

1. Certificate of Survey or Exhibit Drawing is sealed, signed and dated prior to application submittal by the registered surveyor or civil engineer who prepared the document, including name, address, and registration number;
 - a. Certificate(s) of City of Douglas approval signed and dated by the City Planner or designee thereof, should the proposed land division, adjustment, or combination be compliant with situated zoning development standards;
 - b. Certification of receipt by the Cochise County Assessor's Office; and
 - c. Certification of recordation by the Cochise County Recorder of Deeds.
- E. Non-compliance of recording without City approval. No use, no zoning compliance certificate, nor building permit shall be issued for a lot or parcel that has been created, combined, or adjusted and recorded with Cochise County without City of Douglas approval. ~~reduced in size below the minimum lot area or lot width required by these Zoning regulations when such reduction takes place after the effective date of these Zoning Regulations.~~
- F. Correction of non-compliance.
 1. Requirements.
 - a. Consultation and application, consistent with the requirements of Sections 17.03.314(B) & 17.03.314(C) above.
 - b. Affidavit required acknowledging existing non-conformity with Douglas Municipal Code and required resolution for City approval to bring property into compliance.
 - c. Payment receipt of the Recording Without City-Approval Fee, per Article 17.13 – Schedule of Fees, Charges, and Expenses.

Sec. 315. Building under construction.

- A. Nothing in this Ordinance shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of this Ordinance, or begun prior to a specific amendment thereof, and upon which actual building construction has been diligently carried forth.
- B. No unpermitted or undocumented construction shall be assumed conforming or acceptable by-right per these zoning regulations and the adopted Building Code of the City of Douglas.

Sec. 316. Moving of buildings.

No building or structure which has been wholly or partially erected on any premises located either within or outside the City of Douglas, shall be moved to or be placed upon any other premises within the City until a permit for such removal, and a Zoning Compliance Certificate for such relocation, shall have been issued by the City Planner, Building Inspector, or designee thereof. Any such building or structure shall conform to all provisions of this Ordinance in the same manner as a new building or structure shall be used or occupied until an Occupancy Permit shall be issued, as provided in Article 17.10 of this Ordinance.

Sec. 317. Dumping, disposal or storage of rubbish.

- ~~317.1A.~~ **Prohibition of Rubbish Dumping, Disposal or Storage.** The use of land for the dumping, disposal, or storage of scrap iron, junk, garbage, rubbish, or other refuse, or of ashes, slag, or other industrial

wastes or by-products, shall be prohibited in every district except an Industrial District where such use may be permitted where not in violation of other local, Federal and State regulations by ~~the Board of Adjustment~~ Development Services in accordance with regulations of that Zoning District.

~~317.2~~**B. Dumping of Excavation Material.** The dumping of dirt, sand, rock or other material excavated ~~form~~ from the earth ~~shall~~ may be permitted in any zoning district, provided other local, Federal and State regulations would not be violated and that the surface of such material is graded within a reasonable time, leaving the ground surface in a condition suitable for other uses permitted in the district, and provided that such fill does not so increase the elevation of the site as to prevent its development or use for other purposes.

Sec. 318. Exceptions to height limitations.

A. Height regulations established elsewhere in this Ordinance shall not apply:

- ~~(a)~~1. In any district, to church spires, belfries, cupolas and domes, not for human occupancy; monuments; water towers; flagpoles; noncommercial radio or television antennas; recreational fields or playground lighting poles;
- ~~(b)~~2. In commercial or industrial districts, to parapet walls extended not more than four (4) feet above the height of the building upon which they rest; elevator housing;
- ~~(c)~~3. In industrial districts, to chimneys, smokestacks, derricks and conveyors; grain elevators, or similar structures wherein the industrial processes involved customarily require a height greater than otherwise permitted.
4. In appropriate districts identified in Section 17.19.1903, with a conditional use permit application approved, the erection of a wireless telecommunications facility (cell tower) shall be allowed to exceed the height limit of the zoning district of the situated application.

Sec. 319. Projections into required yards, residential districts.

