THE TAX BILL FOR THE PROPERTY WAS LAST MAILED, OR AS MAINTAINED BY THE ASSESSOR. A DUPLICATE NOTICE SHALL ALSO BE MAILED TO THE OCCUPANT AT THE ADDRESS ASSIGNED BY THE TOWN OF DUNCAN OR SHALL BE PERSONALLY SERVED.

SECTION 14-6-7 ASSESSMENT AND REMOVAL COST

- A. IF, AFTER NOTICE, AND AFTER THE SPECIFIED DATE OF COMPLIANCE, AN INTERESTED PARTY FAILS TO MEDIATE A NUISANCE, AND ABATE THE CONDITIONS WHICH CONSTITUTE A HAZARD TO PUBLIC HEALTH AND SAFETY, THE TOWN OF DUNCAN MAY, AT THE EXPENSE OF THE OWNER, MEDIATE, REMOVE, OR CAUSE REMOVAL OF A NUISANCE. THE COST TO BE CHARGED FOR SUCH WORK WILL BE ACTUAL COST OF REMOVAL OR ABATEMENT, INCLUDING A FIVE PERCENT (5%) CHARGE, PLUS ANY COSTS ASSOCIATED WITH NOTIFICATION. EQUIPMENT HOURLY RATES FOR TOWN OF DUNCAN EQUIPMENT WILL BE THOSE SET BY FEMA. TOWN OF DUNCAN PERSONNEL CHARGES, INCLUDING ADMINISTRATIVE COSTS, SHALL BE ACTUAL PAYROLL COSTS INCLUDING BENEFIT COSTS. CONTRACTED SERVICES WILL BE ACTUAL COST PLUS 5%.

- B. THE COST OF REMOVAL OR ABATEMENT OF A NUISANCE FROM ANY LOT OR TRACT OF LAND IN THE DUNCAN TOWN LIMITS MAY BE ASSESSED, AS SET FORTH IN THIS ORDINANCE, UPON THE LOT OR TRACT OF

LANDFROM WHICH NUISANCES ARE REMOVED. THE ASSESSMENT, FROM THE DATE OF ITS RECORDING IN THE OFFICE OF THE COUNTY RECORDER, SHALL BE A LIEN ON THE LOT OR TRACT OF LAND, UNTIL PAID.

SECTION 14-6-8 APPEALS

BOTH THE NOTICE AND THE VIOLATION AND ANY ASSESSMENT IMPOSED PURSUANT TO THIS CHAPTER MAY BE APPEALED TO THE BOARD IN THE MANNER PROVIDED IN THIS ORDINANCE.

A. FORM OF APPEAL: AN OWNER, OCCUPANT, OR LESSEE OF PROPERTY AFFECTED MAY APPEAL FROM ANY NOTICE AND ORDER OR ANY ACTION OF THE OFFICER UNDER THIS ORDINANCE, OR ANY ASSESSMENT MAKE PURSUANT TO THIS ORDINANCE, BY FILING AT THE OFFICE OF THE OFFICER WRITTEN APPEAL CONTAINING:

1. A HEADING IN THE WORDS: "BEFORE THE BOARD OF APPEALS OF THE TOWN OF DUNCAN."
 2. A CAPTION READING: "APPEAL OF _____," GIVING THE NAMES OF THE APPELLANTS PARTICIPATING IN THE APPEAL.
 3. A BRIEF STATEMENT SETTING FORTH THE LEGAL INTEREST OF EACH OF THE APPELLANTS INVOLVED IN THE NOTICE AND ORDER.
 4. A BRIEF STATEMENT IN ORDINARY AND CONCISE LANGUAGE OF THE SPECIFIC ORDER OF ACTION PROTESTED, WITH ANY MATERIAL FACTS CLAIMED TO SUPPORT THE CONTENTIONS OF THE APPELLANT.
 5. A BRIEF STATEMENT IN ORDINARY AND CONCISE LANGUAGE OF THE RELIEF SOUGHT AND REASONS WHY IT IS CLAIMED THE PROTESTED ORDER OR ACTION SHOULD BE REVERSED, MODIFIED OR OTHERWISE SET ASIDE.
 6. THE SIGNATURE OF ALL PARTIES NAMED APPELLANTS AND THEIR OFFICAL MAILING ADDRESS.
 7. THE VERIFICATIONS (BY DECLARATION UNDER PENALTY OF PERJURY) OF AT LEAST ONE APPELLANT AS TO THE TRUTH OF THE MATTERS STATED IN THE APPEAL.
- B. THE APPEAL SHALL BE FILED WITHIN THIRTY (30) DAYS FROM THE DATE OF THE SERVICE OF SUCH NOTICE, ORDER OR ACTION OF THE OFFICER. HOWEVER, IF THE CONDITION IS SUCH AS TO MAKE IT IMMEDIATELY DANGEROUS TO THE LIFE, LIMB, PROPERTY, OR SAFETY OF THE PUBLIC OR ADJACENT PROPERTY, SUCH APPEAL SHALL BE FILED WITHIN TEN (10) DAYS FROM THE DATE OF THE SERVICE OF THE NOTICE AND ORDER OF THE OFFICER. THE OFFICER WILL STATE THE ALLOWED PERIOD FOR FILING THE APPEAL WITH THE NOTICE.

- C. UPON RECEIPT OF ANY APPEAL FILED PURSUANT TO THIS CHAPTER, THE OFFICER SHALL PRESENT IT AT THE NEXT REGULAR OR SPECIAL MEETING OF THE BOARD.
- D. WHEN PRACTICABLE AFTER RECEIVING THE WRITTEN APPEAL, THE BOARD SHALL FIX A DATE, TIME, AND PLACE FOR THE HEARING OF THE APPEAL. SUCH DATE SHALL BE NO LESS THAN TEN (10) DAYS NOR MORE THAN SIXTY (60) DAYS FROM THE DATE THE APPEAL WAS FILED WITH THE OFFICER. WRITTEN NOTICE OF THE TIME AND PLACE OF THE HEARING SHALL BE GIVEN AT LEAST TEN (10) DAYS BEFORE THE DATE OF THE HEARING, TO EACH APPELLANT BY THE CLERK OF THE BOARD EITHER BY CAUSING A COPY OF SUCH NOTICE TO BE DELIVERED TO THE APPELLANT PERSONALLY OR BY MAILING A COPY THEREOF, POSTAGE PREPAID, ADDRESSED TO THE APPELLANT AT HIS ADDRESS SHOWN ON THE APPEAL.
- E. FAILURE OF ANY PERSON TO FILE AN APPEAL ACCORDING TO THE PROVISIONS OF THIS ORDINANCE SHALL CONSTITUTE A WAIVER OF HIS RIGHT TO AN ADMINISTRATIVE HEARING AND ADJUDICATION OF THE NOTICE AND ORDER OR ANY PORTION THEREOF.
- F. ONLY THOSE MATTER OR ISSUES SPECIFICALLY RAISED BY THE APPELLANT SHALL BE CONSIDERED IN THE HEARING OF THE APPEAL.
- G. ENFORCEMENT OF ANY NOTICE AND ORDER OF THE OFFICER ISSUED UNDER THIS ORDINANCE SHALL BE STAYED DURING THE PENDENCY OF AN APPEAL THEREFROM WHICH PROPERLY AND TIMELY FILED.
- H. IF AN APPEAL DECISION IS MADE AGAINST THE INTERESTED PARTY, A NEW COMPLIANCE DATE SHALL BE NOT LESS THAN THIRTY (30) DAYS AFTER THE APPEAL DECISION. THE NEW COMPLIANCE DATE SHALL BE GIVEN IN THE NOTICE OF THE DECISION TO THE INTERESTED PARTIES.

