

**CHAPTER 15**  
**ZONING REGULATIONS**

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CHAPTER 15  
ZONING REGULATIONS

ARTICLE 15-1 INTENT AND PURPOSE

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Section 15-1-1 Title

This chapter shall be known as the "Duncan Zoning Chapter."

Section 15-1-2 Intent and Purpose

The intent and purpose of this chapter is to promote the health, safety, morals, convenience, order and general welfare of the present and future inhabitants of the Town of Duncan by guiding future development in accordance with the following general objectives:

- A. Preserve the present small town rural atmosphere of the Town of Duncan.
- B. Plan for and encourage growth. Insure that this future development occurs in a planned and orderly manner.
- C. Promote a wholesome, friendly, uncrowded and peaceful environment.
- D. Insure an attractive, efficient commercial district that will attract those retail and commercial services which are needed in the community. Also, identify areas well suited for industrial use.
- E. Promote an adequate supply of decent housing of sufficient variety to meet the need of Duncan residents. Insure the adequate spacing of homes to prevent overcrowding.
- F. Promote a visually attractive community. Prohibit the open storage of junk, debris and obsolete vehicles in residential and downtown commercial areas. Keep the town free of excessive signs, to preserve an open and attractive view of the community.
- G. Secure safety from flood, fire, crime, water, air and noise pollution and other hazards.
- H. Reduce the waste of physical, financial and human resources resulting from excessive scattering of population or the overcrowding of this land.
- I. Facilitate adequate provisions for transportation, water, sewage, schools, parks and other public requirements.

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J. Keep livestock out of the central commercial area. Allow zones for those families wishing to keep a few head of livestock; but with safeguards to protect neighboring properties from excessive smell, dust, health hazards and other menace.

K. Stabilize and improve property values.

#### Section 15-1-3 Guiding Principles

The powers of the Mayor and Common Council, the Planning and Zoning Commission, Board of Adjustment, the Zoning Inspector and all other persons or agencies charged with the administration of the chapter shall be strictly limited by the expressed intent of the State Legislature in the enactment of Section 9-461 through 9-464 of the Arizona Revised Statutes, 1973, and as amended.

#### Section 15-1-4 Grandfather Clause

Nothing in the chapter shall affect existing property of the right to its continued use for the purpose used at the time this chapter takes effect, nor to any reasonable repairs.

### ARTICLES 15-2 DEFINITIONS

#### 15-2-1 Definitions

##### Section 15-2-1 Definitions

"Agriculture" – Shall mean cultivation of crops and the raising of livestock (temporary pasturing of livestock). It shall not include livestock feeding activities; nor shall it include retailing of products on the premises.

"Agricultural Building" – A structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products. This structure shall not be a place of human habitation or a place of employment where agricultural products are processed, treated, or packaged, nor shall it be a place used by the public.

"Apartment House" – Any building or portion thereof that contains three (3) or more dwelling units and, for the purpose of this code, includes residential condominiums. To be occupied by three (3) or more families living independently of each other and doing their own cooking on the premises.

"Barn" – A building for storing farm produce and implements and stabling livestock.

"Building" – Any structure used or intended for supporting or sheltering any use or occupancy.

"Building, Accessory" – A subordinate building, the use of which is incidental to that of the main building, including carports, garages, storage sheds, etc.

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“Building, Existing” – A building erected prior to the adoption of this code, or one for which a legal building permit has been issued.

“Clinic” – A building used for the diagnosis and treatment of ill or injured persons, but which does not provide board, room or regular hospital care and services.

“Commercial Feed Lot” – see “Livestock Feed Yard.”

“Commission” – The Duncan Planning and Zoning Commission.

“Conditional Approval” – An affirmative action by the commission or council indicating that approval will be forthcoming upon satisfaction of certain specific stipulations.

“Conditional Use” – Special uses of property, specifically authorized by this chapter, but not permitted unless certain stated conditions are met. This chapter outlines specifically the nature of these special exceptions and the conditions under which they will be permitted. The special exception is in fact a permitted use once that the special conditions required by the ordinance in protection of the public interest are met.

“Congregate Residence” – Any building or portion thereof that contains facilities for living, sleeping, and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes, hotels or lodging houses.

“Construction Standards, Town of Duncan” – Minimum standards and specifications of construction of public improvements within the Town of Duncan as adopted by the Town Council.

“Corral” – A pen or enclosure for livestock or other animals.

“Council” – The Duncan Town Council.

“Covenant, Deed Restrictions” – A privately executed and recorded document designed to govern the use of lots within a subdivision.

“Design” – Street alignment, grades and widths alignment and widths of easements and rights of way for drainage, sanitary sewers and other utilities; the arrangement and orientation of lots.

“Discriminate or Discrimination” – Means to make, directly or indirectly, any distinction with respect to any person or persons based on sex, race, color, religion, national origin or ancestry.

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“Dry Lot Feeding” – The maintenance of livestock under conditions where over fifty percent (50%) of the feed consumed is provided through supplementary feeding.

“Dwelling” – Any building or portion thereof, which is designed or used exclusively for residential purposes and contains not more than two dwelling units.

A. “Dwelling Unit” – Any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by this code, for not more than one family, or a congregate residence for ten (10) or less persons.

B. “One-Family Dwelling” – A detached residence designed for or occupied by one family.

C. “Multiple-Family Dwelling” – A building containing two (2) or more dwelling units.

D. “Efficiency Dwelling Unit” – A dwelling unit containing only one habitable room.

“Easement” – A non-profitable interest in land owned by another that entitles its holder to a specific limited use or enjoyment.

“Encourage” – Is used in the chapter to express conditions which are desired, but not mandatory.

“Engineering Plans” – Plans, profiles, maps, cross-section, and other required details necessary for the construction of public improvements prepared by an engineer registered to practice in the State of Arizona, in accordance with the approved tentative plat and in compliance with standards of design and construction specified in this chapter and as required by the town’s engineer.

“Fence, Sight Obscuring” – A fence having a height of at least six feet (6') above grade, which permits vision through not more than ten percent (10%) of each square foot of the fence.

“Financial Institution” – Means any person as defined herein engaged in the business of lending money or guaranteeing losses.

“Floor Area” – The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

“Front of Lot” – The front boundary line of a lot bordering on the street and, in the case of a corner lot, may be either frontage.

“Garage and Auto Repair Shop” – A business enterprise where licensed vehicles are repaired or serviced, but does not include the storage of vehicles.

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"Garage" – A building or portion thereof in which a motor vehicle containing flammable or combustible liquids or gas in its tank is stored, repaired or kept.

"Garage, Private" – A building or a portion of a building, not more than 1000 square feet in area, in which only motor vehicles used by the tenants of the building or buildings on the premises are stored or kept.

"Grade" – (Adjacent ground elevation) Is the lowest point of elevation of the finished ground, paving or sidewalk within the area between the building and the property line, or when the property line is more than 5 feet (1524 mm) from the building, between the building and a line 5 feet (1524 mm) from the building.

"Home Occupation" – Any occupation (or hobby) conducted within a dwelling and/or accessory building and carried on by persons residing in the dwelling. A business license issued by the Town of Duncan will be required and displayed in a visible location.

"Hospital" – A building in which ten (10) or more ill or injured human beings are offered board and room while being treated for such illness or injury by persons registered to practice the healing arts in the State of Arizona.

"Hotel" – A building containing six or more guest rooms intended or designed to be used, or that are used, rented or hired out to be occupied, or that are occupied for sleeping purposes by guests.

"Housing" – Means (1) any parcel or parcels of real property or lands, or any interest therein, whether contiguous or noncontiguous, located in the Town of Duncan used for the building or the placing of one or more housing or rooming units owned by, or otherwise subject to the control of, one or more persons; and/or (2) any real property or any interest therein, located in the Town of Duncan; and/or (3) any single family dwelling or multiple family dwelling or trailer house or trailer space or any portion thereof, located in the Town of Duncan which is used or occupied, or intended, arranged, assigned or designated to be used or occupied as the home, homesite, residence or sleeping place of one or more persons; and/or (4) a single room, suite of rooms or apartments with or without cooking and kitchen facilities, occupied or intended for occupancy as living quarters by a person, by a family or by a group of persons living together.

"Improvements" – Installations, including street grading and surfacing, sewer and water, drainage, etc., required as a condition to the approval and acceptance of the final plat.

"Junk Yard" – A place where scrap, waste, discarded or salvaged materials are bought, sold, exchanged, baled, packed, disassembled, handled or stored, to be converted to useable stock, including auto grave yards for the storage of salvaged house wrecking and structural steel materials and equipment.

"Kennel" – Means an enclosed, controlled area, inaccessible to other animals, in which a person keeps, harbors or maintains five or more dogs or cats under controlled conditions. It

also means any person, group of persons or corporations engaged in breeding, buying, selling or boarding dogs or cats and specifically the keeping of five or more dogs or cats four months of age or older.

“Landscaping” – Shall mean the application or use of some combination of planted trees, shrubs, vines, ground cover, flowers or lawns to improve the appearance of a piece of ground. The combination or design may include rocks and such structural features as fountains, pools, art works, screens, walls, fences or benches.

“Livestock” – Means meat animals, cattle, swine, sheep, goats, oxen, asses, mules and horses. Livestock shall also mean rabbits and poultry (ie: chickens, ducks, geese).

“Livestock Feed Yard; Commercial Feed Lot” – A feeding operation on a parcel of land where livestock are kept or exchanged in corrals or yards on a sustained basis as a commercial enterprise; where the feed is brought to the yard as contrasted to feed obtained through grazing the animals on the premises.

“Lot” – A single parcel or tract of land.

A. “Lot of Record” – A lot designed on a subdivision plat or shown by deed, duly recorded pursuant to Statute in the County Recorder’s Office. A lot of record may or may not coincide with a zoning lot.

B. “Zoning Lot” – A parcel of land, composed of one or more recorded lots, occupied by a principal building or buildings or principle use or uses, along with permitted accessory buildings or uses, meeting all of the requirements for the area, width, yards, setbacks and any other requirements set forth in this chapter.

“Medical marijuana means” – All parts of the genus cannabis whether growing or not, and the seed of such plants that may be administered to treat or alleviate a qualifying patient’s debilitating medical condition or symptoms associated with the patient’s debilitating medical condition.

“Medical marijuana cultivation” – The process by which a person grows a marijuana plant.

“Medical marijuana designated caregiver cultivation location” – An enclosed, locked facility, such as a closet, room, greenhouse, or other enclosed area equipped with locks, that does not exceed 50 square feet of cultivation space where a designated caregiver, as defined by A.R.S. §36-2801(5), cultivates marijuana.

“Medical marijuana dispensary” – A not-for-profit entity defined in A.R.S. § 36-2801(11), that acquires, possesses, cultivates, manufactures, delivers, transfers, transports, supplies, sells, dispenses, or otherwise provides medical marijuana or related supplies and educational materials to cardholders as defined in A.R.S. § 36-2801(2).

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“Medical marijuana dispensary offsite cultivation facility” – An enclosed, locked facility where marijuana is cultivated by a medical marijuana dispensary as referenced in A.R.S. § 36-2804(B)(1)(b)(ii).

“Medical marijuana infusion facility” – A facility that incorporates medical marijuana into consumable/edible goods by the means of cooking or blending.

“Medical marijuana qualifying patient” – A person who has been diagnosed by a physician as having a debilitating medical condition as defined in A.R.S. § 36-2801(13).

“Medical marijuana facility” – A medical marijuana designated caregiver cultivation location, medical marijuana dispensary, medical marijuana dispensary offsite cultivation facility, medical marijuana infusion facility or any combination of the above.

“Mobile Home” – A movable or portable dwelling designated as a “mobile home” by the State Inspector (Division of Building Codes, Registrar of Contractors, State of Arizona) which has been inspected by the State Inspector and contains his “insignia of approval.” A mobile home is defined as a movable or portable dwelling over thirty-two feet (32’) in length and over eight feet (8’) wide, constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human occupancy as a residence or as a temporary or permanent office which may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, as well as a portable dwelling or office composed of a single unit.

“Mobile Home Park” – An area or tract of land divided into mobile home lots for rent, lease or sale to the public and which is restricted to such use through deed restrictions.

“Modular Dwelling (Modular Construction)” – A building designated as a “factory-built building” by the State Inspector, Division of Building Codes, Registrar of Contractors, State of Arizona; which has been inspected by the State Inspector and contains his “insignia of approval,” which has been installed on a permanent foundation of brick, mason, block, concrete, etc. A modular dwelling is defined as a single story commercial building of less than four thousand (4,000) square feet of floor space or a residential building not to exceed two (2) stories in height, which is either wholly or in substantial part manufactured at an off-site location to be assembled on site, except that it does not include a mobile home as defined in this location.

“Motel” – Shall mean hotel as defined in this code.

“Multifamily Development” – A complex of apartments, town houses, condominiums or other multifamily dwellings planned and constructed as a single, planned unit developed in compliance with section 15-6-3-B of this chapter.

“New Development” – Residences or businesses constructed after the effective date of adoption of this code.



“Non-conforming Building” – A building, structure or portion thereof, which does not conform to the regulations of this chapter applicable to the zone or district in which such building is situated, but which legally existed prior to the effective date of this code.

“Non-conforming Use” – A use of premise which does not conform to the regulations of the chapter but which existed at the effective date of this code.

“Occupancy” – The purpose for that a building, or part thereof, is used or intended to be used.

“Owners” – Includes a leasee, subleasee, co-tenant, assignee, managing agent, or other person having the right of ownership or possession or the right to sell, rent or lease any housing.

“Parking Space” – A space, not less than twenty feet (20') in length and not less than eight and five-tenths feet (8.5') in width for the parking of an automobile.

“Pasture” – Grass and other field crops harvested through the grazing of livestock. Also includes the cleaning of fields after harvest. (To qualify as pasture, over fifty percent (50%) of the feed consumed by the animals must be derived from the pasture alone.)

“Pedestrian Walkway” – A walkway used exclusively as a pedestrian traffic way.

“Permanent Building of Conventional Construction” – A building on a permanent foundation (of brick, mason block, concrete, etc.) built through modular and/or conventional construction methods.

“Permit” – An official document or certificate issued by the building official authorizing performance of a specified activity.

“Person” – Means an individual and a group of any one or more persons such as, but not limited to, labor unions, joint apprenticeship committees, partnerships, associations, corporations, unincorporated organizations, mutual companies, joint stock companies, trusts, legal representatives, trustees in bankruptcy, receivers, any individuals acting in a financial or representative capacity either appointed by a court or otherwise, the town or any of its agencies and any other legal governmental or commercial entity as well as a natural person or persons. The term persons, when applied to any of the foregoing, includes members, representatives, officers and directors, agents and employees.

“Planning Commission” – The Duncan Planning and Zoning Commission.

“Plat” – A map of subdivision.

“Plat, Preliminary” – A preliminary map, including supporting data, indicating a proposed subdivision design prepared in accordance with this chapter.

“Plat, Final” – A map of all or part of the subdivision essentially conforming to an approved preliminary plat, prepared in accordance with this chapter.

“Plat, Recorded” – A final plat bearing all of the certificates of approval required by this chapter and duly recorded by the Greenlee County Recorder.

“Real Estate Broker” or “Real Estate Salesperson” – Means an individual, whether licensed or not, who, for a fee, commission, salary or for other valuable consideration or show, with the intention or expectation of receiving or collecting same, lists, sells, purchases, exchanges, rents or leases any housing accommodation, including options thereupon; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrances, upon transfer to any housing accommodation; or who is engaged in the business or charging an advance fee or contracting for collection of a fee in connection with a contract whereby she/he undertakes to promote the sale, purchase, exchange, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

“Right of Way” – The entire dedicated tract or strip of land that is for the use of the public for circulation and service, the length and width of which shall be sufficient to provide adequate accommodation for all physical features to be included therein.

“Salvage Yard” – see “Junk Yard.”

“Setback” – The shortest distance between the property line and the foundation, wall or mainframe of the building.

“Shall” – Is used in the chapter to express what is mandatory.

“Sign” – Any device for visual communication that is used for the purpose of bringing the subject shown thereon to the attention of the public. Any sign shall not obstruct the view of traffic. No sign shall be permitted on private or public property without the owner’s approval.

A. “Accessory Sign” – A sign which directs attention to a business or profession conducted on the premises.

B. “Free-Standing Sign” – A sign supported by uprights or braces placed upon or in the ground, and not attached to or part of a building.

C. “Non-Accessory Sign (Billboard)” – A sign which directs attention to a business or product which is located or sold at a location other than the lot or building on which the sign is located.

D. “Overhanging (Projecting) Sign” – A sign which is attached to a building or structure and extends beyond the wall of the building by more than twelve inches (12”).

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E. "Wall Sign" – A flat sign placed against and attached to an exterior front, side or rear wall of a building, which extends no more than twelve inches (12") out from the wall of the building.

F. "Political/Campaign Sign" – A sign which directs attention to a political candidate or issue. Such signs shall be limited to 4' x 6'. Such signs shall be displayed only with the permission of the property owner. Such signs shall be removed within thirty (30) days of the election. If said signs are not removed within this thirty (30) days, all costs of the removal shall be billed to the particular candidate in the amount designated by the Duncan Town Council.

G. "Event Sign" – Any temporary sign which directs attention to or announces an event, outside or within the town limits, including but not limited to, yard sales, weddings, parties, etc. Such signs shall be limited to 2' x 3' in size. Such signs shall be displayed only with the permission of the property owner. Such signs shall be removed within three (3) days of the event. If said signs are not removed within three (3) days, all costs of the removal shall be billed to the particular advertiser in the amount designated by the Duncan Town Council.