A. The following building projections shall be permitted in residential districts:

- ~~(a)~~1. Awnings, open fire balconies, fire escape stairs, window-type refrigeration units not exceeding one and one-half tons or one and one-half horsepower rating, suspended or roof evaporative coolers, and forced air furnaces may project not more than five feet into any required yard, provided that they are no closer than two (2) feet to any interior lot line.
- ~~(b)~~2. Cornices and eaves may project not more than three (3) feet over any required yard, provided that they are no closer than two (2) feet to any lot line.
- ~~(c)~~3. Sills, leaders, belt courses and similar ornamental features, any project not more than six (6) inches over or into any required yard; a chimney or pilaster may project not more than eighteen (18) inches into any required yard, provided that it is not more than eight (8) feet in dimension paralleling the nearest lot line.
- ~~(d)~~4. Unroofed terraces, patios, steps or similar features not over three (3) feet in height above grade, may project into any required yard.

Sec. 320. Yards and setbacks, general.

A. The following yard and set back requirements shall apply in all zoning districts, unless excepted within specific district regulations:

320-1.1. Compressor, Condenser, Cooler Location. Except as provided elsewhere in this Ordinance, no compressor unit, condensing unit, cooling tower, evaporative condenser, or similar device, shall be located closer to any interior lot line than the minimum setback required for the main building. All such devices shall discharge air in a direction other than toward any lot line which is within twenty-five (25) feet of such device, except within those districts where developable parcel sizes and setback requirements may not provide twenty-five (25) feet distance from such devices. An administrative alternative design interpretation application may be required for approval.

320-2.2. Future Street Lines. Where future right-of-way street lines have been officially established by the City Council, all required setbacks shall be measured from such right-of-way street lines.

320-3.3. Service Station Gasoline Pump. In any district, no service station gasoline pump shall be located closer than twelve (12) feet to any street line, or closer than fifty (50) feet to any residential district. A gasoline pump shall be considered a building for purposes of determining setback requirements.

320-4.4. Required Parking and Loading Space Not a Part of Yard. No part of a yard, or other open space, or off-street parking or loading space required about, or in conjunction with, any building, for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building, unless specifically excepted by particular district regulations.

320-5.5. Minimum Requirements of Existing Yards, Lots or Parcels. No yard, lot or parcel existing at the effective date of this Ordinance, or date of the most recently adopted amendment thereof shall be reduced in dimension or area below the minimum requirement set forth herein. Yards, lots or parcels created after the effective date of this Ordinance, or date of the most recently adopted amendment thereof shall meet at least the minimum requirements herein established.

Sec. 321. Sight distances at intersections.

On corner lots in any residential district, nothing shall be erected, placed, planted, or allowed to remain, which materially impedes vision above a height of ~~two and a half (2½) feet~~ three (3) feet.

Sec. 322. Fences, walls and hedges.

A. The following restriction on fence, wall and hedge height, location and construction shall apply in the indicated zoning district, unless otherwise provided in Article 17.18:

322-1.1. Height and Location. No fence, wall, or hedge exceeding three (3) feet in height above the average grade of the lot shall be erected, placed, planted along the side of any required front yard; nor, in the case of a corner lot that abuts on a key lot, closer to the exterior side lot line than the minimum required front setback for the key lot. No other fence in any residential district shall exceed six (6) feet in height above grade.

322-2.2. Prohibited Fence Construction. No fence shall contain razor ribbon wire, barbed wire, electrical current or charge of electricity, broken glass, or similar hazardous materials or devices. Fences in commercial and industrial zoning districts which enclose storage areas may have barbed wire so long as said barbed wire is located more than six (6) feet in height above grade and be erected in such a manner that the barbed wire does not project in any way over a property line into neighboring private property or any public area. Standard barbed wire ranch

fencing is permitted to be erected in areas where the keeping of horses, cattle, and other large livestock is lawfully permitted for the containment or to provide a barrier from such animals.

(Ord. 05-881 § 1, 2005)

Sec. 323. Accessory uses.

- A. Principal Use In-Situation or In-Permitting Required.** No accessory building shall be used prior to the occupancy or use of the ~~main-principal use~~ building, except as a construction storage facility for such a main-principal use building to be constructed, when permitted concurrently with the principal use building.
- B. Accessory Use Subordinate to Principal Use.**
1. Any accessory building or structure shall be smaller in size, area, height, bulk, and scale than the principal use building, unless used exclusively for storage associated with the principal use.
- C. Multiple accessory uses and conditional uses within accessory use structures.**
1. Where a structure is proposed with multiple accessory uses, a conditional use permit may be required if such uses are commercial or industrial, per the use and development standards of the situated zoning district (including overlays of that zoning district, if applicable), and the substantive and procedural requirements of Section 17.03.310.
 2. Application may be submitted to the City Planner for an Administrative Interpretation with fee payment to allow for a larger accessory use structure than a principal use structure, where a permissible commercial use may be allowed, as with a home occupation or within a zoning district that allows mixed-use.