SECTION 14-6-9 HEARINGS

- A. A RECORD OF THE ENTIRE PROCEEDING SHALL BE MADE BY TAPE RECORDING OR BY ANY OTHER MEANS OF PERMANENT RECORDING DETERMINED TO BE APPROPRIATE BY THE BOARD. FAILURE OF RECORDING EQUIPMENT SHALL NOT BE A CONDITION FOR APPEAL OF THE DECISION BY THE BOARD.
- B. THE PROCEEDINGS AT THE HEARING SHALL ALSO BE REPORTED BY A

STENOGRAPHIC REPORT IF REQUESTED BY ANY PARTY THEREOF. A

TRANSCRIPT OF THE PROCEEDINGS SHALL BE MADE AVAILABLE TO ALL THE PARTIES UPON REQUEST AND UPON PAYMENT OF THE FEE PRESCRIBED THEREFORE. SUCH FEES MAY BE ESTABLISHED BY THE BOARD, BUT SHALL IN NO EVENT, BE GREATER THAN THE COST INVOLVED.

- C. THE BOARD MAY GRANT CONTINUANCES FOR GOOD CAUSE SHOWN.
- D. IN ANY PROCEEDING UNDER THIS CHAPTER, THE BOARD OR ANY BOARD MEMBER HAS THE POWER TO ADMINISTER OATHS AND AFFIRMATIONS TO CERTIFY TO OFFICIAL ACTS.
- E. THE BOARD AND ITS REPRESENTATIVES SHALL PROCEED WITH REASONABLE DISPATCH TO CONCLUDE ANY MATTER BEFORE IT. DUE REGARD SHALL BE SHOWN FOR THE CONVENIENCE AND NECESSITY OF ANY PARTY OR THEIR REPRESENTATIVE.
- F. THE NOTICE TO THE APPELLANT SHALL BE SUBSTANTIALLY IN THE FOLLOWING FORM, BUT MAY INCLUDE OTHER INFORMATION:

"YOU ARE HEREBY NOTIFIED THAT A HEARING WILL BE HELD BEFORE THE BOARD OF APPEALS AT _____ ON THE _____ DAY OF _____, _____, AT THE HOUR OF _____, UPON THE NOTICE AND ORDER SERVED UPON YOU. YOU MAY BE, BUT NEED NOT TO BE, REPRESENTED BY COUNSEL. YOU MAY PRESENT ANY RELEVANT EVIDENCE AND BE GIVEN FULL OPPORTUNITY TO CROSS-EXAMINE ALL WITNESSES TESTIFYING AGAINST YOU. YOU MAY REQUEST THE ISSUANCE OF SUBPOENAS TO COMPEL THE ATTENDANCE OF WITNESSES AND THE PRODUCTION OF BOOKS, DOCUMENTS, OR OTHER THINGS BY FILING AN AFFIDAVIT THEREFORE WITH THE BOARD OF APPEALS."

- G. THE BOARD MAY OBTAIN THE ISSUANCE AND SERVICE OF A SUBPOENA FOR THE ATTENDANCE OF WITNESSES OR THE PRODUCTION OF OTHER EVIDENCE AT A HEARING UPON THE REQUEST OF A MEMBER OF THE BOARD OR UPON WRITTEN DEMAND OF ANY PARTY. THE ISSUANCE AND SERVICE OF SUCH SUBPOENA SHALL BE OBTAINED UPON THE FILING OF AN AFFIDAVIT THEREFORE WHICH STATES THE NAME AND ADDRESS OF THE PROPOSED WITNESS, SPECIFYING THE EXACT THINGS SOUGHT TO BE PRODUCED AND THE MATERIALITY HEREOF IN DETAIL TO THE ISSUES INVOLVED, AND STATES THAT THE WITNESS HAS THE DESIRED THINGS IN HIS POSSESSION OR UNDER HIS CONTROL. A SUBPOENA NEED NOT BE ISSUED WHEN THE AFFIDAVIT IS DEFECTIVE IN ANY PARTICULAR.

H. WHEN ANY PERSON REFUSES WITHOUT LAWFUL EXCUSE TO ATTEND ANY HEARING OR TO PRODUCE MATERIAL EVIDENCE IN HIS POSSESSION OR UNDER HIS CONTROL AS REQUIRED BY ANY SUBPOENA SERVED UPON SUCH PERSON AS PROVIDED FOR HEREIN, THE BOARD MAY SEEK A COURT ORDER TO COMPEL SUCH ATTENDANCE OR PRODUCTION.

SECTION 14-6-10 CONDUCT OF HEARINGS

A. HEARINGS NEED NOT BE CONDUCTED ACCORDING TO THE RULES RELATING TO EVIDENCE AND WITNESSES

B. ORAL EVIDENCE SHALL BE TAKEN ONLY ON OATH OR AFFIRMATION.

C. HEARSAY EVIDENCE MAY BE USED FOR SUPPLEMENT OR EXPLAINING ANY DIRECT EVIDENCE, BUT SHALL NOT BE SUFFICIENT IN ITSELF TO SUPPORT A FINDING UNLESS IT WOULD BE ADMISSIBLE OVER OBJECTION IN CIVIL ACTIONS IN COURTS OF COMPETENT JURISDICTION.

D. ANY RELEVANT EVIDENCE SHALL BE ADMITTED IF IT IS THE TYPE OF EVIDENCE ON WHICH RESPONSIBLE PERSONS ARE ACCUSTOMED TO RELY IN THE CONDUCT OF SERIOUS AFFAIRS, DESPITE THE EXISTENCE OF ANY COMMON LAW OR STATUTORY RULE WHICH MIGHT MAKE IMPROPER THE ADMISSION OF SUCH EVIDENCE OVER OBJECTION IN CIVIL ACTIONS IN COURTS OF COMPETENT JURISDICTION IN THIS STATE.

E. IRRELEVANT AND UNDULY REPETITIOUS EVIDENCE SHALL BE EXCLUDED.

F. EACH PARTY SHALL HAVE THESE RIGHTS, AMONG OTHERS:

1. TO CALL AND EXAMINE WITNESSES ON ANY MATTER ABOUT THE ISSUES OF THE HEARING.
2. TO INTRODUCE DOCUMENTARY AND PHYSICAL EVIDENCE.
3. TO CROSS-EXAMINE OPPOSING WITNESSES ON ANY MATTER ABOUT THE ISSUES OF THE HEARING.
4. TO IMPEACH ANY WITNESS DESPITE WHICH PARTY FIRST CALLED HIM TO TESTIFY.
5. TO REBUT THE EVIDENCE AGAINST HIM.
6. TO REPRESENT HIMSELF OR TO BE REPRESENTED BY ANYONE OF HIS CHOICE WHO IS LAWFULLY PERMITTED TO DO SO.