"Street" – Any thoroughfare or public way not less than 16 feet (4877 mm) in width that has been dedicated or deeded to the public for public use. It is also a way for vehicular traffic, whether designated as a street, highway, road, avenue or however otherwise designated. A street includes all land within the street right of way whether improved or unimproved, and includes such improvements as pavements, shoulders, curbs, gutters, sidewalks, parking spaces, bridges and viaducts.

"Streets, Arterial" – Arterial streets or highways are those primarily for fast or heavy traffic.

"Streets, Collector" – Collector or feeder streets shall mean a street carrying traffic from local or minor streets onto an arterial street or highway.

"Streets, Local" – Local or minor streets are those which are used primarily for access to abutting properties.

"Sub-divider" – Any person or legal entity that files application and initiates proceedings for the subdivision of land in accordance with the provisions of this chapter, except that an individual serving as agent for such legal entity is not a sub-divider, as designated in A.R.S. No. 9-463.02.

"Sub-division" – Pursuant to A.R.S. No. 9-463.02(a), subdivision shall mean improved or unimproved lands divided for the purpose of sale or lease, whether immediate or in the future, into four (4) or more lots, tracts or parcels of land, or any such property, the boundaries of which have been fixed by a recorded plat, which is divided into two (2) or more parts; sub-division also includes a condominium, cooperative, community apartment, townhouse or similar project containing four (4) or more parcels, in which an undivided interest in the land is coupled with the right of exclusive occupancy of any unit located thereon, but plats of such projects need not show the buildings or the manner in which the

buildings or airspace above the property shown on the plat are to be divided. Pursuant to A.R.S. No. 9.463.02(c), sub-division does not include the following: 1. The sale or exchange of parcels of land to or between adjoining property owners if such sale or exchange does not create additional lots. 2. The partitioning of land in accordance with other statutes regulating the partitioning of land held in common ownership. 3. The leasing of apartments, offices, stores or similar space within a building or trailer park, nor to mineral, oil or gas leases.

“Sub-division Regulations” – A municipal chapter setting forth standards for the design and development of sub-divisions (the laying out of land into lots and their development for sale). Pursuant to A.R.S. No. 9-463.02(b), the legislative body of a municipality shall not refuse approval of a final plat of a project included in A.R.S. No. 9-463.02(a) under provisions of an adopted subdivision regulation because of a location of buildings on the property shown on the plat not in violation of such subdivision regulations or on account of the manner in which airspace is to be divided in conveying the condominium. Fees and lot design requirements shall be computed and imposed with respect to such plats on the basis of parcels or lots on the surface of the land shown thereon as included in the project. This subsection does not limit the power of such legislative body to regulate the location of buildings in such a project by or pursuant to a zoning ordinance.

“Travel Trailer, Recreational Vehicle Camper” or “Motor Home” – A vehicular type dwelling unit thirty-two feet (32’) or less in length and eight feet (8’) or less in width designed primarily as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

“Travel Trailer Park” – An area or tract of land used to accommodate two (2) or more travel trailers for a short period of time (less than thirty (30) days).

“Variance” – A waiver or reduction in required area of lot or yard dimension, or usage that differs from the requirements set forth in this zoning chapter.

“Yard” – An open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.

A. “Front Yard” – The horizontal distance between the street line and the front line of the building, excluding non-enclosed steps.

B. “Rear Yard” – A yard between the buildings and the rear line of the lot.

C. “Required Yard” – The open space around a building which is required by the terms of this chapter.

D. “Side Yard” – A yard between the buildings and the side line of the lot and extending from the front yard to the rear yard.

“Zone” – A section or sections within the municipal limits in which the same zoning regulations apply.

ARTICLE 15-3 ESTABLISHMENT OF ZONES

15-3-1	Zones Established
15-3-2	Official Zone Map
15-3-3	Boundaries of Zones
15-3-4	Regulations Within Zones

Section 15-3-1 Zones Established

In order to carry out the purposes of this chapter, the Town of Duncan, Arizona is hereby divided into zones as follows:

- C – Commercial Zone
- DR – Duncan Residential Zone
- I – Industrial Zone
- P – Public Zone

Section 15-3-2 Official Zone Map

The location and boundaries of each of the zones are shown on "The Official Duncan Zoning Map" and said map is hereby declared to be an official record and part of this chapter. Whenever amendments or changes are made in zone boundaries, such changes shall be made on the official zone map promptly. No amendments or changes shall become effective until after it has been properly noted and attested to on the official zone map.

No changes of any nature shall be made on the official zone map except in conformity with the procedure set forth in this chapter. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided in this chapter.

Regardless of the existence of copies of the official zone map which may from time to time be made or published, "The Official Duncan Zoning Map" which shall be located in the office of the town clerk shall be the final authority in determining current zoning status.

Section 15-3-3 Boundaries Of Zones

Where uncertainty exists with respect to the boundaries of various zones, the following rules shall apply:

- A. Where the intended boundaries on the official zone map are approximately street or alley lines, said street or alleys shall be construed to be the zone boundaries.
- B. Where the indicated boundaries are approximately lot lines, said lot lines shall be construed to be the zone boundaries unless otherwise indicated.

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C. Where land has not been subdivided into lots, the zone boundary shall be determined by the use of the scale of measurement shown on the official zone map.

D. Where other uncertainty exists, the Board of Adjustment shall interpret the official zone map.

#### Section 15-3-4 Regulations Within Zones

Within each of the zones, the use, location, height and size of buildings and structures, the use of land and size of lots, yard, courts and other open spaces and the density of population are regulated as hereinafter set forth.

### ARTICLE 15-4 COMMERCIAL ZONE (C)

- 15-4-1 Objectives and Characteristics of Zone
- 15-4-2 Use Requirements
- 15-4-3 Specific Requirements

#### Section 15-4-1 Objectives and Characteristics of Zone

This zone covers Duncan's present downtown and highway commercial district. This would also include any additional areas outside of the flood plain which would be attractive to new businesses needed in the community. The zone has been established to facilitate the attractive, efficient and profitable operation of the normal retail, financial, personal service and tourist establishments. A mixture of businesses, residential development and open space along U.S. 70 is encouraged. The commercial "strip zoning" of the entire length of U.S. 70 is discouraged. The storage of all merchandise, equipment and materials must be within a building or sight-obscuring fence. In an effort to protect surrounding residential areas, commercial establishments which would be hazardous due to excessive odors, vibration, dust, smoke or other emissions are prohibited. Brightly lighted, flashing and large overhanging signs and billboards are prohibited. New businesses shall and existing businesses are encouraged to provide adequate off-street parking, sidewalks and off-street loading areas. Businesses are encouraged to insure an efficient flow of traffic and visually unobstructed intersections. Where a commercial establishment abuts on an existing residential property, the establishment of a buffer between the properties is encouraged. In order to accomplish the above objectives, the following regulations shall apply in the commercial zone.

#### Section 15-4-2 Use Requirements

The following buildings, structures and use of land shall be permitted in the commercial zone, upon compliance with the requirements set forth in this chapter.

A. The normal retail, financial, personal service and tourist establishments.

B. Gasoline stations, for retail sales only, provided gasoline pump islands are set back not less than eighteen feet (18') from any street to which the pump island is vertical and twelve

feet (12') from any street line to which the pump island is parallel and not less than twelve feet (12') from any residential zone boundary line. If the pump island is set at an angle on the property, it shall be so located over the property line. Lots from which gasoline is dispensed to customers at retail shall not be less than seventy-five feet (75') in length. A screen shall be required between all service stations and residentially zoned property.

C. The fabrication or processing of goods done in connection with the sale of these goods on the premises, provided such activities are incidental to the primary functions of retailing. Includes bakeries, lumberyards, sign painter, repair shops, upholstery and arts and crafts shops.

D. Public garages and auto repair, but excluding junk yards and auto wrecking salvage yards.

E. Parking lots.

F. Shopping centers, subject to the review and ~~approval of~~ RECOMMENDED BY the Planning and Zoning Commission and ~~the~~ APPROVED BY Board of Adjustment.

G. Travel trailer parks, subject to the ~~approval of~~ RECOMMENDATION OF the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment.

H. Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work, but not for longer than twelve (12) months without specific ~~approval of~~ RECOMMENDATION BY the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment.

I. Accessory signs:

1. Parking lot signs, not to exceed six (6) square feet in size.
2. One free-standing sign per business establishment, when ~~approved~~ RECOMMENDED by the Planning and Zoning Commission and ~~the~~ AND APPROVED BY THE Board of Adjustment.
3. One overhanging (projecting) sign per business establishment, not to exceed eight (8) square feet in size.
4. Signs which are painted on or attached to the flat of the building are not restricted.
5. Brightly lighted and flashing signs are prohibited.
6. Non-accessory sign and billboards are prohibited.

J. All uses permitted in the Duncan residential zone subject to compliance with the regulations and restrictions required therein.

K. Other uses ruled RECOMMENDED by the Planning and Zoning Commission and ~~the~~ RULED BY THE Board of Adjustment to be similar to uses specifically permitted in the zone.

- L. The following and similar uses are specifically prohibited:
1. The keeping of livestock, commercial feed lots, livestock auction barn, slaughter or rendering plant.
  2. An industrial, manufacturing or processing plant.
  3. Junk yards and auto wrecking salvage yards.
  4. Massage parlors and related uses of immoral impact.
- M. A medical marijuana facility when in compliance with Section 15-4-3-I of this Chapter.

#### Section 15-4-3 Specific Requirements

- A. No activity shall give rise to dust, odor, noise, smoke, vibrations or intermittent light or glare objectionable beyond the zone.
- B. All business establishments shall be located in permanent buildings of conventional construction, and aligned with neighboring commercial buildings.
- C. The storage of merchandise, materials, equipment or junk outside of a building or sight-obscuring fence, except licensed automobiles, trucks and other vehicles in running order, is prohibited.
- D. New business constructed after the effective date of the code shall provide off-street parking at the rate of three (3) spaces per one thousand (1,000) square feet of floor space, except restaurants, taverns, theaters, clubs and lodges which shall have one parking space for each five (5) seating places. The Planning and Zoning Commission MAY RECOMMEND and the Board of Adjustment may approve substitute parking locations and may reduce the amount of off-street parking as the individual situation merits.
- E. Every building having a gross floor area of two thousand (2,000) square feet or more to which merchandise is regularly received or distributed by vehicle, shall have at least one off-street loading space of not less than ten feet in width, twenty-five feet in length and fourteen feet in height (10' x 25' x 14').
- F. New businesses are required, and existing businesses are encouraged, to put in sidewalks. The construction of sidewalks shall meet the town's construction standards.
- G. The ground floor of all new structures shall be constructed above the one hundred (100) year flood levels, in accordance with the National Flood Insurance Programs (FEMA).
- H. All applications for a building permit from within this zone shall be approved by the building inspector or the town manager. ~~The Planning and Zoning Commission shall approve~~ TOWN CLERK SHALL APPROVE building permits in the event that either position is unoccupied.



I. A medical marijuana facility is conditionally permitted when in compliance with the terms of this chapter, including the following terms and all rules adopted by the Arizona Department of Health Services and the following requirements:

1. An applicant shall provide evidence to the Town Council sufficient to show compliance with this section prior to being issued a conditional use permit for a medical marijuana facility.
2. A medical marijuana facility shall not be located with 500 feet of any residentially zoned property, any church or worship facility or any dwelling unit.
3. A medical marijuana facility shall not be located within 1,500 feet of any public or private charter, primary, or secondary school, any public or private day care, preschool, nursery, or kindergarten facility or any park or playground.
4. A medical marijuana facility shall not be located with 3,000 feet of any other medical marijuana facility or any sexually oriented business.
5. A medical marijuana facility shall be a maximum size of 2,500 gross square feet.
6. A medical marijuana facility shall be located in a permanent building and may not locate in a trailer, cargo container, storage unit, or motor vehicle.
7. A drive-through medical marijuana facility is prohibited.
8. Marijuana remnants, by-products, and/or infused products shall not be placed within the medical marijuana facility's exterior refuse containers.
9. For purposes of measuring separation distances required in this section, the measurements will be taken in a straight line from the closest property line of any affected property without regard to intervening structures or objects or political boundaries.
10. A medical marijuana facility lawfully operating is not rendered in violation of these provisions by the subsequent location of a church or worship facility, public or private primary or secondary school, public or private day care, preschool, nursery, kindergarten facility, public park, or playground within the buffer zones outlined in this section above for a medical marijuana facility.
11. This provision shall not be construed as permitting any use or act which is otherwise prohibited or made punishable by local, state or federal law.

#### ARTICLE 15-5 INDUSTRIAL ZONE (I)

##### 15-5-1 Objectives and Characteristics Of Industrial Zone

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### 15-5-2 Use Requirements

### 15-5-3 Specific Requirements

#### Section 15-5-1 Objectives and Characteristics Of Zone

The industrial zone covers those areas within the town and outside the floodplain that would be best suited for warehousing, light manufacturing, commercial, and industrial use. The primary objectives of this zone are to (1) separate industrial from residential uses and (2) promote the economic well being of the community. In an effort to protect surrounding residential areas, new industrial establishments, which would be hazardous or offensive due to excessive odors, vibration, dust, smoke, or other emissions are prohibited. Brightly lighted, flashing, and overhanging signs and billboards are prohibited. New business shall and existing buildings are encouraged to provide adequate off-street parking, sidewalks and off-street loading areas. Businesses are encouraged to insure an efficient flow of traffic and visually unobstructed intersections. Where an industrial establishment abuts on an existing residential property, the establishment of a buffer between the properties is encouraged. The storage of all merchandise, equipment, and materials must be within a building a sight-obscuring fence. In order to accomplish the above objectives, the following regulations shall apply in the industrial zone.

#### Section 15-5-2 Use Requirements

The following buildings, structures, and uses of land shall be permitted, upon compliance with the requirements set forth in this chapter.

- A. Any use permitted in the Commercial (C) Zone except motels, hotels, churches, hospitals, schools, day-care nurseries, nightclubs, beer, wine and spirituous liquor dispensing establishments, food retailing firms, and residential uses. All regulations and restrictions in the commercial zone still apply.
- B. Wholesale distributing firms and warehouses, including wholesale and bulk gasoline.
- C. All new industrial, manufacturing and processing establishments, except slaughter and animal by-products, new commercial feed lots or livestock auction house, new salvage yards, or any other new business or industrial firm that would emit dust, smoke, odor, vibration, light, or other wastes beyond the zone boundary.
- D. Bona fide caretaker dwellings located on site.
- E. The fabrication or processing of goods done in connection with the sale of these goods on the premises, provided such activities are incidental to the primary functions of retailing. Including, but not limited to bakeries, lumberyards, sign painters, repair shops, gun manufacturing.
- F. Public garages and auto repair, but excluding new junkyards and new auto wrecking salvage yards.
- G. Parking lots.

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H. Shopping centers, subject to the ~~approval~~ RECOMMENDATION of the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment.

I. Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work, but not for longer than twelve (12) months without specific ~~approval~~ RECOMMENDATION of the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment.

J. Kennels.

K. Accessory signs:

1. Parking lot signs, not to exceed six (6) square feet in size.
2. One freestanding sign per business establishment, when ~~approved~~ RECOMMENDED by the planning and zoning commission and the APPROVAL BY THE board of adjustment.
3. One overhanging (projecting) sign per business establishment, not to exceed eight (8) square feet in size.
4. Signs which are painted on or attached to the flat of the building are not restricted.
5. Brightly lighted and flashing signs are prohibited.
6. Billboards are prohibited.

L. Other uses ~~ruled~~ RECOMMENDED by the Planning and Zoning Commission and the APPROVED BY THE Board of Adjustment to be similar to uses specifically permitted in the zone.

M. The following and similar uses are specifically prohibited: slaughter and rendering plants, new junk yards and new auto wrecking salvage yards, those adult oriented business establishments either retail or wholesale providing adult entertainment and/or goods depicting, describing or relating to specified sexual activities, or characterized by emphasis on depiction, description or relations to specified anatomical areas of the human body, typical uses types of adult oriented business establishments include adult arcades, adult bookstores or video stores, cabarets, adult live entertainment establishments, adult motion picture theaters, adult theaters, massage establishments and nude model studios.

N. A Medical marijuana facility when in compliance with Section 15-4-3-1 of this Chapter.

### Section 15-5-3 Specific Requirements

A. No activity shall give rise to dust, odor, noise, smoke, vibrations, or intermittent light or glare objectionable beyond the zone.

B. All business establishments shall be located in permanent buildings of conventional construction and aligned with neighboring commercial or industrial buildings.

- C. The storage of merchandise, materials, equipment, or junk outside of a building or sight-obscuring fence, except licensed automobiles, trucks, and other vehicles in running order, is prohibited.
- D. New business constructed after the effective date of this code shall provide off-street parking at the rate of three (3) spaces per one thousand (1,000) square feet of floor space. The Planning and Zoning Commission MAY RECOMMEND and the Board of Adjustment may approve substitute parking locations and may reduce the amount of off-street parking as the individual situation merits.
- E. Every building having a gross floor area of two thousand (2,000) square feet or more to which merchandise is regularly received or distributed by vehicle, shall have at least one off-street loading space of not less than ten feet in width by twenty-five feet in length by fourteen feet in height (10' x 25' x 14').
- F. New businesses shall be required to put in sidewalks. The construction of sidewalks shall meet the town's construction standards.
- G. The ground floor of all new structures shall be constructed above the one hundred (100) year flood levels, in accordance with the Nation Flood Insurance Programs (NFIP).
- H. All applications for a building permit from within this zone shall be reviewed and approved by the town manager, building inspector, RECOMMENDED BY the Planning and Zoning Commission and APPROVED BY the Board of Adjustment before the building permit can be issued by the Town of Duncan.
- I. A medical marijuana facility is conditionally permitted when in compliance with the terms of this chapter, including the requirements in Section 15-4-3-I of this chapter and all rules adopted by the Arizona Department of Health Services.