Sec. 324. Home occupations.

324.1A. General Provisions.

- ~~(a)~~1. The intent of this section is to allow home occupations to exist ~~only as long as they~~ that are not in violation of the terms of this section and do not alter the residential character of the neighborhood nor infringe upon the rights of neighboring residents to the peaceful enjoyment of their neighborhood and homes.
- ~~(b)~~2. No person shall carry on a home occupation, or permit such use to occur on property which he/she owns or is in lawful control, without first obtaining or ~~insuring-ensuring~~ that ~~thee has been obtained~~ a home occupancy permit for such use in the manner provided by this section has been obtained.
- ~~(c)~~3. Application for ~~the~~ a home occupation permit shall be made jointly by the person wishing to conduct the use and the owner of the property, or his agent, on forms provided by the City. The required fee must be paid along with the application.
- ~~(d)~~4. After approval and prior to the issuance of the home occupancy permit, the applicant shall provide proof that ~~he the fee~~ has been paid for the City Business License.

324.2B. Standards.

- ~~(a)~~1. The ~~Building Inspector~~ City Planner or designee thereof, the Public Works Department, and the Fire Department shall review the application and shall approve the permit if ~~he finds~~ found that the proposed use does not violate the purpose of Section 17.03.324, the environmental and

wastewater backflow regulations of the City, nor the fire prevention regulations of the City, and that all of the following conditions are met:

- ~~1a.~~ Signage according to the requirements for Article 17.07~~;~~
- ~~2b.~~ There is no display that will indicate from the exterior that the building is used in whole or in part for any purpose other than a dwelling, or accessory use to the principal residential use~~;~~
- ~~3c.~~ The building retains the characteristics of a residence and no more than twenty-five (25) percent of the gross floor area of the principal residential use floor area is used for the business activity, whether located within the principal residence or in an accessory structure~~;~~
- ~~4d.~~ There is not outside storage of materials other than plant materials intended as landscaping~~;~~
- ~~5e.~~ There are no employees other than family members who reside at the dwelling~~;~~
- ~~6f.~~ The use will not tend to ~~destroy~~ negatively impact the residential character of the neighborhood~~;~~
- ~~7g.~~ The generation of excessive noise, vibrations, odors, heat or glare detectable beyond any property line is prohibited~~;~~ and
- ~~8h.~~ No traffic shall be generated by such home occupation on greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall ~~be met off the street and other than in a required front yard~~ not cause an undue shortage of residential neighbor parking space, nor shall any yard of the home occupation be paved for the purposes of adding on-site parking.

~~324.3C.~~ **Renewal and Permit Revocation.** The home occupation permit shall be valid for a period of two (2) years. Renewal of the permit shall be accomplished in the same manner as an application for a new permit under this section. This permit may be revoked at any time for:

- ~~(a)1.~~ A violation of any provision of this section~~;~~
- ~~(b)2.~~ A violation of any term of or condition of the permit~~;~~ and
- ~~(c)3.~~ Failure to pay the City Business License renewal fee in a timely manner.

~~324.4D.~~ **Short-Term (Yard or Garage) Sales Exempt.** A permit shall not be required to conduct short term sales from a residence. Such sales shall not exceed three (3) days in duration or ten (10) days total in calendar year, and shall not include sales of services.

~~324.5E.~~ **Validity of Permits.** The provisions of this Code shall apply to all home occupations in the City including those in operation on the effective date of this Code. A permit in effect on the effective date of this Code shall be treated as if it was issued pursuant to this Code and the two (2) year term of validity shall run from the date of issuance.

Sec. 325. Variances.

A. Purpose. Regulations for each zoning district in the City contain property development standards. These intend to protect the public health, safety, and general welfare. Some properties may not be developed or redeveloped according to district property development standards because of their size, shape, or

proximity to structures on other properties. Variances intend to allow at a minimum for a property to be reasonably developed to a situated district's use regulations.

B. Intent. It is the intent of this Section to provide a set of procedures, standards and processes for granting variances for land development which, because of some parcels having unique characteristics relative to locational features, shape, and size, require special consideration in relation to the welfare of adjacent properties and the community as a whole. It is the purpose of the regulations and standards set forth below to:

1. Allow practical latitude for utilization of land for locating principal and accessory use structures as allowed on other properties similarly zoned, with adequate provision for the protection of the public health, safety, and general welfare of the community and adjacent properties.