G. OFFICIAL NOTICE:

1. IN REACHING A DECISION, OFFICIAL NOTICE MAY BE TAKEN EITHER BEFORE OR AFTER SUBMISSION OF THE CASE FOR DECISION, OF ANY FACT WHICH MAY BE JUDICIALLY NOTICED BY THE COURTS OF THIS STATE OR OF OFFICIAL RECORDS OF THE BOARD OR DEPARTMENTS AND ORDINANCE OF THE TOWN OF DUNCAN RULES AND REGULATIONS OF THE BOARD.
 2. THE LAND OR PROPERTY OWNER, OCCUPANT, AND/OR LESSEE SHALL BE NOTIFIED BY FIRST CLASS MAIL. THE OCCUPANT MAY ALSO BE NOTIFIED BY HAND DELIVERY OF OFFICIAL NOTICE. NOTICE TO PROPERTY OWNER SHALL BE CURRENT ADDRESS AS PROVIDED BY THE GREENLEE COUNTY ASSESSOR'S OFFICE.
 3. PARTIES PRESENT AT THE HEARINGS SHALL BE GIVEN A REASONABLE OPPORTUNITY, ON REQUEST, TO REFUTE THE OFFICALLY NOTICED MATTERS BY EVIDENCE OR BY WRITTEN OR ORAL PRESENTATION OF AUTHORITY, THE MANNER OF SUCH REFUTATION TO BE DETERMINED BY THE BOARD.
 4. THE BOARD MAY INSPECT ANY BUILDINGS OR PREMISES INVOLVED IN THE APPEAL DURING THE HEARING, PROVIDED THAT 1.) NOTICE OF SUCH INSPECTIONS SHALL BE GIVEN TO THE PARTIES BEFORE THE INSPECTION IS MADE, 2.) THE PARTIES ARE GIVEN AN OPPORTUNITY TO BE PRESENT DURING THE INSPECTION, AND 3.) THE BOARD SHALL STATE FOR THE RECORD UPON COMPLETION OF THE INSPECTION THE MATERIAL FACTS OBSERVED AND THE CONCLUSIONS DRAWN THEREFROM. EACH PARTY THEN SHALL HAVE A RIGHT TO REBUT OR EXPLIAN THE MATTERS SO STATED BY THE BOARD.
- H. WHERE A CONTESTED CASE IS HEARD BEFORE THE BOARD, NO MEMBER THEREOF WHO DID NOT HEAR THE EVIDENCE OR HAS NOT READ THE ENTIRE RECORD OF THE PROCEEDINGS SHALL VOTE ON OR TAKES PART IN THE DECISION.
- I. THE DECISION SHALL BE IN WRITING AND SHALL CONTAIN FINDINGS OF THE FACT, A DETERMINATION OF THE ISSUES PRESENTED, AND THE REQUIREMENTS TO ACHIEVE COMPLIANCE. A COPY OF THE DECISION SHALL BE DELIVERED TO THE APPELLANT PERSONALLY OR SENT TO HIIM BY CERTIFIED MAIL, POSTAGE PREPAID, RETURN RECEIPT REQUESTED.
- J. THE EFFECTIVE DATE OF THE DECISION SHALL BE STATED THEREON.

SECTION 14-6-11 COMPLIANCE WITH DECISION

- A. WHEN ANY WORK, ABATEMENT, OR REMOVAL IS TO BE DONE PURSUANT

TO THIS ORDINANCE, THE OFFICER SHALL ISSUE HIS ORDER THEREFORE TO THE DIRECTOR OF THE MAINTENANCE DEPARTMENT OF THE TOWN OF DUNCAN AND THE WORK SHALL BE ACCOMPLISHED BY PERSONNEL OF THIS JURISDICTION OR BY PRIVATE CONTRACT UNDER THE DIRECTION OF SAID DIRECTOR. PLANS AND SPECIFICATIONS THEREFORE MAY BE PREPARED BY SAID DIRECTOR, OR HE MAY EMPLOY SUCH PROFESSIONAL ASSISTANCE ON A CONTRACT BASIS AS HE MAY DEEM REASONABLY NECESSARY. IF ANY PART OF THE WORK IS TO BE ACCOMPLISHED BY PRIVATE CONTRACT, STANDARD PUBLIC WORK CONTRACTUAL PROCEDURES SHALL BE FOLLOWED.

- B. BEFORE ANY WORK IS BEGUN, THE PREMISES SHALL BE CHECKED FOR ANY SPECIAL CONDITIONS OR HAZARDOUS MATERIALS. ANY SPECIAL HAZARDOUS MATERIALS SHALL BE REMOVED BEFORE GENERAL WORK IS COMPLETED.
- C. THE COST OF ALL WORK SHALL BE MADE A SPECIAL ASSESSMENT AGAINST THE PROPERTY INVOLVED AS IN THE MANNER SET FORTH IN SECTION 14-6-7 OF THIS ORDINANCE, OR MAY BE MADE PERSONAL OBLIGATION OF THE PROPERTY OWNER, WHICHEVER THE BOARD SHALL DETERMINE IS APPROPRIATE.
- D. THE DIRECTOR OF THE MAINTENANCE DEPARTMENT SHALL KEEP AN ITEMIZED ACCOUNT OF THE EXPENSES INCURRED BY THE TOWN OF DUNCAN IN THE WORK OR REMOVAL OF ANY MATERIALS DONE PURSUANT TO THE PROVISIONS OF THE ORDINANCE. UPON THE COMPLETION OF THE WORK OR REMOVAL, SAID DIRECTOR SHALL PREPARE AND FILE WITH THE OFFICER A REPORT SPECIFYING THE WORK DONE, THE ITEMIZED AND TOTAL COST OF THE WORK, A DESCRIPTION OF THE REAL PROPERTY UPON WHICH THE HAZARD IS OR WAS LOCATED, AND THE NAME AND ADDRESSES OF THE PERSONS ENTITLED TO NOTICE PURSUANT TO SECTION 14-6-2-C.
- E. UPON RECEIPT OF SAID REPORT, THE OFFICER SHALL PRESENT IT TO THE BOARD WHO SHALL FIX A TIME, DATE AND PLACE FOR HEARING SAID REPORT AND ANY PROTESTS OR OBJECTIONS THERETO.
- F. THE CLERK OF THE BOARD SHALL CAUSE NOTICE TO OF SAID HEARING TO BE POSTED UPON THE PROPERTY INVOLVED, PUBLISHED ONCE IN THE NEWSPAPER OF GENERAL CIRCULATION IN THIS JURISDICTION, AND SERVED BY CERTIFIED MAIL, POSTAGE PREPAID, ADDRESSED TO THE OWENER OF THE PROPERTY AS HIS NAME AND ADDRESS APPEAR ON THE LIST EQUALIZED ASSESSMENT ROLL OF THE COUNTY AS SUCH TO APPEAR, OR AS KNOWN TO THE CLERK. SUCH NOTICE SHALL BE GIVEN

AT LEAST TEN (10) DAYS BEFORE THE DATE SET FOR HEARING AND SHALL SPECIFY THE DAY, HOUR AND PLACE WHEN THE BOARD WILL HEAR AND PASS UPON THE DIRECTOR'S REPORT, WITH ANY OBJECTIONS OR PROTESTS WHICH MAY BE FILED AS HEREINAFTER PROVIDED BY PERSONS INTERESTED IN OR AFFECTED BY THE PROPOSED CHARGE.