ARTICLE 15-6 DUNCAN RESIDENTIAL ZONE (DR)

- 15-6-1 Preamble
- 15-6-2 Objectives and Characteristics of the Duncan Residential Zone
- 15-6-3 Use Requirements
- 15-6-4 Specific Requirements

Section 15-6-1 Preamble

Effective February 11, 2003, the former separate residential zones and all variations thereof are combined into one residential section in the planning and zoning portions of the town codebook.

The former Duncan residential zone, the new area residential zone and the new area mobile residential zone have been combined into one Duncan residential zone.

Section 15-6-2 Objectives and Characteristics of Zone

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The Duncan residential zone covers the original townsite of the Town of Duncan and all annexed properties, including, but not limited to; (1) the Hunter Estates area (annexed 1974); (2) the Duncan Heights senior citizens apartments (annexed 1983); (3) the LDS Church area annexation (annexed 1983); and (4) the Babbitt Heights area (subdivided 1980).

The original Duncan townsite is characterized by small fifty by one hundred foot (50' x 100') lots and a mixture of residential uses, mobile homes, apartments and conventional single-family housing. The annexation areas are characterized by single family dwellings on spacious lots.

This zone has been established to facilitate a quiet, attractive and efficient residential area, with a rural, small town atmosphere, free of excessive traffic, unsightly appearances, and sanitation problems.

Certain minimum requirements are established for future development to insure the gradual upgrading of housing within the zone. It is the intent of these regulations to encourage development of vacant and underdeveloped lots within the zone.

The zone will safeguard against overcrowding, and the traffic, fire protection and aesthetics associated with it, by providing the adequate spacing of homes and other structures.

In the original Duncan townsite, the dividing of present lots into smaller parcels is prohibited, except in an approved mobile home park. Residents are encouraged to locate new homes on double lots or to combine three (3) lots into two (2). Only one dwelling will be permitted per lot. A minimum amount of open space (side yard setback) shall be required between structures. The zone specifies a minimum size of dwelling to prevent the construction of shanties and such undersized structures.

Apartments, town houses, and other multifamily dwellings will be permitted in the annexation areas as a "conditional use", with the ~~approval~~ RECOMMENDATION of the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment, where an adequate community sewer and water system is provided.

Mobile home parks will be permitted in these annexation areas as a "conditional use", with the ~~approval~~ RECOMMENDATION of the Planning and Zoning Commission and the APPROVAL BY THE Board of Adjustment, where an adequate community sewer and water system is provided. It is also the objective of this zone to insure that new development is relatively flood resistant. New housing is encouraged to locate out of the Gila River flood plain. New housing in the flood prone area will be required to construct the ground floor above the one hundred (100) year flood level. ~~For aesthetic reasons, double-wide mobile homes are encouraged over single-wides.~~ For flood (and wind) protection, tie-downs will be required of mobile homes, and skirting will be required for aesthetic purposes.

To maintain the rural atmosphere of Duncan AND TO CONSERVE WATER THE PLANTING OF XERISCAPING, the planting and maintenance of NATIVE trees, ~~lawns~~, gardens and other

landscaping is encouraged. To improve the flow of traffic through the residential area, at least one off-street parking space will be required of each dwelling.

Businesses are not allowed in this zone. Home and hobby occupations, however, are permitted, with the approval of the ZONING ADMINISTRATOR ~~Planning and Zoning Commission and the Board of Adjustment~~, if they do not distract from the residential character of the zone. A limited number of livestock, maintained for recreation, home consumption or youth projects will be permitted where adequate space is provided and state health regulations are met. The open storage of junk, debris and unlicensed vehicles is prohibited.

In order to accomplish the above objectives, the following regulations shall apply to this zone.

### Section 15-6-3 Use Requirements

The following buildings, structures and uses of land shall be permitted in this zone, upon compliance with the requirements set forth in this chapter.

- A. Single-family conventional dwellings.
- B. Apartments and other multifamily dwellings as a "conditional use" provided that:
  - 1. The development will be adequately served by a private or public community water and sewer system meeting state and county health standards.
  - 2. The development is located in an area well suited for such a use, as determined by the Planning and Zoning Commission. Such a determination shall be based on soil conditions, topography, accessibility, erosion and flood conditions.
  - 3. There will be no more than twelve (12) dwelling units per acre.
  - 4. Not less than ten percent (10%) of the gross area of the developments shall be designated as common open space for parks and playgrounds. Roads, off-street parking, and yards surrounding the individual dwelling units shall not be included in computing the required area for open space.
  - 5. The development shall contain not less than five (5) acres.
  - 6. No building shall be constructed closer than twenty feet (20') to another building. Several dwellings can be located in a building. Each dwelling unit shall have at least one thousand (1000) square feet of floor space.
  - 7. A detailed site plan prepared by a licensed architect or engineer is submitted to and approved by the Planning and Zoning Commission. The plan shall contain the following information:
    - a. Type and name of development, and name and address of owner and developer.
    - b. Legal description of the tract.
    - c. The proposed street, driveway, parking, and building site layout, including areas to be set aside for parks, playgrounds and open space.
    - d. Location and size of all water mains, fire hydrants, sewers, storm drains, and culverts.

- e. Preliminary dwellings of floor plans of typical dwellings along with elevations of such dwellings.
  - f. General planting plans showing the area to be landscaped and types of architectural features to be used.
  - g. Tabulation showing area of land within the development, number of dwelling units to be constructed, and percent of area to be devoted to parks, playgrounds, and open space.
  - h. A declaration of management, policies, covenants and restrictions setting forth the responsibilities and duties of the renter/occupants and the developer/owner of the development.
  - i. Any other data that the Planning and Zoning Commission may require in order to evaluate the proposal.
- C. Mobile homes located on individual lots.
- D. Mobile home parks subject to compliance with Section 15-8 of this chapter.
- E. Accessory buildings, including a private garage for the storage of vehicles owned by persons residing on the premises, greenhouses and swimming pools for private use only, porches, and buildings for storage of personal effects, provided they are not located on any required front or side yard setback.
- F. Schools, churches, hospitals, clinics, day-care nurseries, rest homes, mortuaries, public parks and recreation grounds, utility buildings and structures, subject to review and ~~approval~~ RECOMMENDATION by the Planning and Zoning Commission and the APPROVAL BY THE zoning Board of Adjustment. A site plan in the form of front and side yard setbacks, playgrounds and parking areas, etc, shall be provided for as ~~determined~~ RECOMMENDED by the Planning and Zoning Commission and DETERMINED BY the Zoning Board of Adjustment. The Planning and Zoning Commission MAY RECOMMEND and the Zoning Board of Adjustment may set additional requirements to protect surrounding property values and the residential character of the zone.
- G. Home (and hobby) occupations, provided that:
  - 1. The home occupation is conducted entirely within the main dwelling, or else in an accessory building which contains not more than four hundred (400) square feet.
  - 2. The home occupation is clearly incidental and secondary to the use of the dwelling for dwelling purposes, and does not change the character of the building from that of a dwelling.
  - 3. Not more than the equivalent of twenty-five percent (25%) of the ground floor of the dwelling is devoted to the home occupation.
  - 4. The physical appearance, traffic requirements, noise level, etc. of the home occupation does not depreciate surrounding property values or distract from the residential character of the zone as determined by the ~~Planning and Zoning Commission and the Zoning Board of Adjustment~~ ZONING ADMINISTRATOR.

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5. A site plan is submitted to and approved by the ZONING ADMINISTRATOR ~~Planning and Zoning Commission and the Zoning Board of Adjustment.~~
  5. A salvage yard of any kind is prohibited.
- H. Fences, walls, trees, hedges and gardens, provided they do not obscure the view of motorists at street intersections, or interfere with neighboring properties having a clear view of the street.
- I. No advertising signs of any kind shall be permitted, except for a name plate, or signs pertaining to a home occupation or the sale or lease of residential property provided they do not exceed four (4) square feet in size, and provided such signs are constructed and maintained in harmony with the residential character of the zone.
- J. Customary household pets.
- K. Agriculture, meaning the growing of garden and commercial crops in the customary open field manner, and the temporary pasturing of cattle, horse or sheep. (to qualify as pasture, over fifty percent (50%) of the feed consumed by the animals must be derived from the pasture alone).
- L. The maintenance of livestock under dry-lot conditions. Such livestock shall be limited to domestic animals and chickens, maintained for purposes of home consumption (family food production), youth projects (4-H, FFA, etc.) Or recreational use, in numbers not to exceed one animal unit per one-half (1/2) acre (21,780 square feet) of lot area. Commercial dry-lot feeding of livestock, however, is specifically prohibited. (An animal unit shall be one horse, one cow or one hog, with or without young, or twenty-five (25) chickens, ducks or geese, or twenty-five (25) rabbits). All animals shall be kept within a building, fence or other enclosure.
- M. Barns, pens, coops, feed storage facilities for the care and keeping of permitted livestock, provided (a) such facilities are located on the rear part of the lot, and (b) that no barn, corral or coop shall be constructed closer than two hundred feet (200') to any existing dwelling.
- N. Temporary buildings for uses incidental to construction work, provided such buildings are removed upon completion or abandonment of the construction work, but not for longer than twelve (12) months without specific approval RECOMMENDATION from the Planning and Zoning Commission and the APPROVAL BY THE Zoning Board of Adjustment. Such building shall be no closer to property lines than is allowed a residence in this area. A building permit must be obtained for such temporary buildings.

#### Section 15-6-3 Specific Requirements

- A. The minimum lot size shall be five thousand (5,000) square feet.

Where a private well and septic tank are to be used, the minimum lot size shall be one acre (43,560 square feet), excluding easements.



Where a private well is to be used in conjunction with a community water system, the minimum lot size shall be one half (1/2) acre (21,780 square feet) excluding easements.

Where the lot is to be served by both a community water and sewer system, the minimum lot size shall be ten thousand (10,000) square feet.

B. The minimum lot width shall be fifty feet (50').

C. The minimum front yard setback shall be fifteen feet (15'); except that the setback may be the average setback of dwellings on adjoining or adjacent properties, except in the Babbitt Heights subdivision, where the setback shall be ten feet (10').

D. The minimum side yard setback shall be five feet (5'), except in the Babbitt Heights subdivision, where the setback shall be ten feet (10').

E. There shall be no more than one dwelling per lot except in an approved multifamily development.

F. The open storage of junk, debris and unlicensed vehicles (except behind a sight obscuring fence) is prohibited.

G. All mobile homes shall be skirted with material similar in appearance to the mobile home. The skirting shall completely enclose the space under the mobile home. The mobile home shall be provided with anchors and tie-downs adequate to secure the stability of the mobile home. Siding and tie-downs shall be completed within six (6) months after moving a mobile home into the town limits.

H. The ground floor of all new housing shall be constructed above the one hundred (100) year flood level and at least eight inches (8") above ground level.

I. Certain parking requirement shall be met within the Duncan residential zone.

1. At least two (2) off-street parking spaces shall be provided per dwelling unit.
2. Parked vehicles are prohibited from blocking access and egress to a property or facility.
3. Parked vehicles are prohibited from blocking access to sidewalks, pedestrian access or public rights-of-way.
4. Parked vehicles are prohibited from obstructing the view of on-coming traffic.
5. On-street parking shall be permitted as determined by council from time to time.
6. On-street parking of commercial vehicles is prohibited.

J. In constructing a septic tank in this area, state and county health standards shall be complied with. In addition, the leach line (perforated pipe) shall be laid on a minimum of six feet (6') of coarse rock and shall be covered with a minimum of two feet (2') of gravel over

the pipe and then at least four additional feet (4') of coarse rock. The septic tank system shall include a grease trap and distribution box at the start of the perforated pipe. The complete tank system shall be inspected by the Greenlee County sanitation department prior to backfilling.

ARTICLE 15-7 PUBLIC ZONE (P)

15-7-1	Objectives And Characteristics Of The Duncan Public Zone
15-7-2	Use Requirements
15-7-3	Specific Requirements

Section 15-7-1 Objectives and Characteristics of Public Zone

This zone shall cover any public entity or facility, including, but not limited to, the following: cemeteries, churches, historical buildings/sites, libraries, schools, senior citizen facilities, public utilities, sports facilities, government facilities and parks.

This zone has been established to facilitate the attractive and efficient operation of any public facility. The storage of all equipment and materials must be within a building or sight-obscuring fence. In an effort to protect surrounding residential areas, public facilities which would be hazardous due to excessive noise are prohibited. Brightly lighted, flashing and large overhanging signs and billboards are prohibited. Any public facility shall provide adequate off-street parking, sidewalks, and off-street loading areas and meet local, state and federal health standards. Public facilities are encouraged to ensure an efficient flow of traffic and visually unobstructed intersections. Where a public establishment abuts on an existing residential property, the establishment of a buffer between the property is encouraged. In order to accomplish the above objectives, the following regulations shall apply in the public zone.

Section 15-7-2 Use Requirements

The following buildings, structures, and use of land shall be permitted in the public zone, upon compliance with the requirements set forth in this chapter.

- A. All churches within the Town of Duncan.
- B. All historical buildings and sites within the Town of Duncan.
- C. The Duncan Public Library.
- D. All schools in the Duncan Unified School District.
- E. All cemeteries within the Town of Duncan.
- F. All parks within the Town of Duncan.

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- G. All community or senior citizen facilities within the Town of Duncan.
- H. Any other public facility within the Town of Duncan.
- I. All public use buildings shall be constructed in compliance with the applicable building, plumbing, electrical, fire, fire prevention and mechanical codes. The owner of the public building is subject to the same fees required of other persons. Public buildings are subject to inspection during construction pursuant to these codes to determine compliance.
- J. Public buildings are subject to those codes that apply and are in effect when the building is designed or constructed and to the currently adopted codes when a building is found to be structurally unsafe, without adequate egress, or a fire hazard or is otherwise dangerous to human life.
- K. All uses permitted in the Duncan Public Zone are subject to compliance with the regulations and restrictions required therein.
- L. Other uses ~~not~~ RECOMMENDED by the Planning and Zoning Commission and the APPROVED BY THE Board of Adjustment to be similar to uses specifically permitted in the zone.

### Section 15-7-3 Specific Requirements

- A. No activity shall give rise to excessive dust, odor, noise, smoke, vibrations or intermittent light or glare objectionable beyond the zone.
- B. All building facilities shall be located in permanent buildings of conventional construction, and aligned with neighboring commercial, public or residential buildings, except under emergency conditions.
- C. The storage of materials, equipment or junk outside of a building or sight-obscuring fence is prohibited.
- D. New public facilities constricted, modified or applying for a change of use variance after the effective date of the code shall provide off-street parking at the rate of three (3) spaces per one thousand (1,000) square feet of floor space, except churches which shall have one (1) parking space for each five (5) seating places. The Planning and Zoning Commission MAY RECOMMEND and the Board of Adjustment may approve substitute parking locations and may reduce the amount of off-street parking as the individual situation merits.
- E. Every building constructed, modified or applying for a change of use variance after the effective date of the code and having a gross floor area of two thousand (2,000) square feet or more to which merchandise is regularly received or distributed by vehicle, shall have at least one off-street loading space of not less than ten feet in width, twenty-five feet in length and fourteen feet in height (10' x 25' x 14').

F. New public facilities are required, and existing public facilities are encouraged to put in sidewalks. The construction of sidewalks shall meet the town's construction standards.

G. The ground floor of all new structures shall be constructed above the one hundred (100) year flood levels, in accordance with the national flood insurance programs (FEMA).

H. All applications for a building permit from within this zone shall be approved by the building inspector or the town manager. The ~~Planning and Zoning Commission~~ TOWN CLERK shall approve building permits in the event that either position is unoccupied.

#### ARTICLE 15-8 MOBILE HOME PARK

- 15-8-1 Characteristics and Objectives
- 15-8-2 Specific Requirements

##### Section 15-8-1 Characteristics and Objectives

~~Many families cannot afford a lot and the cost of conventional housing. One alternative for such families is a mobile home in a mobile home park. Likewise, there are families who prefer the mobility, easy installation and other benefits of mobile home living. Residential alternatives must be provided for such families.~~ A mobile home park will be permitted as a "conditional use" in this zone when the following conditions are met and RECOMMENDED ~~verified~~ by the Planning and Zoning Commission and VERIFIED BY the Zoning Board of Adjustment. These conditions have been set to insure that the mobile home park develops as a safe, attractive and efficient residential area that does not distract from the surrounding residential zone. For the purposes of this chapter, a mobile home park is defined as an area divided into mobile home lots for rent, lease or sale to the public and which is restricted to such use through deed restrictions. A mobile home park where lots are to be sold must conform to state and municipal subdivision regulations as well as this chapter.

##### Section 15-8-2 Specific Requirements

The following minimum requirements ("conditions") must be met and ~~verified~~ RECOMMENDED by the Planning and Zoning Commission and the VERIFIED BY THE Zoning Board of Adjustment before a mobile home park can be approved for development or expansion.