C. Application required.

1. Applicant must complete a Variance Request application form, and provide the following materials at time of submittal:

- a. A Site Plan showing
 - i. Property lines and dimensions,
 - ii. Adjacent rights-of-way labeled that serve the Subject Site,
 - iii. All existing Subject Site structures showing uses, square footage areas, length, width, height, and setback distances from property lines and other structures,
 - iv. All proposed future Subject Site structure locations with uses, square footage areas, length, width, height, and setback distances from property lines and other structures;
- b. A description for the proposed variance request that addresses the unique hardship caused to the property owner by the application of the property development standards, threshold and impact criteria described and listed in *Section 17.03.325(B)*; and
- c. Receipt of fee payment, as required in Article 17.13 of these Zoning Regulations.

2. Initial application review.

- a. The City Planner will review the application to confirm compliance with *Section 17.03.325(C)*.

D. Conditions for Granting a Variance. A variance shall not be granted by the Board of Adjustment unless and until the following conditions are met, supported by findings of fact:

1. The Board of Adjustment finds that:
 - a. Because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of this Ordinance will deprive such property of privileges enjoyed by other properties of the same district; and
 - b. The special circumstances applicable to the property are not self-imposed by the property owner and involve more than personal inconvenience or inadequate financial return on the use of the property; and
 - c. Granting the variance does not constitute a grant of special privileges inconsistent with the limitation upon other properties in the vicinity and district in which the property is located; and
 - d. Granting the variance will not injure or interfere with the rights and privileges of the other properties in the same district.

2. Notice of Public Hearing has been provided at least fifteen (15) days in advance of the hearing, by publication in the newspaper of record, and at the Subject Site location by posting;
3. A public hearing of the Board has been held;
4. The Board finds that the reasons set forth in the application justify the granting of the variance, and that the variance that will make possible the reasonable use of land, building, or structure; and
5. The Board of Adjustment finds that granting of the variance will be in harmony with the general purpose and intent of this Ordinance, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

E. Other Requirements.

1. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Failure to fulfill such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation of this Ordinance and punishable under Article 17.14.
2. No non-conforming use of neighboring lands, structures, or buildings, in the same district, and no permitted use of lands, structures or buildings in other districts, shall be considered grounds for issuance of a variance.
3. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the term of this Ordinance in the district involved, nor any use expressly or by implication prohibited by the terms of this Ordinance.

ARTICLE 4.

NONCONFORMING LOTS, NONCONFORMING STRUCTURES, NONCONFORMING USES OF LAND AND STRUCTURES

Sec. 401. General.

Within the zoning districts established and amended by this Ordinance there exists certain lots, structures, and uses of land and structures, which were lawful prior to the effective date of ~~this the original~~ Ordinance, but which are currently prohibited, regulated or restricted under the terms of this Ordinance and its subsequent past amendments. Such uses are declared to be nonconforming uses and are incompatible with permitted uses in the districts involved situated. ~~Their elimination, as expeditiously as it is reasonable, is declared to be of as much concern to the public health, safety, and welfare, as is the prevention of the establishment of new structures and uses that would violate provisions of this Ordinance.~~ It is therefore, the objective of this Ordinance to permit these nonconformities to continue until they are removed, ~~but not to encourage their survival, or regulations are amended to make the uses, lots, or structures conforming so that they may be improved.~~

Sec. 402. Nonconforming lots.

- A. Purpose.** Any legal lot or parcel of record or any lot or parcel in a final subdivision plat or map of this Ordinance which has an area, width, or depth smaller than the minimum prescribed by the zoning district in which the lot is located, and any plat or map so approved which is amended prior to the

effective date of this Ordinance, or as amended, is classified as a non-conforming lot for purposes of this Ordinance.

~~402.1~~ 1. Yard Requirements ~~in~~ Effect. The yard requirements in effect for any legal lot or parcel of record or any lot or parcel in a final subdivision plat or map approved by the City Council prior to the adoption of this Ordinance are authorized for such lots or parcels in lieu of those prescribed by this Ordinance.