- G. ANY PERSON INTERESTED IN OR AFFECTED BY THE PROPOSED CHARGE MAY FILE WRITTEN PROTESTS OR OBJECTIONS WITH THE CLERK OF THE BOARD ANYTIME BEFORE THE TIME SET FOR THE HEARING ON THE REPORT OF THE DIRECTOR. EACH SUCH PROTEST OR OBJECTION MUST CONTAIN A DESCRIPTION OF THE PROPERTY IN WHICH THE SIGNER THEREOF IS INTERESTED AND GROUNDS OF SUCH PROTEST OR OBJECTIONS. THE CLERK OF THE BOARD SHALL ENDORSE ON EVERY SUCH PROTEST OR OBJECTION THE DATE IT WAS RECEIVED. THE CLERK SHALL PRESENT SUCH PROTEST OR OBJECTIONS TO THE BOARD AT THE TIME SET FOR THE HEARING. ANY PROTESTS OR OBJECTIONS RECEIVED AFTER THE TIME SET FOR THE HEARING SHALL NOT BE CONSIDERED.
- H. THE BOARD OF THIS JURISDICTION MAY THEREUPON ORDER THAT SAID CHARGE SHALL BE MADE A PERSONAL OBLIGATION OF THE PROPERTY OWNER OR ASSESS SAID CHARGE AGAINST THE PROPERTY INVOLVED, IN THE MANNER SET FORTH IN SECTION 14-6-7 OF THIS ORDINANCE. IF THE BOARD ORDERS THAT THE CHARGE SHALL BE A PERSONAL OBLIGATION OF THE PROPERTY OWNER, IT SHALL CONFIRM THE ASSESSMENT, CAUSE THE SAME TO BE RECORDED ON THE ASSESSMENT ROLL, AND THEREAFTER SAID ASSESSMENT SHALL CONSTITUTE A SPECIAL ASSESSMENT AGAINST AND A LIEN UPON THE PROPERTY.

SECTION 14-6-12 ASSESSMENTS AND LIENS

- A. THE VALIDITY OF ANY ASSESSMENT MADE UNDER THE PROVISIONS OF THIS CHAPTER SHALL NOT BE CONTESTED IN ANY ACTION OR PROCEEDING UNLESS THE SAME IS COMMENCED WITHIN THIRTY (30) DAYS AFTER THE ASSESSMENT ROLL AS PROVIDED HEREIN. ANY APPEAL FROM A FINAL JUDGMENT IN SUCH ACTION OR PROCEEDING MUST BE PERFECTED WITHIN THIRTY (30) DAYS AFTER THE ENTRY OF SUCH JUDGMENT.
- B. IF ANY COSTS OR CHARGES, AS IMPOSED PURSUANT TO THIS ORDINANCE, ARE NOT PAID BY THE OWNER, OCCUPANT, OR LESSEE WITHIN THIRTY (30) DAYS OF SUCH REMOVAL, SUCH UNPAID AMOUNT SHALL CONSTITUTE AN ASSESSMENT UPON THE LOTS AND TRACTS OF

LAND FROM WHICH THE NUISANCE IS REMOVED AND A LIEN UPON THE LOT, TRACTS, OR LAND UNTIL PAID. SAID LIEN MAY BE PERFECTED BY THE TOWN OF DUNCAN AGAINST THE SUBJECT PROPERTY BY RECORDING A NOTICE OF LIEN IN THE OFFICE OF THE GREENLEE COUNTY RECORDER. SUCH NOTICE OF LIEN SHALL SPECIFY THE NATURE OF ASSESSMENT, THE AMOUNT OF THE LIEN AND THE NAME AND ADDRESS OF THE OWNER OF THE LOT OR TRACT AND THE PERSON FAILING TO PAY THE CHARGES ASSESSED. THE LIEN SHALL CONTINUE IN FULL FORCE AND EFFECT ON THE TRACT OF LAND OR LOT UNTIL THE CHARGES ASSESSED ARE PAID. SUCH LIENS ARE SUBJECT AND INFERIOR TO THE LIEN FOR GENERAL TAXES AND TO ALL PRIOR RECORDED MORTGAGES AND ENCUMBRANCES OF RECORD. THE TOWN OF DUNCAN MAY BRING AN ACTION TO ENFORCE THE LIEN IN THE GREENLEE COUNTY SUPERIOR COURT ANYTIME AFTER THE RECORDING OF THE ASSESSMENT, BUT FAILURE TO ENFORCE THE LIEN BY SUCH ACTION DOES NOT AFFECT ITS VALIDITY. THE RECORDED ASSESSMENT IS PRIMA FACIE EVIDENCE THAT THE TRUTH OF ALL MATTERS RECITED IN THE ASSESSMENT AND OR REGULARITY OF ALL PROCEEDINGS BEFORE THE RECORDING OF THE ASSESSMENT.

- C. ALL SUCH ASSESSMENTS REMIANING UNPAID AFTER THRITY (30) DAYS FROM THE DATE OF RECORDINGS ON THE ASSESSMENT ROLL SHALL BECOME DELINQUENT AND SHALL BEAR INTEREST AT THE RATE ESTABLISHED FOR DELINQUENT TAXES FROM AND AFTER SAID DATE.
- D. AFTER CONFIRMATION OF THE REPORT, CERTIFIED COPIES OF THE ASSESSMENT SHALL BE GIVEN TO THE ASSESSOR AND THE TREASURER, WHO SHALL ADD THE AMOUNT OF THE ASSESSMENT TO THE NEXT REGULAR TAX BILL LEVIED AGAINST THE PARCEL.
- E. IF THE ASSESSOR AND TAX COLLECTOR ASSESS PROPERTY AND COLLECT TAXES FOR THIS JURISDICTION, A CERTIFIED COPY OF THE ASSESSMENTS SHALL BE FILED WITH THE TREASURER WITHIN THIRTY (30) DAYS AFTER RECORDING OF THE LIEN. THE DESCRIPTIONS OF THE PARCELS REPORT SHALL BE THOSE USED FOR THE SAME PARCELS ON THE ASSESSOR' S MAP BOOK FOR THE CURRENT YEAR.
- F. THE AMOUNT OF THE ASSESSMENT SHALL BE COLLECTED WHEN AND IN THE SAME MANNER AS ORDINARY PROPERTY TAXES ARE COLLECTED AND SHALL BE SUBJECT TO THE SAME PENALTIES AND PROCEDURES AND SALE IN CASE OF DELINQUENCY AS PROVIDED FOR ORDINARY PROPERTY TAXES. ALL LAWS APPLICABLE TO THE LEVY, COLLECTION AND

ENFORCEMENT OF PROPERTY TAXES SHALL BE APPLICABLE TO SUCH ASSESSMENT.

- G. ALL MONEY RECOVERED BY PAYMENT OF THE CHARGE OR ASSESSMENT OR FROM THE SALE OF THE PROPERTY AT FORECLOSURE SHALL BE PAID TO THE TREASURER, WHO SHALL CREDIT THE SAME TO THE GENERAL FUND FOR THE TOWN OF DUNCAN.
- H. A PRIOR ASSESSMENT FOR THE PURPOSE PROVIDED IN THIS CHAPTER IS NOT A BAR TO SUBSEQUENT ASSESSMENT OR ASSESSMENTS FOR SUCH PURPOSES, AND ANY NUMBER OF LIENS ON THE SAME LOT OR TRACT OF LAND MAY BE ENFORCED IN THE SAME ACTION.

SECTION 14-6-13 DUMPING OR PLACING RUBBISH, TRASH, FILTH, OR DEBRIS UPON PROPERTY OF ANOTHER

ANY PERSON WHO PLACES ANY RUBBISH, TRASH, FILTH, OR DEBRIS UPON ANY PRIVATE OR PUBLIC PROPERTY WHICH IS NOT A PERMITTED FACILITY, AS DEFINED BY A.R.S. 49-773, IS GUILTY OF A PETTY OFFENSE AS DEFINED AND MAY BE PROSECUTED UNDER THE CRIMINAL CODE OF THE STATE OF ARIZONA, AND IN ADDITION TO ANY FINE WHICH MAY BE IMPOSED UNDER THAT CODE, IS LIABLE FOR ALL COSTS WHICH MAY BE ASSESSED PURSUANT TO THIS ORDINANCE FOR THE REMOVAL OF THE NUISANCE, ENFORCEABLE EITHER IN A SEPARATE CIVIL ACTION OR THROUGH RESTITUTION IN THE CRIMINAL ACTIONS, AS PROVIDED BY THE LAWS OF ARIZONA.