- A. A mobile home park shall contain a minimum of two (2) acres in the Duncan Residential (DR) Zone.
- B. The park shall contain no more than eight (8) mobile homes per acre.
- C. Lots shall be designed so as to insure a minimum of thirty feet (30') of open space between adjoining mobile homes. No accessory buildings shall be constructed within this required setback. Lot size is adjustable.

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D. All street and driveways shall be of all-weather (mineral aggregate) construction and meet town construction standards. It shall be the responsibility of the owner and/or developer to maintain those streets within the mobile home park. No entrance to a mobile home park shall be located closer than fifty feet (50') to a street intersection. The street plan shall insure easy access for garbage collection, fire protection, etc.

E. The mobile home park shall be graded and equipped to drain all surface water in a safe and efficient manner.

F. Only one mobile home shall be permitted on each lot. Each lot shall be clearly marked at its corner.

G. Each lot shall have at least two (2) off-street parking spaces of a size not less than eight and one-half by twenty feet (8½' x 20') each.

H. It shall be the responsibility of the mobile home owner and/or developer to provide major utilities (water, sewage disposal, gas and electricity) to each lot prior to the sale of the lot. All utilities shall be underground.

I. Within six (6) months of their location in the park, all mobile homes shall be adequately secured with anchors and tie-downs to prevent shifting and shall be skirted on all four (4) sides with material similar in appearance to the material used to cover the mobile home.

J. The open storage of materials and belongings other than licensed boats and vehicles is prohibited.

K. The developer shall build a fence or plant shrubs or other such vegetation along the outer limits of the park as a buffer to adjoining properties.

~~L. Each mobile home park shall have a laundry facility containing at least two (2) washers and one (1) dryer for each ten (10) mobile home lots in the park.~~

~~M. Double wide mobile homes shall not be mixed with single wide homes. Separate areas shall be set aside for each.~~

~~N. Each lot shall contain a slab of concrete of at least eight feet by twenty feet (8' x 20') located so that it will serve as the main entrance to the mobile home.~~

O. The developer shall provide one (1) fire hydrant for each two (2) acres in the park.

~~P. All mobile home parks shall first be approved by the county health department before a permit can be issued by the Town of Duncan.~~

Q. A site plan must be submitted by the owner/developer and ~~approved~~ RECOMMENDED by the Planning and Zoning Commission and the APPROVED BY THE Zoning Board of

Adjustment before a building permit can be issued and work on the mobile home park initiated. The site plan shall include:

1. The names and addresses of the property owner and developer.
2. Location and legal description of the property on which the mobile home park is to be located.
3. Area dimensions of the tract of land.
4. The location and size of all lots; each lot shall be numbered, the dimensions shown, and whether the lot is to be sold or leased indicated.
5. For each type of lot, indicate the minimum and maximum size of mobile home that will be permitted.
6. The location and width of road and walkways, and the nature of the street and sidewalk improvements to be provided by the park developer and the proposed timetable for such improvements.
7. Plans and specifications for drainage, water supply, sewages and solid waste disposal, the provision of fire hydrants and other utilities, and
8. A copy of deed restriction, if lots are to be sold.

Once the site plan has been approved, developments shall conform to the plan. Any revisions in the size and design of the park must be approved by the ~~Planning and Zoning Commission~~ and Board of Adjustment as an amendment to the site plan before such changes or expansion can be made.

#### ARTICLE 15-9 SUPPLEMENTARY REQUIREMENTS AND GENERAL PROVISIONS

- 15-9-1 Nonconforming Buildings and Uses
- 15-9-2 Drainage
- 15-9-3 Conformance With Site Plans
- 15-9-4 Official Street Map
- 15-9-5 Official Building and Property Numbering System

##### Section 15-9-1 Nonconforming Buildings and Uses

Nothing in this chapter shall affect existing property or the right to its continued use for the purpose for which it was being used on the date this chapter was adopted, nor to any reasonable repairs. Nonconforming buildings and uses shall not, however, be increased nor expanded.

A. Damaged building may be restored: A nonconforming building or a building occupied by a nonconforming use which is damaged or destroyed by fire, flood or other calamity or act of nature, may be restored, provided that such restoration is started within a period of six (6) months from the date of destruction and is diligently prosecuted to completion. Such restoration shall not increase floor space devoted to the nonconforming use over that which prior existed.

B. Discontinue or abandonment: A nonconforming building or lot occupied by a nonconforming use which is discontinued for a continuous period of six (6) months or more

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shall not thereafter be occupied, except by use which conforms to the regulations of the zone in which it is located.

C. Change to conforming use: A nonconforming use or nonconforming building which has been changed to a conforming use or building shall not thereafter be changed back to a nonconforming use or building.

D. Change to another nonconforming use prohibited: A nonconforming use of a building or lot shall not be changed to another nonconforming use whatsoever. Change in use shall be made only to a conforming use.

E. Reclassification of territory: This provision shall apply to land and buildings which hereafter become nonconforming upon the passage of this chapter or which becomes nonconforming due to an amendment to this chapter shall not be built unless construction has taken place thereon to the extent of at least five hundred dollars (\$500) in value by the date on which this chapter or said amendment becomes effective.

#### Section 15-9-2 Drainage

Surface water from roof tops shall not be allowed to drain into adjacent lots except after written agreements between the two (2) parties.

#### Section 15-9-3 Conformance With Site Plans

A use for which approval of site plan is required shall not be expanded or otherwise changed beyond that which was approved in the site plan without such changes first being reviewed by the Planning and Zoning Commission and the Zoning Board of Adjustment.

#### Section 15-9-4 Official Street Map

Under the provisions of Arizona Revised Statutes §9-461.08 (Municipal Planning), the Planning and Zoning Commission is empowered to recommend to the Town Council the adoption of an official street map detailing the legally adopted street names of all roads and streets in the Town of Duncan.

As a general rule, alleyways shall not be named unless or until their usage expands into a general-use thoroughfare and/or residences or buildings are located on said alleyways requiring physical addresses.

The location and names of each of the roads and streets shall be shown on "The Official Duncan Street Map" and said map is hereby declared to be an official record and a part of this chapter. Whenever amendments or changes are made in road or street names, such changes shall be made on the official street map promptly. No amendments or changes shall become effective until after they have been properly noted and attested to on the official street map.

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No changes of any nature shall be in the official street map except in conformity with the procedures set forth in this chapter and in general conformity with procedures pertaining to the official zone map. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided in this chapter.

Regardless of the existence of copies of the official street map, which may from time to time be made or published, "The Official Duncan Street Map", which shall be located in the office of the town clerk, shall be the final authority in determining the names of roads or streets.

Roads or streets shall be named in conformity with the county general plan and shall be coordinated to ensure continuity and consistency, particularly where roads and streets cross from town into county or other boundaries. In case of dispute, the town's naming system shall prevail. Road and street names shall be named so as to best serve the needs of the community for emergency services, including, but not limited to, police, sheriff, ambulance, fire and emergency response units.

The Town of Duncan is responsible to install and maintain street signs, as deemed feasible, at all intersections in order to properly identify the roads and streets within the town.

~~The United States Postal Service does not provide house or building delivery of mail within the town limits of the Town of Duncan. Should they elect to do so in the future, coordination will be made to ensure consistency and continuity in the naming of roads and streets for residential and business delivery of mail.~~

#### Section 15-9-5 Official Building and Property Numbering System

Under the provisions of Arizona Revised Statutes §9-461.08 (municipal planning), the Planning and Zoning Commission is empowered to recommend to the Town Council the adoption of an official numbering map clearly indicating the physical description of properties and buildings by number on streets and roads as shown on the official street map of the Town of Duncan.

Each and every building and property shall be numbered on its respective road or street.

As a general rule, alleyways shall not be numbered unless or until their usage expands into a general-use thoroughfare and/or residences or buildings are located on said alleyways requiring physical addresses.

The numbering of each of the buildings and properties shall be shown on "The Official Duncan Numbering Map" and said map is hereby declared to be an official record and a part of this chapter. Whenever amendments or changes are made in numbering, such changes shall be made on the official numbering map promptly. No amendments or changes shall become effective until after they have been properly noted and attested to on the official numbering map.



No changes of any nature shall be in the official numbering map except in conformity with the procedures set forth in this chapter and in general conformity with procedures pertaining to the official zone map. Any unauthorized change of whatever kind by any person shall be considered a violation of this chapter and punishable as provided in this chapter.

Regardless of the existence of copies of the official numbering map, which may from time to time be made or published, "The Official Duncan Numbering Map", which shall be located in the office of the town clerk, shall be the final authority in determining the numbering of buildings and properties.

Numbering of buildings or properties shall be done in general conformity with the county general plan and shall be coordinated to ensure continuity and consistency, particularly where roads and streets cross from town into county or other boundaries. In case of dispute, the town's numbering system shall prevail. Buildings and properties shall be numbered so as to best serve the needs of the community for emergency services, including, but not limited to, police, sheriff, ambulance, fire and emergency response units.

Numbering of properties shall be done in such a manner as to allow for additional consistent and sequential even or odd numbers for future growth, expansion, sale and/or development.

All numbering and re-numbering shall, insofar as possible, take into account existing traditional and longstanding numbers in order to transition into a coordinated system of numbering within the Town of Duncan as easily as possible.

Wherever a building is located on one or more properties, the owner should generally elect to use the number most consistent with the physical property address; however, the owner may choose any number within the property ownership.

Owners are responsible to ensure that accurate and visible numbers are displayed on the property. These numbers shall be reflective and in conformity with emergency service regulations.

~~The United States Postal Service does not now provide house or building delivery of mail within the town limits of the Town of Duncan. Should they elect to do so in the future, coordination will be made to ensure consistency and continuity in the numbering of buildings and properties for residential delivery of mail.~~

#### ARTICLE 15-10 ADMINISTRATION AND ENFORCEMENT

- 15-10-1 Building Permit Required
- 15-10-2 Plans Required
- 15-10-3 Permit Must Comply With Chapter
- 15-10-4 Construction and Use to Comply With Application
- 15-10-5 Zoning Administrator Appointed
- 15-10-6 Powers and Duties of Zoning Administrator
- 15-10-7 Zoning Board of Adjustment Created

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15-10-8	Organization; Meetings; Records
15-10-9	Powers and Duties of The Zoning Board of Adjustment
15-10-10	May Attach Reasonable Conditions
15-10-11	Authority Limited
15-10-12	Vote
15-10-13	Application to Appear Before the Planning and Zoning Commission
15-10-14	Procedure
15-10-15	Hearing
15-10-16	Action of The Board of Adjustment
15-10-17	Recourse From Decision of Board
15-10-18	Planning and Zoning Created
15-10-19	Powers and Duties of The Duncan Planning and Zoning Commission
15-10-20	Powers and Duties of the Town Council
15-10-21	Responsibility for Violations
15-10-22	Penalties
15-10-23	Amendments to Chapter and Map

### Section 15-10-1 Building Permit Required

Any person or firm desiring to construct, remodel, move or repair a building or structure (plaster and painting excepted) within the town, the value of which exceeds two hundred fifty dollars (\$250) shall make application for a building permit, which shall be approved by the building inspector or the town manager and pay the required fee before commencing construction.

### Section 15-10-2 Plans Required

All applications for building permits shall be submitted on a special form available at the town clerk's office and shall be accompanied by plans, drawn to scale of the work to be done. A careful record of such application and plans shall be kept in the office of the zoning administrator.

### Section 15-10-3 Permit Must Comply With Chapter

The building inspector and town manager shall review the building permit application with the applicant to determine its compliance with this chapter before issuing the permit. No permit shall be issued which would not be in conformance with the provisions of this chapter. Any permit so issued shall be null and void.

### Section 15-10-4 Construction and Use To Comply With Application

Building permits authorize only the use, arrangement and construction set forth in the approved permit and site plan. Any use or construction undertaken in variance with that authorized in the permit shall be deemed to be a violation of this chapter.

### Section 15-10-5 Zoning Administrator Appointed

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A zoning administrator shall be the **TOWN MANAGER OR PERSON** appointed by the mayor and council. **THE PERSON SHALL NOT BE A MEMBER OF THE PLANNING AND ZONING COMMISSION.** Other officers may also be appointed to assist in the administration of this chapter.

#### Section 15-10-6 Powers and Duties of Zoning Administrator

A. ~~It shall be the duty of the zoning administrator to issue building permits.~~

B. It shall be the duty of the ~~zoning administrator~~ TOWN MANAGER AND OR BUILDING INSPECTOR to inspect or cause to be inspected all buildings in the course of construction or repair. He shall enforce all of the provisions of this chapter, entering actions in the courts when necessary; and his failure to do so shall not legalize any act in violation of such provisions.

C. Upon appeal to the Zoning Board of Adjustment of any matters on which said board is required to pass, the zoning administrator shall transmit all papers, records and other permanent data pertaining to the appeal to said Board of Adjustment as required by the terms of this chapter.

#### Section 15-10-7 Zoning Board of Adjustment Created

A Zoning Board of Adjustment shall be created, which shall consist of not less than five (5) members, nor more than seven (7), each to be appointed by the Town Council for a term of three (3) years, provided that the terms of the members of the first board so appointed shall be such that the term of at least one member shall expire each year. Any member may be removed for cause by the Town Council upon written charges and after a public hearing, if such public hearing is requested.

#### Section 15-10-8 Organization; Meetings; Records

The Zoning Board of Adjustment shall organize and adopt rules in accordance with the provisions of this chapter. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. A public notice of all meetings must be posted for at least twenty-four (24) hours prior to the meeting. The chairman or, in his absence, the acting chairman shall conduct all meetings and may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the actions taken by the board, the vote of each member upon each question and the basis (rationale) on which approval or disapproval was given, and shall keep records of its examinations and other official acts, all of which shall be filed immediately in the office of the board and shall be of public record.

#### Section 15-10-9 Powers and Duties of The Zoning Board of Adjustment

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The powers and duties of the Zoning Board of Adjustment shall be limited to three (3) general types, as follows:

It shall have judicial power to interpret the provisions of this chapter.

It shall have administrative power to grant variances.

It shall have the administrative power to grant certain "conditional uses" as permitted in this chapter.

A. Interpret chapter and map: The power of interpretation provides a means whereby applicants who feel that the zoning administrator has misinterpreted the meaning of the chapter may receive relief from such error without having to resort to the courts. The board hears appeals, determines the facts of the case and then applies what is conceived as the proper meaning of the chapter. The Board of Adjustment shall also interpret the zone map and the boundaries thereof in cases of dispute or disagreement.

The board is also empowered to determine, upon appeal in certain zones, whether uses not specifically listed therein are, in fact, similar to those that are listed and thus permissible within the zone. Before the board shall declare a use to be similar to the uses permitted in the zone, it must find that the requested use will be: (a) consistent with the objectives and characteristics of the zone in which the use is to be located, and (b) similar to permitted uses as to function, service and traffic demands and the emission of smoke, dust, vibration, light, etc.

B. Grant variance: The Board of Adjustment has the power to grant variances from the terms of the chapter where, due to the exceptional narrowness, shallowness or shape of a specific piece of property at the enactment of this chapter or to exceptional topographic conditions of the property, a literal enforcement of the provisions of this chapter would result in unnecessary hardship upon the applicant. Before any variance may be granted, however, the board must find that all of the following conditions are present:

1. Having to adhere strictly to the letter of the chapter will cause difficulties and hardships upon the petitioner which are unnecessary in order to carry out the purposes of this chapter.
2. Special circumstances are attached to the property covered by the application that do not apply to other property in the same zone.
3. That because of said special circumstances, property covered by the application is deprived of privileges possessed by other properties in the same zone; and that the granting of the variance is essential to the enjoyment of property rights possessed by the other properties in the same zone.
4. That the difficulties and hardships were not created by any act of the appellant subsequent to the effective date of the regulation appealed from.

C. Grant certain "conditional uses": There are certain special uses which are permitted within particular zones only after review and approval by the Board of Adjustment.

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Accordingly, the Board of Adjustment shall hear and decide such requests, but only when authorized to do so under the terms of this chapter. In deciding whether or not to grant a conditional use, the board shall be guided by the conditions set forth or referred to in this chapter. These conditions shall be deemed minimum requirements that must be complied with in protecting the public interest before the use can be approved. Examples of conditional uses allowed by this chapter are home occupations, mobile home and travel trailer parks, and churches and schools in residential areas.

### Section 15-10-10 May Attach Reasonable Conditions

The Board of Adjustment, subject to the provisions and restraints of this chapter, may attach other reasonable conditions or requirements to the grant of a variance for approval. A time limit of one year shall be attached to the exercise of any variance or conditional use unless specifically extended by action of the board. If action is not taken by the applicant within that time, the variance or conditional use becomes void.

### Section 15-10-11 Authority Limited

The powers and duties of the Board of Adjustment are limited to judicial and administrative matters as set forth in this chapter. The Board of Adjustment shall not have the authority to amend this chapter nor to correct what it may consider to be an unwise requirement.

### Section 15-10-12 Vote

The concurring vote of a majority of the members of the Board of Adjustment shall be necessary to decide on any matter upon which it is required to pass under this chapter.

### Section 15-10-13 Applications To Appear Before the Planning and Zoning Commission

Any person may appeal to the Planning and Zoning Commission for a variance or conditional use by filing a request in writing with the building inspector or town manager and paying a fee of ten dollars (\$10). The request must specify the ground upon which the appeal is being made and must be submitted within thirty (30) days from the grant or refusal of a building permit by the building inspector or town manager. All or a portion of the ten dollar (\$10) fee may be refunded by action of the Planning and Zoning Commission dependent on the costs incurred.