~~402.2~~ 2. Single-Family Dwelling Erection Permitted. The single-family dwelling may be erected on a nonconforming lot or parcel as described above in districts permitting such uses, provided that:

- ~~(a)~~ a. Such lot or parcel must be in separate ownership and not of continuous frontage with other lots or parcels in the same ownership ~~;~~;
- ~~(b)~~ b. Yard dimensions and other requirements not involving area or width, or both, conform to the regulations for the zoning district in which such lot or parcel is located ~~;~~;
- ~~(c)~~ c. Variance of area, width, and yard requirements shall be obtained ~~only~~ through documented administrative interpretation or action of the Board of Adjustment as provided in Article ~~11~~ 17.03 ~~;~~ and
- ~~(d)~~ d. If two or more lots, or combinations of lots and portions of lots, with continuous frontage in single ownership are of record, and if all or part of the lots do not meet requirements for lot width and area established by this Ordinance, the lands involved shall be considered to be an undivided parcel, and no portion of said parcel shall be used nor sold which does not meet lot width and area requirements of this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot or parcel having width or area which does not meet requirements of this Ordinance.

Sec. 403. Nonconforming structures.

A. Purpose. Any structure, or portion thereof, lawfully existing on the effective date of this Ordinance, and subsequent amendments to this Ordinance, which was designed, erected or structurally altered for a use which does not conform to the regulation of the zoning district in which it is located; or which does not comply with all the height, setback and area regulations of the zoning district in which it is located, classified as a nonconforming structure for purposes of this Ordinance.

~~403.1~~ 1. Repair or Rebuilding of a Structure. Although the objective is the eventual elimination of dilapidated or collapsing nonconforming structures, the repairing or rebuilding of a nonconforming structure will be allowed on the footprint of the original structure, or expanding outside the limits of the footprint, as long as it meets the setback requirements of the zoning district, unless excepted within an overlay district.

~~403.2~~ 2. Unexpired Building Permits. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a valid, unexpired building permit has heretofore been issued, or obtained prior to the effective date of this Ordinance.

(Ord. 05-881, § 3, 2005)

Sec. 404. Nonconforming uses of land and structures.

A. Purpose. Any use of land or a structure lawfully existing at the time of the enactment of this Ordinance, or subsequently adopted amendment, which does not conform to the regulations of the zoning district in which it is located, is classified as a nonconforming use of land or a structure of purposes of this Ordinance. Such

nonconforming use may continue only in the manner and to the extent it existed at the time it became nonconforming.

404.11. Expansion or Enlargement of Nonconforming Use. A nonconforming use may be expanded or enlarged to an extent not exceeding twenty-five percent (25%) of the land area and/or building ground floor area existing at the time it became nonconforming; every such expansion shall require the approval of the Board of Adjustment but in no case shall ~~it~~ the total be greater than twenty-five percent (25%).

404.22. Abandonment or Discontinuance of a Nonconforming Use. Whenever a nonconforming use is abandoned or has been discontinued for a period of one (1) year, such use shall not thereafter be re-established, and any future uses shall be in conformity with the provisions of this Ordinance, and as amended thereafter. Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use. A business license will serve as prima facie evidence of any operational use.

ARTICLE 5.

SCHEDULE OF DISTRICT REGULATIONS ADOPTED

Sec. 501. SFR - Single-Family Residence.

This zoning district is comprised of single-family residential areas and certain areas where such development is desirable. Regulations are designated to stabilize and protect the single-family character of the district, to promote and encourage creation of a desirable environment for family life, and to prohibit all incompatible activities. Principal uses are single-family dwellings on individual lots.

501.1 Approvals required. No structure or building shall be built or remodeled upon land in a Single-Family Residence (SFR) district until all required subdivision or site plan approvals have been obtained.

501.2 Location. The following criteria shall be considered in establishing and maintaining a SFR district:

- (a) Conforms to appropriate designation in the general-General planPlan.
- (b) Corresponds to an existing district or development in an area annexed into the City.

501.3 Divisions of SFR district. The SFR district shall be further divided into the following density districts, as hereinafter described and regulated and to be so designated on the Official Zoning Districts Map: SFR32; SFR16; SFR12; SFR8; SFR6.

501.4 Permitted principal uses. One (1) single-family residence per lot as defined in subsection 501.8.

501.5 Permitted conditional uses. See Section 310. Permitted: Subsections 310. 2, D, E, F, G, H, I, J, N, O(C)(4), (5), (6), (7), (8), (9), (10), (14) and Subsections of 310(D).

501.6 Permitted accessory uses.

- A. Any use customarily incidental to a permitted principal use, such as:
 - 1. Private or carport for storage of vehicle;
 - 2. Garden house, toolhouse, ramada, swimming pool.
- B. Permitting the placement of carports open on at least two sides to encroach fully into any side yard, as long as sight triangle is maintained.
- C. Accessory dwelling units: See Section 310.