ARTICLE 14-7 MUNICIPAL SIGNAGE REGULATIONS

- 14-7-1 Traffic Control Signage
- 14-7-2 Non-Traffic Control Signage
- 14-7-3 Obedience To Traffic Control Signage
- 14-7-4 Destruction or Removal of Traffic and Non-Traffic Control Devices
- 14-7-5 Portable School Crossing Signs
- 14-7-6 Closure of Streets
- 14-7-7 Penalty

Section 14-7-1 Traffic Control Signage

A. The Town of Duncan may install, modify or remove traffic control signs, signals, devices and/or markings along Town roads, streets and rights-of-way such as are necessary to properly regulate, guide and/or warn traffic and preserve the public safety. For the purpose of this ordinance, traffic control signage specifically includes parking regulation signage.

B. The Planning and Zoning Commission shall be the initial body to consider all requests for signage, whether from the Commission itself, residents, the Council, law enforcement agencies or others.

1. They shall request and require all proposals relating to signage to be in writing.

2. They shall consult with all applicable law enforcement, traffic engineering and/or other authorities, including the Arizona Department of Transportation, as necessary, to make a proper determination of the need for traffic control signage and to ensure that all requests and installations are in accordance with federal, state, and local laws and regulations.

3. They shall, by simple majority vote, have the right to reject or remand to the requester any proposal for signage, either outright, or for further study.

4. They may, by simple majority vote, recommend to the Town Council the installation, modification or removal of any traffic control signage that complies with this ordinance.

C. The Town Council shall, by simple majority vote, approve or reject the recommendations of the Planning and Zoning Commission, as noted in Section 14-7-1-B.

D. The Town Manager or designee shall have the authority as directed by the Town Council to erect, install, repair, or modify traffic control signage within the Town.

E. In case of emergency or specific request of local law enforcement agencies, traffic control signage may be temporarily installed, subject to review and approval as noted above for permanent installation.

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Section 14-7-2 Non-Traffic Control Signage

A. Non-traffic control signage is defined as informational, tourist, directional or other non-traffic control signage deemed to be appropriate for installation upon Town of Duncan rights-of-way.

B. The same procedures, rules, regulations and approvals as described in Section 14-7-1 shall apply, except that emergency situations are not applicable.

Section 14-7-3 Obedience To Traffic Control Signage

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with this section of the ordinance of the Town of Duncan unless otherwise directed by a law enforcement official. Emergency vehicles on official calls are exempt from this requirement.

Section 14-7-4 Destruction or Removal of Traffic and Non-Traffic Control Devices

A. It shall be unlawful for any person to maliciously remove, tear down, mutilate, deface, or destroy any sign, notice, traffic or non-traffic control device erected or installed under authority of this ordinance.

B. Any person who willfully or negligently damages any traffic control device is liable for the reasonable cost of repair or the replacement thereof in addition to any penalties levied in accordance with Section 14-7-7.

Section 14-7-5 Portable School Crossing Signs

Upon approval as indicated in Section 14-7-1, any school district may be authorized to use and maintain portable school signs for the protection of students in accordance with applicable federal, state, and local laws, statutes, rules and regulations.

Section 14-7-6 Closure of Streets

The Town Manager or designee may temporarily close any portion of a road or street when, in their opinion, such closure is necessary for the public safety, health, and/or welfare. Such closures may be made on an emergency basis or for repairs and shall be as short in duration as possible.

Section 14-7-7 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 not to exceed three hundred dollars (\$300), or imprisonment for not more than ninety (90) days or both fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as hereinabove described.

ARTICLE 14-8 HAZARD ABATEMENT REGULATIONS

14-8-1	Title and Purpose
14-8-2	Definitions
14-8-3	Enforcement
14-8-4	Board of Appeals
14-8-5	Nuisance Removal Requirement For Removal
14-8-6	Notice of Violation
14-8-7	Assessment and Removal Cost
14-8-8	Appeals
14-8-9	Hearings
14-8-10	Conduct of Hearings
14-8-11	Compliance With Decision
14-8-12	Assessments and Liens
14-8-13	Dumping or Placing Rubbish, Trash, Filth, or Debris Upon Property of Another

Section 14-8-1 Title and Purpose

A. These regulations shall be know as the "Town of Duncan Hazard Abatement Ordinance", and are in conjunction with the Greenlee County Hazard Abatement Ordinance. They may be cited as such and will be called herein "this ordinance."

B. The purpose of this ordinance is to provide a just, equitable, and practicable method to be cumulative with, and in addition to, any other remedy of the Town of Duncan, which may be otherwise available at law, whereby any rubbish, trash, weeds, filth, debris, or damaged and dilapidated building or obsolete vehicle which constitute a hazard to public health and safety may be compelled to be removed from buildings, grounds, lots, contiguous sidewalks, streets and alleys, located within the Town of Duncan.

C. The provisions of this ordinance shall apply to all hazardous conditions as herein defined, which may hereafter become dangerous in this jurisdiction.

Section 14-8-2 Definitions

For this ordinance, certain terms, phrases, words and their derivatives shall be construed as specified in this chapter. Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's third new international dictionary of the English language unabridged, copyright 1961, shall be

construed and providing ordinary accepted meanings. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine.

A. "Debris" – besides its ordinary accepted meaning, shall include accumulations of combustible or flammable materials, including weeds, determined by the inspector to constitute a hazard to public health or safety.

B. "Dilapidated Building" – any real property, structure, moveable or immovable, permanent or temporary, vacant or occupied, that is in such disrepair or is damaged to the extent its strength or stability is substantially less than a new building, or it is likely to burn or collapse and its condition endangers the lives, health, safety, or property of the public, including potential vagrant or transient occupants, whether trespassing or not.

C. "Interested Party" – shall be the owner, lessee, and/or occupant, on the date of the formal demand for removal or the date of the remediation or abatement action, obligated to comply with the demand or actually incurring liability to pay the assessment.

D. "Nuisance" – includes any rubbish, trash, weeds, filth, debris, or damaged and dilapidated building or obsolete vehicle.

E. "Obsolete Vehicle" – any car, truck, or other vehicle normally licensed by the state, or unlicensed vehicle used for other purposes, including but no limited to agriculture or recreation, which is visible from a public road or street and obviously displays any three (3) of the following conditions: 1) does not have current vehicle license, 2) any part of the drive train (the engine, transmission, or drive differential) is missing, 3) a minimum of two tires are flat or missing, 4) any major body panel (door, hood, trunk lid, fenders, etc.) Is missing from or not attached to the vehicle or 5) any glass is missing or broken.

Section 14-8-3 Enforcement

A. A hazard abatement officer (herein called officer) shall be appointed by the Duncan Town Council. The officer will be the Town Manager, if not otherwise appointed. The officer, or his authorized representative, may take such actions as may be required to carry out the provisions of the ordinance.

B. The officer, a health officer, a representative of a fire district (if one is established), a peace officer, or their authorized representatives (herein called inspector) are hereby authorized to make such inspections as may be required to enforce the provisions of the ordinance. Inspectors are those recognized by the officer. The inspector shall report his findings to the officer.