### Section 15-10-14 Procedure

Upon receipt of the application, the zoning administrator shall transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken. The appeal shall stay all proceedings in the matter appealed from, unless the officer from whom the appeal is taken certifies to the board that a stay would, in his opinion, cause imminent peril to life or property.

### Section 15-10-15 Hearing

The Board of Adjustment shall fix a time for the hearing of the appeal, give public notice thereof as required by law and shall decide the same within a reasonable time. Where a variance or conditional use is requested, written notice shall be given to all property owners within one hundred fifty feet (150') of the property under question.

The intent in requiring a hearing is to enable the Board of Adjustment to obtain facts surrounding the case which may not be evident or which may not be shown in the record as submitted to the board. The decision of the board shall be based upon the facts and not upon the expressions of support or protest, or lack of support or protest, which may be made at the hearing. Any party may appeal to the hearing in person or by agent or by attorney.

#### Section 15-10-16 Action of The Board of Adjustment

The Board of Adjustment shall make determinations in harmony with the provisions of this chapter; and shall file its decision as public record in the office of the board.

#### Section 15-10-17 Recourse From Decision of the Board

Any person, taxpayer or municipal officer aggrieved by any decision of the Board of Adjustment may at any time within thirty (30) days after the filing of the decision, petition a writ of certiorari for review of the board's decision. Allowances of the writ shall not stay proceedings upon the decision appealed from, but the court may for good cause grant a restraining order, and on final hearing may reverse or affirm, wholly or partly, or may modify the decision reviewed.

#### Section 15-10-18 Planning and Zoning Commission Created

- A. The Planning and Zoning Commission shall be created, which shall consist of not less than five (5) members, not more than seven (7), each to be appointed by the Town Council for a term of three (3) years, provided that the terms of the members of the first board so appointed shall be such that the term of at least one member shall expire each year. Persons desiring to serve on the Planning and Zoning Commission shall submit a written application to the Town Clerk. No member shall serve no more than 2 consecutive terms; no member shall be from the same immediate family or household. Any conflict between the by-laws that may be adopted from time to time by the Planning and Zoning Commission and this ordinance shall be governed by this ordinance.
- B. Planning and Zoning Commission shall meet the 1<sup>st</sup> Wednesday of every quarter; unless there is a special need called by the Mayor or Town Manager. All meetings shall be open to the public in accordance with the Arizona Statutes. The minutes of all meetings shall be taken by a Town Clerk, showing the actions taken by the Commission, the vote of each member upon each question and the basis (rationale) on which approval or disapproval was given, and shall keep records of its examinations

and other official acts, all of which shall be filed immediately in the Office of the Town Clerk and shall be public record.

C. in accordance with Arizona Statutes, the planning and zoning commission shall:

1. Develop and maintain a General Plan;
2. Develop such specific plans as may be necessary to implement the General Plan;
3. Periodically review the Town's Capital Improvement Program; and
4. Perform such other planning functions as the Town Council may request.

D. The Planning and Zoning Commission is an administrative department of the Town, however, the Town Council shall direct its activities and appoint its members. The Planning and Zoning Commission shall have the powers necessary to enable it to fulfill its planning functions, including the ability to contract for, receive and utilize any grants or other financial assistance made available by the Town of Duncan or other municipality, a county, state or federal government; or contract with the state or federal government and any of its agencies, or the legislative body of any municipality or county.

#### Section 15-10-19 Powers and Duties of the Town Council

The Town Council may amend, change or modify any provisions of the zoning chapter or map provided:

- A. Provided that it complies with the Arizona Revised Statutes.
- B. A public hearing is held thereon as required.

No substantial change in or departure from the recommendations of the Planning and Zoning Commission can be made after such public hearing, unless the change or departure be first resubmitted with comments to the Planning and Zoning Commission for its reconsideration and recommendations. Upon receiving the reconsidered recommendations from the Planning and Zoning Commission, the Town Council may overrule the Planning and Zoning Commission.

#### Section 15-10-20 Responsibility For Violation

It shall be the duty of all contractors, subcontractors, builders and other persons having to do with the establishment of any use of land or the erection, altering, changing or remodeling of any building or structure to make sure that a proper permit has been obtained before work is begun on any project for which a permit is required. Any such architect, builder, contractor or other persons doing or performing any such work without a permit having been issued

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shall be deemed guilty of violating this chapter in the same manner and to the same extent as the owner of the premises and shall be subject to the penalties herein prescribed for a violation.

#### Section 15-10-21 Penalties

Any firm, corporation, person or persons violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in any sum less than three hundred dollars (\$300), or by imprisonment in the county jail for any term not exceeding ninety (90) days, or by both such fine and imprisonment.

Each day of violation a separate violation: each person, persons, firm or corporation found guilty of violations shall be deemed guilty of a separate offense for every day during which any violation of any provision of this chapter is committed, continued or permitted by such person, persons, firm or corporation and shall be punished as provided in this chapter. The imposition of any sentence or fine shall not exempt the offender from compliance with the requirements of this chapter.

#### Section 15-10-22 Amendments to Chapter and Map

This zoning chapter, including the zoning map, may be amended. All proposed amendments shall be submitted first to the Planning and Zoning Commission for its recommendations, and such recommendations shall then be submitted to the Town Council for its consideration within a reasonable time.

A. Any person seeking an amendment of this zoning chapter or map shall submit to the Planning and Zoning Commission a written application stating the change desired and the reasons therefore, and shall pay a filing fee of thirty-five dollars (\$35) to the town. Upon receipt of the application and the payment of the filing fee, the Planning and Zoning Commission shall consider the request and shall make its recommendations to the Town Council. The fee required herein shall not be returned to the APPLICANT application.

B. The Planning and Zoning Commission and Town Council may initiate amendments to this chapter without payment of the filing fee.

C. Intent with respect to amendments: It is hereby declared to be public policy that this chapter shall not be amended unless it can be shown that changed or changing conditions make the proposed amendment reasonably necessary to the promotion of the purposes and intent of this chapter.

D. Public hearing required before amending; notice: Amendments to this chapter may be adopted only after a public hearing in relation thereto before the Town Council at which parties in interest and citizens shall have an opportunity to be heard. A notice of the time and place of such hearing shall be published in a newspaper of general circulation within the town as required by law. In addition, a written notice shall be given to all property owners within one hundred fifty feet (150') of the property for which a zoning change is being requested.



ARTICLE 15-11 SUBDIVISIONS

15-11-1	Title
15-11-2	Purpose
15-11-3	Application
15-11-4	Procedure for Obtaining Approval of a Subdivision
15-11-5	Preliminary Plat Requirements
15-11-6	Final Plat Requirements
15-11-7	Design Standards
15-11-8	Improvement Standards
15-11-9	Penalty

Section 15-11-1 Title

This chapter shall be known as the "Duncan Subdivision Regulations."

Section 15-11-2 Purpose

These subdivision regulations are hereby adopted to provide for the orderly growth and harmonious development of the Town of Duncan; to secure adequate provisions for water supply and distribution, drainage and flood control, sanitary sewage and other health safeguards; to insure adequate access and traffic circulations and establish minimum standards for construction of roads, streets, alleys, curbs and gutters; to encourage well planned subdivisions by establishing design standards which reflect the environmental characteristics and capabilities of the land; to promote conveyance of land by accurate legal description; to achieve lots of reasonable utility and livability; to insure consideration of sites for schools, recreation areas and other public facilities; and secure adequate handling of all subdivision plans by providing uniform procedures and standards.

Section 15-11-3 Application

No person, firm, corporation or other legal entity shall hereafter sell, offer to sell or divide any lot, piece or parcel of land within the Town of Duncan which constitutes a subdivision or part thereof, as defined by this chapter, until a tentative plat and a final plat of the subdivision have been approved and recorded in accordance with the provisions of these subdivision regulations.

A. Minimum requirements: The provisions of this chapter shall be held to be the minimum requirements needed to protect the health, safety and welfare of the present and future inhabitants of the Town of Duncan. This chapter shall not interfere with or annul any chapter, provision of law, deed restrictions or other agreements between parties which impose a greater restriction than is required by this chapter. This chapter shall prevail, notwithstanding, over restrictions or provisions which are less restrictive.

B. Zoning: All proposed subdivisions shall be designed to meet the requirements for the zoning district within which it is located. In the event that an amendment or variance of zoning is necessary, said action shall be initiated by the property owner or his authorized agent at the time the plat is submitted.

C. Variances: The Town Council may grant a variance from the terms of these subdivision regulations when, because of physical conditions unique to the subdivisions, literal enforcement of the provisions would result in hardships to the subdivider which are necessary in order to carry out the purposes of this chapter. The variance shall not be used to grant a special privilege.

D. Appeals: The Town Council shall hear and decide appeals where it is alleged that an error has been made by the Duncan Planning and Zoning Commission or any official in the administration of these subdivision regulations. The appeal shall be made in writing and filed with the town clerk setting forth the particulars and the reasons for the appeal.

#### Section 15-11-4 Procedure for Obtaining Approval of a Subdivision

A. Review of initial proposal recommended: In order to avoid costly and unnecessary revisions, the sub divider is urged to consult informally with ~~THE members of the Duncan Planning and Zoning ADMINISTRATION Commission~~ before preparing the preliminary plat and formal application for its approval. This will enable him to become familiar with the provisions of this chapter and other regulations which might affect the area.

B. Submit preliminary plat: The sub divider shall prepare a preliminary plat of the subdivision and shall submit five (5) copies of the plat, and additional copies as may be required, to the commission. The preliminary plat, letter of intent and other requirements shall be prepared and submitted as prescribed in section 15-11-5.

C. Review of preliminary plat: The ZONING ADMINISTRATOR ~~commission~~ will obtain recommendations from the town's engineers, ~~the Arizona State Department of Health Services~~, the Greenlee County Health Department, the County planning department, utility companies and other groups ~~it~~ HE/SHE wishes to consult. Approval of the preliminary plat shall be REVIEWED BY THE PLANNING AND ZONING COMMISSION based upon compliance with the standards specified in this chapter and the "Duncan Zoning Chapter" and other conditions deemed necessary by the commission. The Town Council shall have the power to overrule the commission's RECOMMENDATION. ~~approval or disapproval.~~

Actions of the commission shall be written on the face of two (2) copies of the plat, one to be maintained in the files of the town clerk and the other returned to the subdivider to proceed with the preparation of the final plat. Approval of the tentative plat shall be effective for one year, but may be extended upon written request by the subdivider and approval of the commission.

C. Final plat preparation and presentation: The subdivider shall prepare a final plat based on the approved preliminary plat, and shall submit the original tracing (or a reproducible copy) and four (4) prints of the plat to the commission. The final plat and accompanying certificates and exhibits shall be prepared and submitted as prescribed in Section 15-11-6-B.

D. Review of final plat by commission: The commission shall hold a public hearing as required by law. With the recommendation of the town's engineer, the commission shall review, ~~approve or disapprove~~ RECOMMEND OR NOT RECOMMEND the plat with modifications. Approval of the final plat shall be based upon compliance with the preliminary plat and the standards and conditions for approval set forth in this chapter.

E. Guarantee of performance must be given: Before approval of the final plat by the Town Council, the subdivider shall post a bond with the town clerk, as prescribed by this chapter, guaranteeing that the proposed improvements will be installed and paid for without cost to the town within two (2) years from the date of approval.

F. Approval of final plat: Once reviewed by the commission, the final plat is submitted to the Town Council with the commission's recommendations. The council shall hold the required public hearing and shall either approve or disapprove the plat. If the plat is approved, the mayor or his representative shall sign the plat and return a copy to the subdivider. If the plat is not approved, the council shall advise the subdivider in writing of such disapproval and the reason or reasons for such disapproval.

G. Recording the plat: Upon approval of the final plat by the council, the subdivider shall submit the final plat, bearing all required signatures and approvals, to the Greenlee County Recorder. No lot shall be sold within such subdivision until the plat has been approved and recorded.

H. Completion of improvements: Following completion of required improvements, a certificate shall be filed with the Town of Duncan by a registered engineer in the state certifying that such improvements have been made under his direction in accordance with the provisions of these subdivision regulations and the final plat as approved. Upon receipt of this certification, the town's engineer shall conduct a final inspection of said improvements and report on such to the Town Council. The council may then declare that the improvements are completed in accordance with all requirements and release the guarantee of performance bond.

In the ~~even~~ EVENT that the sub divider fails to fulfill these conditions, the Town Council may, after reasonable notice to the sub divider of default, take whatever steps are within its power to require compliance deter further land sales or make claim to the forfeited securities provided for such improvements.

#### Section 15-11-5 Preliminary Plat Requirements

A. Letter of intent – to include:

1. Name, general location and legal description of subdivision.
2. Name and address of all persons having a legal interest in the subdivision.
3. Total acreage, time table for development, proposed number of lots and their proposed use and typical lot size.
4. A statement regarding the conditions of the sub divider's title to the land comprising the subdivision, including mortgages, easements, deed restrictions, trusts, etc., and a statement of current property taxes.
5. A statement regarding present and proposed access to the subdivision.
6. A statement regarding the present availability of water, sewage and solid waste disposal, utilities, drainage, streets, schools, medical facilities, police and fire protection and other community services to the subdivision.
7. Statement regarding the proposed method of sewage and solid waste disposal, supply of water, gas, electricity, telephone and other utilities, fire and police protection, schools, drainage and flood protection, street construction, culverts, fire protection (hydrants), street lights, lot staking, street signs and other proposed facilities and improvements. The statement should clearly indicate which of these improvements are to be constructed and provided by the subdivider and their estimated dates of completion.

B. Preliminary plat content:

1. Form: scale of one inch equals fifty feet (1" = 50'), one inch equals one hundred feet (1" = 100') or one inch equals two hundred feet (1" = 200') as necessary in clearly showing required details.
2. Boundary lines of the subdivision, with reference to survey markers and monuments.
3. The locations of all existing streets, trails, canals, ditches, dikes, buildings, easements, utilities and other improvements within proposed subdivision and within two hundred feet (200') of the subdivision. The plat should clearly distinguish between existing and proposed improvements.
4. Boundaries of all natural drainage ways and storm water overflow areas accompanied by a detailed engineering report indicating area of watershed, peak volume, frequency, direction and velocity of expected water flow for each of these drainage ways. (All calculations shall be included as an attachment to the plat.) The plat and accompanying materials shall clearly show how the subdivider plans to provide for drainage within the subdivision, based on the drainage design criteria set forth in section 15-12-8-d.
5. Topographical contours on two foot (2') or five foot (5') gradients.
6. Approximate lot boundaries, with typical minimum lot sizes for each type of proposed lot, and their purposed use and desired zoning.
7. Location, date and results of soil percolation tests.
8. The approximate location and size of proposed streets (with names), easements, water and sewer lines, drainage ways, utility lines, areas reserved for parks, schools, etc., and other improvements.

C. Additional requirements:

1. Processing fee of twenty-five dollars (\$25) or two dollars (\$2) per lot, whichever is greater.
2. Copy of all data and reports submitted to Arizona water commission in accordance with A.R.S. 45-513 regarding water availability and quality.
3. Copy of all deed restrictions, covenants, etc., under which lots will be sold.
4. U.S. Geological Service quadrant maps of subdivision and surrounding area, to include location of all existing and proposed access roads to the subdivision and the ownership of all lands crossed by the access roads.
5. Design and engineering specifications for any new access roads to be constructed by subdivider.

#### Section 15-11-6 Final Plat Requirements

The final plat may be submitted for approval progressively in contiguous units, each as a separate final plat.

##### A. Final plat content:

1. Form: a clear polyester film or linen tracing cloth drawn with India ink on sheets twenty-four inches by thirty-six inches (24" x 36") at a scale of either one inch equals fifty feet (1" = 50'); or one inch equals one hundred feet (1" = 100'); or one inch equals two hundred feet (1" = 200') such that all necessary details may be clearly shown. When two (2) or more sheets are submitted a key shall be provided.
2. Accurately drawn boundaries showing the proper bearings and dimensions of all boundary lines and corners of the subdivision, properly tied to identify public survey monuments.
3. Subdivision boundary lines fully balanced and closed, showing right-of-way lines of street, drainage ways, utility easements and other rights-of-way and property lines of all lots and other sites; with accurate dimensions, bearings or deflection angles and radii, arcs, semi-tangents and central angles of all curves.
4. Location of monuments, lot corners and other survey points in place.
5. Location and size of existing and proposed utilities.
6. All proposed streets shall be named, the purpose of all easements indicated, all drainage ways designated as such and dedicated to the public, parks and other parcels set aside for public use labeled and the proposed zoning indicated.
7. Each lot shall be numbered and each block shall be numbered or lettered.

##### B. Accompanying certificates and exhibits required:

1. A certificate signed by all persons holding title to the subdivision offering for dedication all street, alleys, drainage ways, easements and other parcels for public use, as shown on the final plat.
2. Certification by a registered engineer or land surveyor in the state to the effect that the plan represents a survey made or certified by him and that all

monuments shown on the plat actually exist and that their location, size and materials are correctly shown.

3. Certification by a registered engineer or land surveyor in the state that all lots are staked or will be staked, following the street construction work specified, but prior to the sale of the lot. To include description of the type of marker used.
4. Certification by the director of the Greenlee County Health Department that the final plat has been checked and is in conformance with the state's health standards.
5. Letter addressed to the mayor and council describing in detail the extent, nature and schedule for the completion of all proposed improvements to be provided within the subdivision, to include detailed engineering specifications and cost estimates prepared by a registered engineer in the state. (Cost estimates shall be in the amount which would be necessary for the Town of Duncan to construct such improvements in the event the sub divider defaults.)
6. A copy of private deed restrictions, if any, to be imposed upon the plat or any parts thereof, in form for recording.
7. A copy of the report prepared by the Arizona water commission, in accordance with A.R.S. 45-513, stating that an adequate supply of water exists for the projected needs of the subdivision.
8. Certification in writing from all involved utility companies approving the utility installation and confirming the availability of services.
9. A contract to be entered between the Town of Duncan and the sub divider wherein a bond is provided to guarantee the performance of the proposed improvements. The bond shall be in an amount adequate to cover inflation, inspections and other added costs that would accrue to the Town of Duncan in providing such improvements. The duration of the bond shall be for two (2) years from the date of approval of the final plat by the Town Council.

#### Section 15-11-7 Design Standards

##### A. General principles:

1. The commission shall not approve the subdivision of land if, from adequate investigations, it has determined that said land is not suitable for development due to flooding, poor drainage, steep slopes, etc.
2. It is strongly urged that significant natural features such as trees, cacti, watercourses, historical and archaeological sites and similar community assets be preserved.
3. At least two (2) dedicated public roads meeting Town of Duncan construction standards shall be provided from an existing public road to the land being subdivided.

##### B. Streets:

1. The arrangement of streets shall provide for the continuation of existing streets in adjoining areas.
2. Half-streets or partial with rights-of-way shall be discouraged except to complete an already existing street pattern.
3. Local streets shall be so arranged as to discourage their use for through traffic.
4. The sub divider shall provide for adequate railroad, canal and other public or private utility crossings.
5. Streets shall be designed to follow the natural contours and topography, so as to produce desirable lots of maximum utility and facilitate adequate drainage.
6. Minimum required street right-of-way and roadway widths shall be:

<u>Street Type</u>	<u>Right-of-Way</u>	<u>Roadway</u>
Arterial	150 feet	64 feet
Section line	100 feet	64 feet
Mid-section line	80 feet	64 feet
Collector	60 feet	64 feet
Local	50 feet	64 feet
Service roads	40 feet	64 feet

7. Cul-de-sac streets shall terminate in a circular right-of-way turn-around area of at least a fifty foot (50') radius and shall not exceed six hundred feet (600') in length.
8. Dead-end streets shall not be approved where more than four (4) lots are to be served.
9. Water and sewer lines shall not be placed in roadbed.
10. There shall be a minimum grade of twenty-five hundredths percent (0.25%) on all streets; a maximum grade of seven percent (7%) on arterial, section, mid-section and collector streets and ten percent (10%) on local streets.
11. All streets intersecting an arterial, section or mid-section street shall do so at a ninety degree (90°) angle; intersections of collector and local streets shall not vary from ninety degrees (90°) by more than fifteen degrees (15°). Intersections with more than four (4) legs and "y" type intersections shall be prohibited.
12. Street jogs with centerline offsets of less than one hundred thirty-five feet (135') shall be prohibited.
13. At street intersections, property line corners shall be rounded with a radius of twenty-five feet (25') or greater.
14. Proposed street names shall be subject to approval by the commission and shall not duplicate an existing street name within the area.
15. Subdivision streets shall meet minimum construction standards for subgrade, road base, surfacing and drainage as set forth in section 15-11-8-A.

C. Alleys:

1. Alleys shall be provided in residential and commercial areas, except that the commission may waive this requirement where other definite and assured provision is made for service access.
2. The width of alleys shall be sixteen feet (16') in residential areas and twenty feet (20') in areas intended for multiple-family or commercial use. Dead-end alleys are prohibited.

D. Drainage:

1. The classification and design of drainage ways and designation of design storm frequencies shall be based upon the contributing watershed drainage area as follows:

<u>Class</u>	<u>Watershed Area</u>	<u>Design Storm</u>
Major	more than 2,500 acres	50 year flood
Secondary	600 to 2,500 acres	25 year flood
Minor	150 to 600 acres	10 year flood
Local	less than 150 acres	2 year flood

2. Drainage ways, channels and road crossings shall be capable of safely passing flows resulting from the required "design storm" over the contributing drainage area.
3. For arterial, section line, mid-section line and collector streets, major and secondary drainage ways resulting from a ten (10) year storm with adjoining overflow sections (dips) for "design storm" flows exceeding this amount; minor and local drainage way crossings shall be culverted and capable of passing flow resulting from a two (2) year storm with adjoining overflow sections for all "design storm" flows exceeding this amount.
4. For local streets: minor, secondary and minor drainage way crossings shall be culvert and capable of passing flows resulting from a two (2) year storm with adjoining overflow sections (dips) for "design storm" flows exceeding this amount; local drainage way crossings may be carried in dips properly designed and stabilized for the "design storm" flow.
5. Roadside ditches shall be capable of handling the flow resulting from a two (2) year storm.
6. Channel flow velocities shall not exceed that generally accepted as "non-erodible" for the type of soil and/or channel lining. In cases where the flow velocity is such that substantial erosion is likely, drop structures shall be constructed.
7. All overflow and dip sections shall be stabilized with cement or asphalt to prevent erosion and to maintain a stable roadbed under overflow conditions.
8. Banks, slopes of channels and roadbeds are to be protected or stabilized to prevent excessive erosion.



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9. All drainage ways shall be dedicated to the public and shall follow substantially the natural watercourse. Such drainage way easements shall be of adequate width to permit widening, deepening or protecting of the drainage way.
10. Drainage ways, drainage easements and channels shall be capable of safely passing flows resulting from a storm have a re-occurrence interval of fifty (50) years whenever such drainage ways are located at a place other than its natural watercourse.

### E. Easements:

1. Utility easements of at least sixteen feet (16'), or eight feet (8') of each side of lot lines, shall be provided to all subdivision lots on or along rear or side lot lines.
2. Land within a dedicated drainage way, street, alley or major power utility easement shall not be allowed within the boundary of a lot.
3. Pedestrian ways with right-of-way width of at least sixteen feet (16') may be required where essential to access to schools, playgrounds and other community facilities.

### F. Utilities: All utilities shall be located underground.

### G. Blocks:

1. The maximum length of blocks shall be one thousand five hundred feet (1,500') and the minimum four hundred feet (400').
2. The width of blocks shall be sufficient to allow two (2) tiers of lots.

### H. Lots:

1. Lot area, width, setbacks, etc., shall conform with zoning requirements.
2. Every lot shall abut on a dedicated public street.
3. Prior to sale of any lots, all lot corners shall be marked with pipe or iron stakes at least fifteen inches long and one-half inch in diameter (15" x 1/2").
4. Lots shall not contain peculiarly shaped elongations solely to provide necessary square footage which would be unusable for normal purposes.

## Section 15-11-8 Improvement Standards

### A. Required street improvements: All subdivision streets shall be designed and constructed in conformance with the Town of Duncan Construction Standards:

1. All roadside areas and street sub grades shall be cleared and graded to a uniform and approved cross-section and compacted to the densities specified in the Town of Duncan construction standards.
2. Base course (roadbed) of the specified material, quality and construction shall be installed in accordance with the Town of Duncan construction standards

"depth of base course" chart, based on laboratory tests of the sub grade material.

3. All subdivision streets shall meet or exceed the town's standards for "road-mixed" surfacing, except that within a mobile home park, roads of all weather construction (mineral aggregate) will be permitted. "Modified pavements" (double bituminous surface treatment) may be substituted for "road-mix" surfacing, with the approval of the council, where the sub divider can show that such pavement will be as durable as road mix.
- B. Curbs and gutters: Vertical curbs and gutters shall be required in those areas where average lot size will be under twenty-two thousand (22,000) square feet. In such areas, curbs and gutters shall be installed before a building permit can be issued. Wherever installed, curbs and gutters shall be constructed in accordance with the Town of Duncan Construction Standards.
- C. Sidewalks: Sidewalks shall be required in those areas zoned "business." Sidewalks, whenever installed, shall be constructed of Portland cement concrete in accordance with the Town of Duncan Construction Standards.
- D. Alleys: All alleys shall be graded and surfaced with mineral aggregate (all weather construction) in accordance with the Town of Duncan Construction Standards.
- E. Drainage ways: All street gutters, dips, overflow sections and channels used for drainage onto or from a street surface shall be lined with a non-erosive material. All bridges, culverts, catch basins, retaining walls and other drainage improvements shall be constructed according to the Town of Duncan Construction Standards.
- F. Lot corner staked: Pipe or iron stakes at least fifteen inches long and one-half inch in diameter (15" x 1/2") shall be set at all corners, angle points and points of curvature for each lot within the subdivision, except for those points at which a monument is found or installed.
- G. Engineering plans required:
1. It shall be the responsibility of the sub divider to have prepared, by a professional engineer registered to practice in the state of Arizona, a complete set of engineering plans for all the proposed subdivision improvements. Such plans shall be based on the approved preliminary plat and shall be approved by the town's engineer prior to start of construction.
  2. Plans shall be prepared on standard fas plan or profile paper at a scale not smaller than one inch equals fifty feet (1" = 50').
  3. The depth of roadway base material required shall be established after testing and analysis of the sub grade soil at locations not more than five hundred feet (500') apart, or closer if so directed by the commission. The testing and analysis of the sub grade soil as well as the road construction materials to be used shall be conducted by an approved laboratory. A copy of the results showing the plasticity index and gradation of all samples taken and the findings

of all other materials and construction test shall be submitted to the commission with the engineering plans. The cost of all such sampling and tests shall be borne by the sub divider.

4. Street, sewer, water and drainage plans shall show natural ground profile and elevations and grade of the improvements. The basis of the elevation datum shall be given.
5. Street plans shall show depths of base and surfacing material; sizes, types and locations of features and structures for proper drainage; and adequate detail plans of all structures. Other plans shall show the location, size, type, construction and material of the improvement. Typical construction details and section shall be included in all cases.

H. Construction and inspection:

1. The ZONING ADMINISTRATOR ~~commission~~ shall be notified at least ten (10) working days prior to the start of construction of any required improvements.
2. All improvements shall be constructed under the general inspection and approval of the Town Council and their engineer OR ~~of~~ appointed representative. Primary control over the quality of construction, however, remains with the sub divider. Inspection by representatives of the Town Council will not eliminate the need for the regular inspection during the construction by the sub divider's project engineer. Upon completion of the improvements, certification by a registered engineer that all work has been completed in accordance with the approved plans and specifications is required.
3. All sewer, water and gas lines shall be inspected before covered.
4. Subdivision streets will be accepted for maintenance by the Town of Duncan only when they meet the minimum requirements of the town's construction standards and all applicable provisions of these subdivision regulations.

I. Improvement security: to insure construction of the required improvements, the sub divider shall post a surety bond with the Town of Duncan as beneficiary in an amount sufficient to cover all costs, including engineering, inspection and construction plus an allowance for inflation. The bond shall be deposited with the Town Council prior to final plat approval.

J. Health standards:

1. The subdivision must conform with all rules and regulations of the Arizona state department of health services and must be inspected and approved by the director of the Greenlee County Health Department.
2. No subdivision will be approved if the Arizona Water Commission reports the subdivision's water supply inadequate.
3. No building permit shall be issued for any subdivided lot of twenty one thousand seven hundred eight to forty three thousand (21,780 to 43,000) square feet in size until it is served by an approved community/public water or sewer system constructed, operated and maintained in accordance with county

and state health regulations. No building permit shall be issued for any subdivided lot of ten thousand (10,000) square feet or less until it is served by both an approved community/public water and sewer purchase.

4. The sub divider shall arrange for garbage disposal within the subdivision in conformance with county and state health regulations.

#### Section 15-11-9 Penalty

Any person, firm or corporation who shall transfer or sell any lot or land in a subdivision, as defined in this chapter, which subdivision has not been approved by the Duncan Town Council, and recorded in the office of the Greenlee County Recorder, shall be guilty of a misdemeanor for each lot or parcel so transferred or sold, and upon conviction thereof shall be punishable 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 is permitted to exist may constitute a separate offense. The imposition of any sentence or fine shall not exempt the offender from compliance with the requirements of this chapter.

### ARTICLE 15-12 FAIR HOUSING

15-12-1	Declaration of Policy
15-12-2	Enforcement Committee
15-12-3	Prohibited Acts
15-12-4	Procedures, Powers and Enforcement
15-12-5	Penalties
15-12-6	Administrative Provisions
15-12-7	Conciliation Agreement Violations
15-12-8	Power of Subpoena

#### Section 15-12-1 Declaration of Policy

It is declared to be among the civil rights of the people of the Town of Duncan, Arizona, to be free from discrimination in housing and it to be contrary to the policy of the town and unlawful to discriminate against any person because of sex, race, color, creed, national origin or ancestry in housing.

#### Section 15-12-2 Enforcement Committee

A. The Town of Duncan shall establish a housing committee appointed by the mayor and Town Council.

B. Each committee member shall serve for a term of one (1) year and until his/her successor is appointed. One of the members of the committee shall be elected by the members of such committee to be the chair of the committee.

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- C. All communications authorized or required to be lodged with a committee shall be furnished to the chair or the committee, or, in his/her absence, any one of the committee members.
- D. Any orders or finding issued by a committee may be over the signature of any one of the members.
- E. A quorum of the committee shall be necessary for the conducting of any vote. A quorum shall consist of a majority number of the members of the committee.
- F. A majority of the full committee shall be required on any vote taken for any proposed action to be effective.
- G. All findings or orders of the committee shall be filed with the town attorney's office and upon such filing shall be deemed public records of the town.
- H. This committee shall be considered to be a subcommittee of the Town of Duncan and must comply with the state of Arizona open meeting laws.

#### Section 15-12-3 Prohibited Acts

- A. For any person, including but not limited to owners, leasees, agents, real estate brokers, real estate salespersons, trustees, mortgages, financial institutions, title companies or insurance companies:
  - 1. To discriminate against any person because of sex, race, color, religion, ancestry or national origin in the sale, lease, rental or other transfer of interest in housing.
  - 2. To so discriminate in the extension of loans, credit, insurance or other services relating to the transfer of interest in housing.
  - 3. To print or circulate, or cause to be printed or circulated, any publication, or the use of any form of application or to make any inquiry in connection with prospective sales, leases, rentals or transfers of interest in housing, or the extension of credit, loans, insurance or other services relating to the transfer in interest in housing, which expresses directly or indirectly any limitation, specification or discrimination as to sex, race, color, religion, ancestry or national origin, or expresses any intent to make such limitation, specification or discrimination.
- B. To refuse to receive or transmit a bona fide offer to sell, purchase, exchange, rent or lease any housing from or to a person because of his/her sex, race, color, religion, ancestry or national origin.
- C. To refuse to negotiate for the sale, purchase, exchange, rental or lease of any housing to a person because of his/her sex, race, color, religion, ancestry or national origin.

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D. To represent to a person that any housing is not available for inspection, sale, purchase, exchange, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing because of his/her sex, race, color, religion, ancestry or national origin.

E. For any reason to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this section or to attempt to do so.

F. For any person to go upon the premises of another for the purpose of abusing the occupants thereof by the use of language or conduct which reflect unfavorably on the occupants' sex, color, religion, ancestry or national origin.

G. The above subsection shall not be a violation of the town code unless and until the town attorney or its duly appointed agent has sent a prior written notice to the person charged with going upon the property of another and committing the above described acts, said notice advising the offending party that she/he is unwelcome on the occupant's property and that she/he may be charged under this subsection if she/he, after receipt of the notice, commits acts which are in violation of this subsection.

H. This subsection does not preclude the offending party from being charged with a violation of any offense that she/he might have committed not covered herein merely because the offending party did not receive notice.

#### Section 15-12-4 Procedures, Powers and Enforcement

A. The Town Attorney or the Housing Committee may authorize the town staff to effectuate conciliations between an aggrieved person and an alleged violator prior to a formal finding of any unlawful practices when the facts and circumstances properly indicate such action. If the findings as made that an unlawful practice has been or is being committed, the committee shall endeavor to eliminate the unlawful practice by conference, conciliation and persuasion. If the committee fails thereby to eliminate such unlawful practice;

1. In the case of violation of section 3, it shall issue an order to the violator within the aforesaid thirty (30) day period, to cease and desist from further violations of this section and shall promptly mail a copy of such order to the violator; or
2. In the case of a violation of any other under section 3, it shall file a criminal complaint with the Town Attorney for appropriate action.

A. If the committee finds that no unlawful practice has been or is being committed, a copy of such finding shall be promptly mailed to the grievant. The grievant shall thereafter have the right to file a criminal complaint with the Town Attorney for appropriate action.

B. If the committee fails to file its findings or a statement setting forth valid reasons for not having done so with the Town Attorney within sixty (60) days after a grievance is filed with the housing committee, the grievant shall thereafter have the right to file a criminal complaint.

C. If another grievance is filed against a person after a cease and desist order pursuant to section 15-12-5-A of this section has been issued by the committee against the person and, upon investigation, the committee finds that such person has committed any further violations of this chapter, a criminal complaint may be filed with the Town Attorney by the aggrieved person or by the committee.

D. No criminal complaint for the enforcement of any provisions of the section may be filed unless and until such filing is specifically authorized by this section.

E. All complaints alleging violations of Chapter 7 of the code of the Town of Duncan shall be in writing and filed with the housing committee. Said complaints shall be filed within thirty (30) working days from the date of violation. All complaints shall be resolved within 120 days from the time they are filed. The Housing Committee shall cause a summary of complaints to be given to the chairperson of the committee. In carrying out the above provisions, the Housing Committee shall have full authority to investigate and resolve said complaints.