C. Whenever necessary to make an inspection to enforce any of this ordinance, or whenever the inspector has reasonable cause to believe that there exists in any building

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or upon any premises any condition which makes such buildings or premises unsafe, dangerous or hazardous, the officer may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the officer by this ordinance. If such building or premises be occupied, he shall first present proper credentials and request entry. If such building or premises be unoccupied, he shall first attempt to locate the owner or other persons having charge or control of the building or premises and request entry. If such entry is refused, the officer shall have recourse to every remedy provided by law to secure entry. When the officer shall have first obtained a proper inspections warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building or premises shall fail or neglect, after property request is made as herein provided, to promptly permit entry therein by the inspector for inspection and examination pursuant to this ordinance. To moderate the actions of the officer, all official actions must be considered by the Planning and Zoning Commission and the Town Council of Duncan.

Section 14-8-4 Board of Appeals

To provide for final interpretation of the provisions of this ordinance and to hear appeals provided for hereunder, there is hereby established a board of appeals (board) consisting of the Town Councilmembers. The board shall adopt reasonable rules and regulations in the conduction of its business and shall render all decisions and findings in writing to the appellant, with a copy to the officer. Appeals to the board shall be processed following the provisions contained in Section 14-8-8 of this ordinance. Copies of all regulations adopted by the board shall be delivered to the officer who shall make them freely accessible to the public.

Section 14-8-5 Nuisance Removal Requirement for Removal

When a nuisance accumulates on or in buildings, grounds, lots, contiguous sidewalks, streets, or alleys and the officer determines that the accumulation or condition constitutes a hazard to public health and safety, the officer may require an interested party of the buildings, grounds or lots to remove such a nuisance to a legal, permitted place or to mediate such nuisance.

The officer shall consult with the Duncan Planning and Zoning Commission (the Commission) at the next regular meeting, or if an imminent danger exists, a special meeting. The Commission may take comments from the public regarding the conditions. The Commission shall provide a recommendation to the Duncan Town Council on the information presented. The recommendation will be made a part of the minutes of the Commission meeting.

Section 14-8-6 Notice of Violation

After consulting with the Commission and the Duncan Town Council, the officer shall provide a formal, written notice of the alleged violation to the interested parties of the subject premises not less than thirty (30) days before the date set for compliance. Such notice shall include the estimated cost to the Town of Duncan to remedy, and advise any interested parties that if the Town of Duncan remedies a nuisance, said expense shall be assessed to said owner, occupant, or lessee. Said notice shall be mailed to the owner at his last known address by certified mail, or the address to which the tax bill for the property was last mailed, or as maintained by the assessor. A duplicate notice shall also be mailed to the occupant at the address assigned by the Town of Duncan or shall be personally served.

Section 14-8-7 Assessment and Removal Cost

A. If, after notice, and after the specified date of compliance, an interested party fails to mediate a nuisance, and abate the conditions which constitute a hazard to public health and safety, the Town of Duncan may, at the expense of the owner, mediate, remove, or cause removal of a nuisance. The cost to be charged for such work will be the actual cost of removal or abatement, including a five percent (5%) charge, plus any costs associated with notification. Equipment hourly rates for Town of Duncan equipment will be those set by FEMA. Town of Duncan personnel charges, including administrative costs, shall be actual payroll costs including benefit costs. Contracted services will be actual cost plus 5%.

B. The cost of removal or abatement of a nuisance from any lot or tract of land in the Duncan town limits may be assessed, as set forth in this ordinance, upon the lot or tract of land from which nuisances are removed. The assessment, from the date of its recording in the office of the county recorder, shall be a lien on the lot or tract of land, until paid.

Section 14-8-8 Appeals

Both the notice of violation and any assessment imposed pursuant to this chapter may be appealed to the board in the manner provided in this ordinance.

A. Form of appeal: an owner, occupant, or lessee of property affected may appeal from any notice and order or any action of the officer under this ordinance, or any assessment made pursuant to this ordinance, by filing at the office of the officer written appeal containing:

1. A heading in the words: "Before the Board of Appeals of the Town of Duncan."
2. A caption reading: "appeal of _____," giving the names of the appellants participating in the appeal.

3. A brief statement setting forth the legal interest of each of the appellants involved in the notice and order.
4. A brief statement in ordinary and concise language of the specific order or action protested, with any material facts claimed to support the contentions of the appellant.
5. A brief statement in ordinary and concise language of the relief sought and reasons why it is claimed the protested order or action should be reversed, modified or otherwise set aside.
6. The signature of all parties named appellants and their official mailing addresses.
7. The verification (by declaration under penalty of perjury) of at least one appellant as to the truth of the matters stated in the appeal.

B. The appeal shall be filed within thirty (30) days from the date of the service of such notice, order or action of the officer. However, if the condition is such as to make it immediately dangerous to the life, limb, property, or safety of the public or adjacent property, such appeal shall be filed within then (10) days from the date of the service of the notice and order of the officer. The officer will state the allowed period for filing the appeal with the notice.

C. Upon receipt of any appeal filed pursuant to this chapter, the officer shall present it at the next regular or special meeting of the board.

D. When practicable after receiving the written appeal, the board shall fix a date, time, and place for the hearing of the appeal. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the officer. Written notice of the time and place of the hearing shall be given at least ten (10) days before the date of the hearing, to each appellant by the clerk of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereto, postage prepaid, addressed to the appellant at his address shown on the appeal.

E. Failure of any person to file an appeal according to the provisions of this ordinance shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order or any portion thereof.

F. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

G. Enforcement of any notice and order of the officer issued under this ordinance shall be stayed during the pendency of an appeal therefrom which properly and timely filed.

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H. If an appeal decision is made against the interested party, a new compliance date shall be not less than thirty (30) days after the appeal decision. The new compliance date shall be given in the notice of the decision to the interested parties.

Section 14-8-9 Hearings

A. A record of the entire proceeding shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the board. Failure of recording equipment shall not be a condition for appeal of the decision by the board.

B. The proceedings at the hearing shall also be reported by a stenographic report if requested by any party thereof. A transcript of the proceedings shall be made available to all parties upon request and upon payment of the fee prescribed therefore. Such fees may be established by the board, but shall, in no event, be greater than the cost involved.

C. The board may grant continuances for good cause shown.

D. In any proceeding under this chapter, the board or any board member has the power to administer oaths and affirmations to certify to official acts.

E. The board and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any party or their representative.

F. The notice to the appellant shall be substantially in the following form, but may include other information:

“you are hereby notified that a hearing will be held before the board of appeals at _____ on the _____ day of _____, _____, at the hour of _____, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents, or other things by filing an affidavit therefore with the board of appeals.”

G. The board may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board or upon written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefore which states the name and address of the proposed witness, specifying the exact things sought to be produced and the materiality hereof in detail to the issues involved, and states that the

witness has the desired things in his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular.

H. When any person refuses without lawful excuse to attend any hearing or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for herein, the board may seek a court order to compel such attendance or production.

Section 14-8-10 Conduct of Hearings

A. Hearings need not be conducted according to the rules relating to evidence and witnesses.

B. Oral evidence shall be taken only on oath or affirmation.

C. Hearsay evidence may be used for supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction.

D. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, despite the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

E. Irrelevant and unduly repetitious evidence shall be excluded.

F. Each party shall have these rights, among others:

1. To call and examine witnesses on any matter about the issues of the hearing.
2. To introduce documentary and physical evidence.
3. To cross-examine opposing witnesses on any matter about the issues of the hearing.
4. To impeach any witness despite which party first called him to testify.
5. To rebut the evidence against him.
6. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

G. Official notice:

1. In reaching a decision, official notice may be taken either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the board or

departments and ordinance of the Town of Duncan or rules and regulations of the board.