#### Section 15-12-5 Penalties

Upon conviction of each violations of any provisions of this chapter not otherwise provided for, the person so convicted shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars (\$300) or by imprisonment in the county jail for a period not to exceed three (3) months, or both.

#### Section 15-12-6 Administrative Provisions

The Town of Duncan and the appropriate committee thereof shall have the following powers:

A. To make rules and regulations which promote the administration of and compliance with the provisions of this chapter. Such rules and regulations to become effective upon prior approval by the Duncan Town Council.

B. The Town Attorney is empowered to take all necessary action in the appropriate court to secure the production of all records, documents or other evidence necessary to assist the housing committee in carrying out the provisions of this chapter.

#### Section 15-12-7 Conciliation Agreement Violations

If the Town Attorney or Housing Committee and a person accused of a violation of this chapter shall reach agreement and execute a conciliation agreement, and such person shall then violate any terms and conditions of said conciliation agreement, it shall be as if such agreement had never been executed.

In such event, the Duncan Town Attorney shall file such criminal charges as are proper under the town code, and further shall take such other civil or criminal action as may be permitted under the Arizona Revised statutes.

Section 15-12-8 Power of Subpoena

The Town Attorney or the Housing Committee may: subpoena witnesses at hearings and compel their attendance; administer oaths; take the testimony of any person under oath and when deemed necessary record such testimony; and require the production for examination of books and paper relating to any matter before the housing committee. Failure to obey a subpoena issued pursuant to this section shall constitute a contempt punishable upon action of the Town Attorney before the superior court.

Any person appearing pursuant to this section shall have the right to be represented by legal counsel.

~~ARTICLE 15-13 IMPACT FEES~~

- ~~15-13-1 Purpose~~
- ~~15-13-2 Definition — Impact Fee~~
- ~~15-13-3 Impact Fee Schedule And Payment~~
- ~~15-13-4 Penalty~~

~~Section 15-13-1 Purpose~~ **ARTICLE REPEALED 1/19/12**

~~The purpose of this article is to establish impact fees for new development within the Town of Duncan. Both population and employment within the town are expected to increase and will create demands for new residential and nonresidential development. New development within the town will create additional demand and need for public facilities, including water and wastewater systems, arterial streets, fire and police protection, and neighborhood parks. The protection of the health, safety, and general welfare of the citizens of the town requires that the public facilities of the town be expanded to meet the demand of new development. Under the town's current laws, taxes, fees, utility charges, and other forms of revenue generated from new development do not generate sufficient funds to provide those public facilities required to serve new developments. It is only proper that those property owners who benefit by the expansion of public facilities for new development should bear their proportionate share of the cost of that expansion. The creation of an equitable impact fee system would enable the town to impose a more proportionate share of the costs of required improvements to the water and wastewater systems, arterial streets, fire and police protection, and neighborhood parks on those developments that create the need for them.~~

~~Section 15-13-2 Definition — Impact Fee~~

~~Impact fee is a cash or "non-cash" payment levied by the community on new development. Cash payments are typically required in advance of project completion and amounts are based on a formula derived from the cost of the capital facility as well as its site and nature. Non-cash payments include reserving land for schools, future public facilities, easements for utilities, streets and roads, or developing necessary public systems such as sidewalks or trails.~~



~~Section 15-13-3 Impact Fee Schedule And Payment~~

- ~~1. For new development, a minimum impact fee of \$1,000 per single residence or commercial entity applies.~~
- ~~2. A residential development impact fee shall not exceed ten percent (10%) of the cost of system improvement to include:
  - ~~a. Fire protection~~
  - ~~b. Sewer~~
  - ~~c. Water~~
  - ~~d. Infrastructure, including, but not limited to roads, streets, parks, police, and streetlights.~~~~
- ~~3. A commercial development impact fee shall not exceed ten percent (10%) of the cost of system improvement to include:
  - ~~a. Fire protection~~
  - ~~b. Sewer~~
  - ~~c. Water~~
  - ~~d. Infrastructure, including, but not limited to roads, streets, parks, police, and streetlights.~~~~
- ~~4. Development impact fees are negotiable and shall be calculated and imposed on the basis of service areas. Service areas shall be the nearest location of existing lines.~~
- ~~5. Development impact fees shall be calculated on the basis of levels of service for public facilities that are adopted in the town's comprehensive plan that are applicable to existing development as well as the new growth and development.~~
- ~~6. Development impact fees shall be collected at the time of the issuance of a building permit authorizing construction of a building or structure.~~
- ~~7. A development impact fees fund shall be administered by the Town Clerk and the Town Manager. or a designee as appointed by the Town Council of the Town of Duncan. Development impact fees shall be deposited into an account to be used only for development impact fees.~~
- ~~8. The development impact fees shall only be spent for the category of system improvements for which the fees were collected and in the service area in which the project for which the fees were paid is located.~~
- ~~9. In the event a building permit is abandoned, credit shall be given for the present value of the development impact fees against future development impact fees for the same parcel of land.~~
- ~~10. In the event the costs are less than the 10% deposit paid to the Town of Duncan, a refund of the excess development fees will be returned to the permittee.~~

~~11. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.~~

~~12. Development impact fees shall be calculated on a basis which is net of credits for the present value of revenues that will be generated by new growth and development based on historical funding patterns and that are anticipated to be available to pay for system improvements, including taxes, assessments, user fees, and intergovernmental transfers.~~

~~13. The Planning and Zoning Commission shall be the initial body to review any building permits associated with impact fees and recommend to the Town Council appropriate action.~~

~~14. Nothing in this section shall preclude a separate agreement between the developer of a large residential or commercial development and the Town of Duncan. In conjunction with the town manager or designee ZONING ADMINISTRATOR, the Planning and Zoning Commission shall negotiate with the developer and the Duncan Town Council shall approve any separate agreement.~~

~~Section 15-13-4 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 herein above described.~~

ARTICLE 15-14 HISTORIC PRESERVATION

Section 15-14-1	Purpose and Nature of this Ordinance
Section 15-14-2	Relation to the Town of Duncan Comprehensive Plan
Section 15-14-3	Definitions
Section 15-14-4	Historic Preservation Commission
Section 15-14-5	Designation of Landmarks or Historic Districts
Section 15-14-6	Certificate of Appropriateness for Alteration, Demolition or New Construction Affecting Landmarks or Historic Districts
Section 15-14-7	Criteria for Approval of a Certificate of Appropriateness
Section 15-14-8	Certificate of Appropriateness Application Procedure
Section 15-14-9	Hardship Criteria
Section 15-14-10	Hardship Application Procedure
Section 15-14-11	Maintenance and Repair Required

Section 15-14-1 Purpose and Nature of this Ordinance

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It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the Town of Duncan has many significant historic, architectural and cultural resources which constitute its heritage, this act is intended to:

- A. Protect and enhance the landmarks and historic districts which represent distinctive elements of the Town of Duncan's historic, architectural, and cultural heritage;
- B. Foster civic pride in accomplishments of the past;
- C. Protect and enhance the Town of Duncan's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
- D. Ensure the harmonious, orderly, and efficient growth and development of the Town.

#### Section 15-14-2 Relation to the Town of Duncan Comprehensive Plan

The enforcement of, amendments to, and the administration of this ordinance shall be accomplished in accordance with the recommendations contained in the Town of Duncan Comprehensive Plan as developed and amended on a regular basis by the Planning and Zoning Commission and the Town Council for the Town of Duncan.

#### Section 15-14-3 Definitions

The following definitions shall apply specifically and exclusively to the Historic Preservation Ordinance.

"Alteration" – Any construction or change of the exterior of a building, object, site, or structure or of an interior space designated a landmark. For buildings, objects, or structures, alteration shall include but is not limited to, the changing of roofing or siding materials; changing, eliminating, or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, swings, or other ornamentation and the changing of paint color. Alteration shall not include ordinary repair and maintenance as defined below.

"Building" – A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, garage, or similar structure. Building may refer to an historically related complex, such as a courthouse and jail or a house and barn.

"Cemetery" – Any site that contains at least one burial, marked or previously marked, considered a dedicated cemetery under Arizona State Statutes, even though suffering neglect or abuse.

"Construction" – The act of adding an addition to a structure or the erection of a new principal or accessory structure on a lot or property, that requires a building permit.

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“Contributing Significance” – A classification applied to a building, site, structure, or object within a Historic District signifying that it contributes generally to the qualities that give the community cultural, historic, architectural, or archeological distinction, but without having exceptional significance as defined below.

“Demolition” – Any act or process that partially or totally destroys a landmark or a structure within a Historic District.

“Design Guideline” – A specific type of design criteria approved by the commission at the time of designation of a landmark, Historic District, Historic Landscape District, or Urban Conservation District and to be used in conjunction with other design criteria in the ordinance in reviewing alteration, construction, removal, or demolition.

“Exceptional Significance” – A classification applied to a building, site, structure, or object signifying the individual contribution the resource brings to the community in representation of the qualities that give the community cultural, historic, architectural, or archeological distinction. Exceptional significance can be applied to either a “landmark” or to those resources within a “Historic District” which are of individual importance.

“Exterior Architectural Appearance” – The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and type, design and character of all architectural details and elements, including, but not limited to, windows, doors, walls, roofs, overhangs, signs, and yards and/or open spaces.

“Historic District” – An area with definable boundaries designated as a historic district by the Town Council and in which a substantial number of properties, sites, structures, or objects have a high degree of cultural, historic, architectural, or archaeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures, or objects which, while not of such cultural, historic, architectural, or archaeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics or the significant properties, sites, structures, or objects located within it.

“Interior Architectural Design” – The architectural character and general composition of the interior of a structure, including but not limited to room design and configuration, materials, and the type, pattern, and character of all architectural details and elements, including but not limited to staircases, doors, hardware, moldings, trim, plaster work, light fixtures, and wall coverings.

“Landmark” – A property, site, structure, or object that is individually designated by the Town Council that is worthy of rehabilitation, restoration, and preservation because of its historic, cultural, architectural, or archaeological exceptional significance to the Town of Duncan.

“Non-contributing” – A designation applied to a site, structure, or object within a Historic District indicating that it is not a representation of the qualities that give the Historic District

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cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a Historic District.

“Ordinary Maintenance and Repair” – Regular, customary, or usual care, reconstruction or renewal of any part of an existing building, structure, or object for the purposes of preserving said property and maintaining it in safe and sanitary condition.

“Property” – Land and improvements identified as a separate lot for purposes of the subdivision and zoning regulations of the Town of Duncan.

“Repair” – Any change that is not alteration, construction, removal, or demolition.

“Structure” – Anything constructed or erected, the use of which requires a permanent or semi-permanent location on or in the ground, including without limitation, buildings, garages, fences, gazebos, advertising signs, billboards, antennas, satellite sending or receiving dishes, and swimming pools.

#### Section 15-14-4 Historic Preservation Commission

There is hereby created a commission to be known as the Town of Duncan Historic Preservation Commission.

A. It is intended that the Commission shall consist of five members to be appointed by the Town Council.

1. All members of the Commission shall have a demonstrated interest, experience, or knowledge in at least one of the following: history, architectural history, architecture, historic interiors, historic architecture, planning, archaeology, historic archaeology, real estate, historic preservation law, or other preservation-related field. The Council may appoint the most qualified individual if not able to otherwise fulfill this requirement.
2. To the extent available in the community, at least two members shall be professionals from the disciplines of architecture, history, architectural history, planning, archaeology, or related historic preservation disciplines such as cultural, geography, or cultural anthropology.
3. Ex Officio Member – Planning Director or his or her designee.
4. If a field described in paragraphs 1 and 2 above are not represented by a Commission member, the Commission must obtain expertise in the field when considering nation register nominations and other actions that will impact properties that are normally evaluated by a professional in that field.

B. Commission members shall serve for a term of three years, with the exception of the initial term of two of the five members, which shall be one year, two of which shall be two years, and one of which shall be three years. Commission members may be reappointed to serve consecutive terms following the initial term. Vacancies shall be filled by appointment by the Commission. Vacancies shall be filled within 60 days.

C. The Chairman and Vice-Chairman of the Commission shall be elected by and from the members of the Commission.

D. The responsibilities of the Commission shall include:

1. Promulgation of rules and regulations as necessary for the conduct of its business.
2. Review of criteria for the identification of significant historic, architectural, and cultural landmarks and for the delineation of historic districts.
3. Review existing surveys of significant historic, architectural, and cultural landmarks and historic districts within the Town and periodically update the survey.
4. Recommendation to the Town Council of Duncan the designation of identified structures or resources and landmarks and historic districts.
5. Acceptance on behalf of the Town government of the donation of façade easements and development rights; the making of recommendations to the Town Council concerning the acquisition of façade easements or other interests in real property as necessary to carry out the purposes of this ordinance.
6. Increasing public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
7. Making recommendations to the Town Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the Town.
8. Recommending acquisition of a landmark structure by the Town where its preservation is essential to the purposes of this ordinance and where private preservation is not feasible.
9. Approval or disapproval of applications for certificates of appropriateness pursuant to this act.
10. Cooperate with and assist the Arizona State Preservation Officer in his or her activities that relate to the Town.
11. Such other responsibilities required by state and federal laws or regulations.

E. The Commission shall meet at least four times per year, but meetings may be held at any time on the written request of any two of the Commission members or on the call of the Chairman or the Mayor. All meetings shall comply with the Open Meetings Law of the State of Arizona.

F. A quorum for the transaction of business shall consist of three of the Commission's members. Final decisions may be made by a majority of the members present.

#### Section 15-14-5 Designation of Landmarks or Historic Districts

A. The Commission may recommend to the Town Council that an individual property be designated as a landmark if it:

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1. Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic, or social history of the locality, region, state, or nation; or
2. Is identified with historic personages; or
3. Embodies the distinguishing characteristics of architectural style; or
4. Is the work of a designer whose work has significantly influenced an age; or
5. Has a unique location or singular physical characteristic, or represents an established and familiar visual feature of the neighborhood.

B. The Commission may recommend to the Town Council that a group of properties be designated as a historic district if it:

1. Contains several properties which meet on or more of the criteria for designation of a landmark; and
2. By reason of possessing such qualities, it constitutes a district section of the Town; and
3. The majority owner(s) of the properties concur with the designation.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the Town Clerk's Office for public inspection.

C. Notice of a proposed designation shall be sent by registered mail to the owner(s) of the property proposed for designation, wither by the Commission or by the owner, describing the property proposed and announcing a public hearing by the Commission to consider the designation. Where the proposed designation involves so many owners that individual notice is infeasible, notice may instead be published at least once in a newspaper of general circulation at least 15 days prior to the date of public hearing. Once the Commission has issued notice of a proposed designation, the building inspector shall issue no building permits until the Commission has made its decision.

D. The Commission shall hold a public hearing prior to the designation of any landmark or historic district. The testimony or documentary evidence at the hearing will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

E. The Commission shall forward notice of each proposed property designated as a landmark and of the boundaries of each designated historic district to the Town Council for final designation, and subsequently to the office of the Greenlee County Recorder for recordation, as appropriate.

Section 15-14-6 Certificate of Appropriateness for Alteration, Demolition, or New Construction Affecting Landmarks or Historic Districts

No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark or property within a historic district, nor shall any

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person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of the historic landmark or historic district, without first obtaining a certificate of appropriateness from the Historic Preservation Commission.

#### Section 15-14-7 Criteria for Approval of a Certificate of Appropriateness

A. In passing upon an application for a certificate of appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley.

The Commission's decision shall be based upon the following principles:

1. Properties that contribute to the character of the historic districts shall be retained, with their historic features altered as little as possible;
2. Any alteration of existing historic landmark properties shall be compatible with its historic character. Any alteration of existing properties within a historic district shall be compatible with its historic character as well as with the surrounding district; and
3. New construction shall be compatible with the district in which it is located.

B. In applying the principle of compatibility, the Commission shall consider the following factors:

1. The general design character and appropriateness to the property of the proposed alteration or new construction;
2. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
3. Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
4. Visual compatibility with surrounding properties, including proportion of the property's front façade, proportion and arrangement of windows and other openings with the façade, roof shape, and the rhythm of spacing of properties on streets, including setback;
5. The importance of historic, architectural, or other features to the significance of the property.

C. As a guide to rehabilitation work, the Commission shall utilize the Secretary of the Interior's Standards for Rehabilitation (1990 Edition).

#### Section 15-14-8 Certificate of Appropriateness Application Procedure

A. Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the Historic Preservation Commission. The application shall contain:



1. Name, address, and telephone number of applicant;
2. Location and photographs of property;
3. Elevation drawings of proposed changes, if available;
4. Perspective drawings, including relationship to adjacent properties, if available;
5. Where the proposal includes signs of lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination and a plan showing the sign's location on the property;
6. Any other information that the Commission may deem necessary in order to visualize the proposed work.

B. No building permit shall be issued for such proposed work until the Historic Preservation Commission has first issued a certificate of appropriateness. The certificate of appropriateness required by this act shall be in addition to and not in lieu of any building permits that may be required by any other ordinance of the Town of Duncan.

C. The Commission shall approve, deny, or approve the permit with modifications within 21 days from receipt of the completed application. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's Office for public inspection. The Commission's decision shall state the reasons for denying or modifying any application.

#### Section 15-14-9 Hardship Criteria

A. An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:

1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
2. The property cannot be adapted for any other use, whether by the current owner or by a purchase, which could result in a reasonable return; and
3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

B. An applicant whose certificate of appropriateness for a proposed alteration has been denied may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

#### Section 15-14-10 Hardship Application Procedure

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- A. After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The Commission may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- C. The applicant shall consult in good faith with the Commission, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the Town Clerk's Office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.

### Section 15-14-11 Maintenance and Repair Required

- A. Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district that does not involve a change in design, material, color, or outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.
- C. Examples of such deterioration includes:
  - 1. Deterioration of exterior walls or other vertical supports;
  - 2. Deterioration of roofs or other horizontal members;
  - 3. Deterioration of exterior chimneys;
  - 4. Deterioration or crumbling of exterior stucco or mortar;
  - 5. Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors;
  - 6. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.

### Section 15-14-12 Violations

- A. Any person found guilty of violating any provision of this ordinance shall be guilty of violating any provision of this ordinance shall be guilty of a misdemeanor and shall be punished by a fine of not to exceed two thousand five hundred dollars (\$2,500.00) or by

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imprisonment for a period not to exceed six (6) months, or both such fine and imprisonment. Each day that a violation continues shall be a separate offense punishable as herein described.

B. Any person who demolishes, alters, constructs, or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection shall be brought by the Town Attorney. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

#### Section 15-14-13 Appeals

Any person aggrieved by a decision of the Historic Preservation Commission relating to hardship or a certificate of appropriateness may, within 15 days of the decision, file a written application with the Town Council for review of the decision.

#### Section 15-14-14 Fees

No fees required.

### ARTICLE 15-15 RECREATIONAL VEHICLE PARK

#### Section 15-15-1 Definitions

#### Section 15-15-2 Characteristics And Objectives

#### Section 15-15-3 Specific Requirements

#### Section 15-15-1 Definitions

"Recreational Vehicle" means a vehicular type unit that is any of the following:

1. A portable camping trailer mounted on wheels and constructed with collapsible partial sidewalls that fold for towing by another vehicle and unfold for camping.
2. A motor home designed to provide temporary living quarters for recreational, camping or travel use and built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van that is an integral part of a completed vehicle.
3. A park trailer built on a single chassis, mounted on wheels and designed to be connected to utilities necessary for operation of not less than three hundred twenty (320) square feet and not more than four hundred (400) square feet when it is set up, except that it does not include fifth wheel trailers.
4. A travel trailer mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use and of the size or weight that may or may not require special highway movement permits when towed by a motorized vehicle and that has a trailer area of less than three hundred (300) square feet. This paragraph includes fifth wheel trailers. If a unit requires a size and weight permit, it shall be manufactured to the standards for park trailers in section a 119-5 of the American National Standards Institute Code.

5. A portable truck camper constructed to provide temporary living quarters for recreational, camping or travel use and consisting of a roof, floor and sides designed to be loaded onto and unloaded from a bed of a pickup truck.

"Recreational Vehicle Park" means an area or tract of land used to accommodate three (3) or more travel trailers for a short period of time (less than thirty (30) days).

"Recreational Vehicle Space" means a parcel of land for rent that has been designed to accommodate a recreational vehicle and provide the required sewer and utility connections.

"Travel Trailer, Recreational Vehicle, Camper or Motor Home" means a vehicular type dwelling unit thirty-two feet (32') or less in length and eight feet (8') or less in width designed primarily as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

#### Section 15-15-2 Characteristics and Objectives

A recreational vehicle park will be permitted as a "conditional use" in the commercial zone when the following conditions are met and verified BY THE ZONING ADMISITRATOR ~~by the planning and zoning commission~~ and the zoning board of adjustment. These conditions have been set to insure that the recreational vehicle park develops as a safe, attractive and efficient commercial area that does not distract from the surrounding residential zone. For the purposes of this chapter, a recreational vehicle park is defined as an area or tract of land used to accommodate two (2) or more travel trailers for a short period of time (less than thirty (30) days). For the purposes of this chapter, a travel trailer is defined as a vehicular type dwelling unit thirty-two feet (32') or less in length and eight feet (8') or less in width designed primarily as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle (see also definitions of recreational vehicles).

#### Section 15-15-3 Specific Requirements

The following minimum requirements ("conditions") must be met and verified by the ZONING ADMINISTRATOR ~~Planning and Zoning Commission~~ and the Zoning Board of Adjustment before a recreational vehicle park can be approved for development or expansion.

- A. A recreational vehicle park shall contain a minimum of one-half acre in the Duncan commercial zone.
- B. The recreational vehicle park shall contain no more than six (6) recreational vehicles per one-half acre.
- C. Spaces shall be designed so as to insure a minimum of twenty feet (20') of open space between adjoining recreational vehicles. No accessory buildings shall be constructed within this required setback.

D. All streets and driveways shall be of all-weather (mineral aggregate) construction and meet town construction standards. It shall be the responsibility of the owner and/or developer to maintain those streets within the recreational vehicle park. No entrance to a recreational vehicle park shall be located closer than fifty feet (50') to a street intersection. The street plan shall insure easy access for garbage collection, fire protections, etc.

E. The recreational vehicle park shall be graded and equipped to drain all surface water in a safe and efficient manner.

F. Each space shall have at least two (2) off street parking spaces of a size not less than eight and one-half by twenty feet (8½' x 20') each.

G. It shall be the responsibility of the owner and/or developer to provide major utilities (water, sewage disposal, gas and electricity) to each space. Waste shall be disposed of according to the most current Town of Duncan Building Code.

H. The open storage of materials and belongings other than licensed boats and vehicles is prohibited.

I. The owner and/or developer shall build a sight-obscuring fence (as described in 15-5-1) or plant shrubs or other such vegetation along the outer limits of the park as a buffer to adjoining properties.

J. The developer shall provide one (1) fire hydrant for each one-half acre in the recreational vehicle park.

K. All recreational vehicle parks plans shall first be RECOMENEDED BY THE ~~approved by the building inspector,~~ the Planning and Zoning Commission and APPROVED BY THE the Zoning Board of Adjustment AND ZONING ADMISITRATOR before a permit may be issued by the Town of Duncan.

L. A site plan must be submitted by the owner/developer and ~~approved~~ RECOMMENDED by the Planning and Zoning Commission and APPROVED BY the Zoning Board of Adjustment before a building permit can be issued and work on the recreational vehicle park initiated. The site plan shall include:

1. The names and addresses of the property owner/developer.
2. Location and legal description of the property on which the recreational vehicle park is to be located.
3. Area dimensions of the tract of land.
4. The location and size of all spaces; each space shall be numbered and the dimensions shown.
5. The location and width of road and walkways, and the nature of the street and sidewalk improvements to be provided by the park developer and the proposed timetable for such improvements, as long as it complies with town code.
6. Plans and specifications for drainage, water supply, sewages and solid waste disposal, and the provision of fire hydrants and other utilities.

Once the site plan has been approved, developments shall conform to the plan. Any revisions in the size and design of the park must be ~~approved~~ RECOMMENDED by the Planning and Zoning Commission and APPROVED BY the Zoning Board of Adjustment as an amendment to the site plan before such changes or expansion can be made.

ARTICLE 15-16 LIGHT POLLUTION REGULATIONS  
(COMMERCIAL OR PUBLIC OUTDOOR LIGHT FIXTURES)

- Section 15-16-1 Administration
- Section 15-16-2 Definitions
- Section 15-16-3 General Requirements
- Section 15-16-4 Prohibitions
- Section 15-16-5 Permanent Exemptions
- Section 15-16-6 Procedure For Code Compliance
- Section 15-16-7 Temporary Exemptions
- Section 15-16-8 Penalties

Section 15-16-1 Administration

A. The purpose of this code is intended to restrict the permitted use of outdoor artificial illuminated devices emitting undesirable rays into the night sky which have a detrimental effect on astronomical observations.

B. All outdoor artificial illuminating devices shall be installed in accordance with the provisions of this code, the Town of Duncan Zoning Code Chapter 15, the Greenlee County Light Pollution Ordinance, the International Building Code and any building codes or zoning regulations which may hereafter be enacted, as applicable.

C. Where any provisions of any of the Arizona Revised Statutes, Section 49-1101 through Section 49-1106, as amended, or any of the federal law, or any companion Greenlee County code comparatively conflicts with requirements of this light pollution code, the most restrictive shall govern.

D. The provisions of this code are not intended to prevent the use of any material or method of installation not specifically prescribed by this code, provided any such alternate has been approved. The building inspector OR TOWN MANAGER for the Town of Duncan may approve any such alternate provided he finds that the proposed design, material or method provides approximate equivalence to those specific requirements of this code and the international building code, or is otherwise satisfactory and complies with the intent of the code and the international building code.

Section 15-16-2 Definitions

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“Angstrom” – shall mean a unit of length equal to one hundred-millionth ( $10^{-8}$ ) of a centimeter, used especially to specify radiation wavelengths.

“Fully Shielded” – shall mean that fixtures are shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected below a horizontal plane running through the lowest point on the fixture where light is emitted.

“Individual” – shall mean any private individual, tenant, lessee, owner, or any legal entity including but not limited to companies, partnerships, joint ventures or corporations.

“Installed” – shall mean the installation of outdoor light fixtures defined herein, following the effective date of this code, but shall not apply to those outdoor light fixtures installed prior to such date.

“Outdoor Light Fixtures” – shall mean outdoor artificial illuminating devices, outdoor fixtures, lamps and other devices, permanent or portable, used for illumination or advertisement. Such devices shall include, but are not limited to search, spot, or flood lights for buildings or structures, recreational areas, parking lot lighting, landscape lighting, billboards and other signage (advertising or other) and street lighting.

“Partially Shielded” – shall mean that fixtures are shielded in such a manner that the bottom edge of the shield is below the plane of the centerline of the lamp reducing light above the horizontal.

“Total Emergent Flux” – shall mean that between 3,000 and 7,000 angstrom units.

### Section 15-16-3 General Requirements

#### A. Shielding

1. All outdoor light fixtures shall be fully or partially shielded except incandescent fixtures of one hundred fifty watts or less and other sources of seventy watts or less streetlight fixtures are exempt from this requirement if the shielding is not available from the manufacturer (A.R.S. 49-1102(a)).
2. This section does not apply to emergency lighting that is used by police, firefighters, correctional personnel or medical personnel and that is in operation as long as the emergency exists (A.R.S. 49-1102(b)).
3. All outdoor lighting used for programs, projects, or improvements of the Town of Duncan relating to the construction, reconstruction, improvement or maintenance of a street or highway are exempt (A.R.S. 49-1102(c)).
4. All outdoor lighting used for construction or major renovation of municipal buildings, structures and facilities of the Town of Duncan are exempt (A.R.S. 49-1102(d)).

#### B. Filtration

1. Those outdoor light fixtures requiring a filter in section 3 of this code, shall be equipped with a filter whose transmission is less than five percent total emergent flux at wavelengths less than thirty-nine hundred (3,900) angstroms. Total emergent flux is defined as that between 3,000 and 7,000 angstrom units.
  2. It is recommended that existing mercury vapor fixtures shall be equipped with a filter whose transmission is less than 10 percent total emergent flux at wavelengths less than forty-four hundred (4,400) angstroms.
  3. No new mercury vapor outdoor light fixtures shall be installed after the effective date of the code. No replacement equipment other than bulbs for mercury vapor lighting fixtures shall be sold in the state after January 1, 1991, and the use of mercury vapor light fixtures is prohibited after January 1, 2011. The provisions of the section shall not apply to outdoor light systems erected prior to 1950 (A.R.S. 19-1104).
  4. Low pressure sodium lamps are the preferred lamp for minimizing adverse effects on astronomical observations.
- C. Requirements for shielding and filtering
1. The requirements for shielding and filtering light emissions from outdoor light fixtures shall be as follows:
    - A. Low pressure sodium fixtures are the preferred light source to minimize undesirable light into the night sky affecting astronomical observations. Low pressure sodium lamps shall be partially shielded. No filter is required.
    - B. High pressure sodium fixtures shall be partially shielded. No filter is required.
    - C. Metal halide display lighting shall not be used for security lighting after 11:00 p.m. (or after closing hours if before 11:00 p.m.) unless fully shielded. Metal halide lamps shall be in enclosed luminaries. Filters shall be required.
    - D. Fluorescent – outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within do not require shielding. Warm white and natural lamps are preferred to minimize detrimental effects. Filters shall be required.
    - E. Quartz – for the purposes of this code, quartz lamps shall not be considered an incandescent light source.
    - F. Incandescent lamps fixtures greater than 150 watts shall be fully shielded. Incandescent lamp fixtures less than 150 watts shall not require a shield.
    - G. Mercury vapor – existing mercury vapor lamp fixtures shall be fully shielded and filtered. The installation of new mercury vapor fixtures is prohibited effective the date of adoption of this code.
    - H. Glass tubes – most glass, acrylic or translucent enclosures satisfy filter requirements and do not require additional shielding.
    - I. Fossil fuel – there are no requirements for shielding or filtering fossil fuel lamp fixtures.



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- J. Other sources of lamp fixtures shall be approved by the building inspector, AND/OR TOWN MANAGER.

#### Section 15-16-4 Prohibitions

- A. The operation of searchlights for advertising purposes is prohibited.
- B. No outdoor recreational facility, public or private, shall be illuminated by nonconforming means after 11:00 p.m. except to conclude specific recreational or sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 p.m.
- C. The unshielded outdoor illumination of any building, landscaping, signing or other purpose, is prohibited except with incandescent fixtures less than 150 watts.
- D. The installation of mercury vapor fixtures is prohibited effective the date of adoption of this code.

#### Sections 15-16-5 Permanent Exemptions

- A. All outdoor light fixtures existing and fully installed prior to the effective date of this code may remain "nonconforming"; provided, however, that no change in use, replacement, structural alteration shall be made unless it hereafter conforms to the provision of this code. Additionally, no restoration after abandonment of outdoor light fixtures shall be made unless it hereafter conforms to the provision of this code.
- B. Fossil fuel light produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels are exempt.
- C. Those facilities and lands owned and operated as protected by the U.S. Federal Government or the State of Arizona are exempted by law from requirements of this code. Voluntary compliance with the intent of this code at those facilities is encouraged.
- D. The building inspector AND OR TOWN MANAGER may grant a special exemption to the requirements of Section 15-16-3-C-1 only upon a wiring finding that there are extreme geographic or geometric conditions warranting the exemption and that there are no conforming fixtures that would suffice.

#### Section 15-16-6 Procedure For Code Compliance

- A. Any individual applying for a building or use permit under the Town of Duncan Zoning Code, Chapter 15, intending to install outdoor lighting fixtures shall as a part of said application, submit written evidence that the proposed work will comply with this code.

B. All other individuals intending to install outdoor lighting fixtures shall submit an application to the Town of Duncan providing written evidence that the proposed work will comply with this code.

C. Utility companies entering into a duly approved contract with the Town of Duncan, in which they agree to comply with the provision of this code, shall be exempt from applying for and obtaining a permit for the installation of outdoor light fixtures, including residential security lighting.

D. The application shall contain but shall not necessarily be limited to the following, all or part of which may be part of or in addition to the information required elsewhere in the Town of Duncan Zoning Code upon application for the required permit:

1. Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, other devices, etc.
2. Description of the illuminating devices, fixtures, lamps, supports, and other devices, etc. This description may include but is not limited to manufacturers catalog cuts and drawings (including sections where required).

E. The required plans and descriptions shall be sufficiently complete to enable the building inspector AND/OR TOWN MANAGER to readily determine whether compliance with the requirements of this code will be secured. If such plans and descriptions cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall submit evidence of compliance by certified test reports as performed by a State-recognized testing lab.

F. Upon compliance with the requirements of this code, the building inspector AND OR TOWN MANAGER shall issue a permit for installation of the outdoor lighting fixtures, to be installed as in the approved application. In the event the application is part of the building permit application under the zoning regulations, the issuance of the building permit will be made if the applicant is in compliance with this code as well as the other requirements for issuance under the Zoning Code. Appeal procedures of zoning regulations for decisions of the building inspector shall apply.

G. Should the applicant desire to substitute outdoor light fixtures or lamps after a permit has been issued, the applicant must submit all changes to the building inspector AND/OR TOWN MANAGER for approval with adequate information to assure compliance with this code.

#### Section 15-16-7 Temporary Exemptions

A. Any individual as defined herein may submit a written request on a form prepared by the Planning and Zoning Commission to the building inspector AND/OR TOWN MANAGER for a "temporary exemption" to the requirements of this code, such exemption to be valid for thirty (30) days, renewable at the discretion of the building inspector.

B. The request for temporary exemption shall contain minimally the following listed information:

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1. Specific exemptions requested.
2. Type and use of exterior light involved.
3. Duration of time for requested exemption.
4. Type of lamp and calculated lumens.
5. Total wattage of lamp or lamps.
6. Proposed location of exterior light.
7. Previous temporary exemption, if any.
8. Physical size of exterior light and type of shielding provided.

C. In addition to the above data, the building inspector AND/OR TOWN MANAGER may request any additional information which would enable him to make a reasonable evaluation of the request for temporary exemption.

D. The building inspector AND/OR TOWN MANAGER, within five days from the date of the properly completed request for temporary exemption, shall approve or reject the request in writing. If rejected, the individual making the request shall have the right of appeal to the Planning and Zoning Commission and the Board of Adjustment for review pursuant to the procedures applicable to any other appeal of a decision of the building inspector.

#### Section 15-16-8 Penalties

Any individual violating any of the provisions of this code shall be deemed guilty of a separate offense for each and every day or portion thereof during which a violation of any of the provisions of this code is committed, continued or permitted and upon conviction of any such violation such person, firm or corporation shall be punished as prescribed by the Town of Duncan codebook.