2. The land or property owner, occupant, and/or lessee shall be notified by first class mail. The occupant may also be notified by hand delivery of official notice. Notice to property owner shall be current address as provided by the Greenlee County Assessor's Office.
3. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the board.
4. The board may inspect any building or premises involved in the appeal during the hearing, provided that: 1) notice of such inspection shall be given to the parties before the inspection is made, 2) the parties are given an opportunity to be present during the inspection, and 3) the board shall state for the record upon completion of the inspection the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the board.

H. Where a contested case is heard before the board, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

I. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to achieve compliance. A copy of the decision shall be delivered to the appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

J. The effective date of the decision shall be stated thereon.

Section 14-8-11 Compliance With Decision

A. When any work, abatement, or removal is to be done pursuant to this ordinance, the officer shall issue his order therefore to the director of the maintenance department of the Town of Duncan and the work shall be accomplished by personnel of this jurisdiction or by private contract under the direction of said director. Plans and specifications therefore may be prepared by said director, or he may employ such professional assistance on a contract basis as he may deem reasonably necessary. If any part of the work is to be accomplished by private contract, standard public work contractual procedures shall be followed.

B. Before any work is begun, the premises shall be checked for any special conditions or hazardous materials. Any special or hazardous materials shall be removed before general work is completed.

C. The cost of all work shall be made a special assessment against the property involved as in the manner set forth in Section 14-8-7 of this ordinance, or may be made a personal obligation of the property owner, whichever the board shall determine is appropriate.

D. The director of the maintenance department shall keep an itemized account of the expenses incurred by the Town of Duncan in the work or removal of any materials done pursuant to the provisions of the ordinance. Upon the completion of the work or removal, said director shall prepare and file with the officer a report specifying the work done, the itemized and total cost of the work, a description of the real property upon which the hazard is or was located, and the name and addresses of the persons entitled to notice pursuant to section 14-8-2-c.

E. Upon receipt of said report, the officer shall present it to the board who shall fix a time, date and place for hearing said report and any protests or objections thereto.

F. The clerk of the board shall cause notice of said hearing to be posted upon the property involved, published once in a newspaper of general circulation in this jurisdiction, and served by certified mail, postage prepaid, addressed to the owner of the property as his name and address appear on the list equalized assessment roll of the county as such so appear, or as known to the clerk. Such notice shall be given at least ten (10) days before the date set for hearing and shall specify the day, hour and place when the board will hear and pass upon the director's report, with any objections or protests which may be filed as hereinafter provided by persons interested in or affected by the proposed charge.

G. Any person interested in or affected by the proposed charge may file written protests or objections with the clerk of the board anytime before the time set for the hearing on the report of the director. Each such protest or objection must contain a description of the property in which the signer thereof is interested and grounds of such protest or objections. The clerk of the board shall endorse on every such protest or objection the date it was received. The clerk shall present such protest or objections to the board at the time set for the hearing. Any protests or objections received after the time set for the hearing shall not be considered.

H. The board of this jurisdiction may thereupon order that said charge shall be made a personal obligation of the property owner or assess said charge against the property involved, in the manner set forth in Section 14-8-7 of this ordinance. If the board orders that the charge shall be a personal obligation of the property owner, it shall confirm the assessment, cause the same to be recorded on the assessment roll, and thereafter said assessment shall constitute a special assessment against and a lien upon the property.

A. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within thirty (30) days after the assessment is placed upon the assessment roll as provided herein. Any appeal from a final judgment in such action or proceeding must be perfected within thirty (30) days after the entry of such judgment.

B. If any costs or charges, as imposed pursuant to this ordinance, are not paid by the owner, occupant, or lessee within thirty (30) days of such removal, such unpaid amount shall constitute an assessment upon the lots and tracts of land from which the nuisance is removed and a lien upon the lot, tracts, or land until paid. Said lien may be perfected by the Town of Duncan against the subject property by recording a notice of lien in the office of the Greenlee County Recorder. Such notice of lien shall specify the nature of assessment, the amount of the lien and the name and address of the owner of the lot or tract and the person failing to pay the charges assessed. The lien shall continue in full force and effect on the tract of land or lot until the charges assessed are paid. Such liens are subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. The Town of Duncan may bring an action to enforce the lien in the Greenlee County Superior Court anytime after the recording of the assessment, but failure to enforce the lien by such action does not affect its validity. The recorded assessment is prima facie evidence that the truth of all matters recited in the assessment and or the regularity of all proceedings before the recording of the assessment.

C. All such assessments remaining unpaid after thirty (30) days from the date of recording on the assessment roll shall be come delinquent and shall bear interest at the rate established for delinquent taxes from and after said date.

D. After confirmation of the report, certified copies of the assessment shall be given to the assessor and the treasurer, who shall add the amount of the assessment to the next regular tax bill levied against the parcel.

E. If the assessor and tax collector assess property and collect taxes for this jurisdiction, a certified copy of the assessment shall be filed with the treasurer within thirty (30) days after recording of the lien. The descriptions of the parcels report shall be those used for the same parcels on the assessor's map book for the current year.

F. The amount of the assessment shall be collected when and in the same manner as ordinary property taxes are collected and shall be subject to the same penalties and procedures and sale in case of delinquency as provided for ordinary property taxes. All laws applicable to the levy, collection and enforcement of property taxes shall be applicable to such assessment.

G. All money recovered by payment of the charge or assessment or from the sale of the property at foreclosure shall be paid to the treasurer, who shall credit the same to the general fund for the Town of Duncan.

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H. A prior assessment for the purpose provided in this chapter is not a bar to subsequent assessment or assessments for such purposes, and any number of liens on the same lot or tract of land may be enforced in the same action.

Section 14-8-13 Dumping or Placing Rubbish, Trash, Filth, or Debris Upon Property of Another

Any person who places any rubbish, trash, filth or debris upon any private or public property which is not a permitted facility, as defined by A.R.S. §49-773, is guilty of a petty offense as defined and may be prosecuted under the criminal code of the State of Arizona, and in addition to any fine which may be imposed under that code, is liable for all costs which may be assessed pursuant to this ordinance for the removal of the nuisance, enforceable either in a separate civil action or through restitution in the criminal actions, as provided by the laws of Arizona.

ARTICLE 14-9 RECREATIONAL REGULATIONS

- Section 14-9-1 Purpose
- Section 14-9-2 Definitions
- Section 14-9-3 Regulations
- Section 14-9-4 No Mandatory Duty Of Care
- Section 14-9-5 Severability
- Section 14-9-6 Violations and Penalties

Section 14-9-1 Purpose

The purpose of this ordinance is to provide for the orderly operation of skateboards, scooters, skates, and bicycles within the Town of Duncan, and to specifically prohibit their use within certain areas designated within the Town of Duncan.

Section 14-9-2 Definitions

“Operate” – To ride upon, drive, propel, or otherwise convey oneself or others on skateboards, scooters, skates, and bicycles.

“Vehicle” – Skateboard, scooter, skates, and/or bicycle.

Section 14-9-3 Regulations

It shall be unlawful to operate skateboards, in-line skates, roller skates, and scooters on public property other than at a facility or park designated as a skate park. The following regulations shall apply to the riding of skateboards, in-line skates, roller skates, and

scooters at, or any other use of any facility or park owned or operated by the Town of Duncan, which has been designated a skate park.

A. Within the skate park it shall be unlawful for any person to:

Enter or remain in or upon the skate park premises: (1) while closed; (2) hours of closure are between the hours of 6:00 PM and 8:00 AM; (3) the hours of closure during the months of June, July and August shall be 7:00 PM and 8:00 AM.

B. The skate park shall be posted with signs at the following locations:

1. At the entrance to the skate park; and
2. On the fences of the skate park, facing the interior and exterior of the skate park, and in such places inside the park as determined by the Town Manager of Duncan.

The signs shall not be less than 2 feet by 3 feet in size and shall use white letters on a green background. The signs shall summarize recommendations for use of the skate facility. Each sign shall contain letters not less than 1/2 inch in height and shall include the following languages: English and Spanish.

WARNING

SKATEBOARDING, IN-LINE SKATING ACTIVITIES ARE HAZARDOUS RECREATION ACTIVITIES. SCOOTERS ARE NOT ALLOWED IN THE SKATEPARK. USE OF THIS SKATEPARK FACILITY MAY RESULT IN SERIOUS INJURIES OR DEATH. THE TOWN OF DUNCAN DOES NOT ASSUME ANY RESPONSIBILITY FOR INJURIES OR DEATH. EACH PERSON (OR HIS/HER PARENT(S) IF SUCH PERSON IS UNDER THE AGE OF 18 YEARS) ENTERING THE FACILITY ASSUMES ALL RISK OF INJURY OR DEATH.

THE ORDINANCE GOVERNING THE CREATION AND MAINTENANCE OF THE SKATEPARK IS NOT INTENDED TO AND SHALL NOT BE CONSTRUED OR GIVEN EFFECT IN A MANNER WHICH IMPOSES UPON THE TOWN OF DUNCAN, OR ANY OFFICER OR EMPLOYEE THEREOF, A MANDATORY DUTY OF CARE TOWARD PERSONS OR PROPERTY WITHIN THE TOWN OF DUNCAN OR OUTSIDE THE TOWN OF DUNCAN SO AS TO PROVIDE A BASIS OF CIVIL LIABILITY FOR DAMAGES, EXCEPT AS OTHERWISE IMPOSED BY LAW.

THE FOLLOWING ARE RECOMMENDATIONS TO REDUCE YOUR RISKS OF INJURY:

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- WEAR A HELMET, WRIST GUARDS, ELBOW PADS, KNEE PADS, GLOVES AND FOOTWEAR DESIGNED FOR SKATEBOARDING AND/OR IN-LINE SKATING USE. EQUIPMENT SHOULD BE IN GOOD REPAIR AT ALL TIME DURING USE.
- SKATEBOARDING AND IN-LINE SKATING ARE NOT RECOMMENDED FOR INDIVIDUALS AGE 5 AND UNDER.
- DO NOT RIDE, OPERATE, OR UTILIZE ANY DEVICE OTHER THAN NON-MOTORIZED SKATEBOARDS AND NON-MOTORIZED SKATES.
- ACT IN AN ORDERLY, SAFE AND CONSIDERATE MANNER, WAITING YOUR TURN.
- NO AMPLIFIED MUSIC WITHIN THE SKATE PARK.
- NO USE OF HEADPHONES WHILE SKATING.
- DO NOT USE, CONSUME OR HAVE WITHIN YOUR CUSTODY OR CONTROL ALCOHOLIC BEVERAGES OR DRUGS WITHIN THE SKATE PARK.
- NO FOOD OR DRINK IN THE SKATING AREA.
- SPECTATORS SHOULD KEEP THEIR DISTANCE.
- IF YOU ARE NOT AN EXPERIENCED SKATER YOU SHOULD NOT USE THIS PARK.
- HAVE FUN, BUT BE CAREFUL AND BE RESPECTFUL OF OTHERS.

C. All ordinances and parts of ordinances in conflict herein are repealed insofar as such conflict may exist.

Section 14-9-4 No Mandatory Duty Of Care

This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the Town of Duncan, or any officer or employee thereof, a mandatory duty of care toward persons or property within the Town of Duncan or outside the Town of Duncan so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 14-9-5 Severability

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If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The Town Council of the Town of Duncan hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

Section 14-9-6 Violations and Penalties

Violation of this ordinance setting forth unlawful activity may be punishable by a civil penalty of not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300.00) or by impoundment of the vehicle which was operated in the commission of such violation for a period not to exceed thirty (30) days or both. Community service is considered a viable alternative at the discretion of the Town Council of the Town of Duncan for payment of fines.

Article 14-10 ATV/OHV REGULATIONS

Section 14-10-1	Purpose
Section 14-10-2	Definitions
Section 14-10-3	Violations
Section 14-10-4	Penalty

Section 14-10-1 Purpose

To prohibit ATVs/OHVs on personal property other than their own. To prohibit ATVs/OHVs on public property unless specified.

Section 14-10-2 Definitions

All-terrain vehicle (ATV) means a motor vehicle that satisfies all of the following: (a) is designed primarily for recreational nonhighway all-terrain travel. (b) is 50 or fewer inches in width. (c) has an unladen weight of 800 pounds or less. (d) travels on three or more low-pressure tires. (e) has a seat to be straddled by the operator and handlebars. for steering control. (f) is operated on a public highway. A.R.S. § 28-101.34

Street or highway means the entire width between the boundary lines of every way if a part of the way is open to the use of the public for purposes of vehicular travel. This includes the shoulders of the roadway. A.R.S. § 28-101.48

Off-highway vehicle (OHV) means a motorized vehicle when operated off of highways on land, water, snow, ice or other natural terrain or on a combination of land, water, snow, and ice or other natural terrain. Includes a two-wheel, three-wheel, or four-wheel vehicle, motorcycle, four-wheel drive vehicle, dune buggy, amphibious vehicle, ground effects or air

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cushion vehicle and any other means of land transportation deriving motive power from a source other than muscle or wind. A.R.S. § 28-1171.3.A.B

Off-highway vehicle trail means a multiple use corridor that is all of the following: (a) open to recreational travel by an off-highway vehicle. (b) not normally suitable for travel by conventional two-wheel drive vehicles. (c) opened by the managing authority of the property that the trail traverses for the specific designated purpose of recreational off-highway vehicle use. A.R.S. § 28-1171.4

Section 14-10-3 Violations

A. It is unlawful for a person to drive or be in actual physical control of a vehicle in this state while under the influence of intoxicating liquor, any drug, a vapor-releasing substance containing a toxic substance or any combination of liquor, drugs or vapor-releasing substances if the person is impaired to the slightest degree. A.R.S. § 28-1381A.1

B. It is unlawful for a person to drive an ATV/OHV with reckless disregard for the safety of persons or property. A.R.S. § 28-1174

C. No person shall drive a motor operated vehicle cross-country on public or private lands where such cross-country driving is prohibited by rule or regulation or, in the case of private lands, by proper posting. A.R.S. § 17-454

D. The operation of an ATV/OHV requires skill and good judgment. Drugs and alcohol impair both. Laws regarding driving under the influence apply everywhere in the state and apply to operators of ATVs/OHVs.

E. If the driver of an off-highway vehicle is going to drive on streets or highways, the vehicle must be registered. An ATV must be street legal in order to get it registered and some ATVs may require additional equipment or modifications in order to be street legal. Arizona law requires either an off-road plate or a current registration plate to be securely fastened in a clearly visible position to the rear of the ATV/OHV.

F. Persons, under the age of 18, must wear a helmet on an ATV/OHV.

G. You must have a Class M license for a three-wheel ATV and a Class D license for a four-wheel ATV.

Section 14-10-4 Penalties

This section of the codebook is enforceable by Town of Duncan law enforcement and the Greenlee County Sheriff's Department. 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 not to exceed three hundred dollars. (\$300), or imprisonment for not more than ninety (90) days or both fine and imprisonment.

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Each day that a violation continues shall be a separate offense punishable as hereinabove described.