

**202.2B. Identification.** The Official Zoning Districts Map shall be identified by the most recent Ordinance adopted signature of the Mayor, attested by the City Clerk, and bear the seal of the City of Douglas. ~~Regardless of the existence or purported copies of the Official Zoning District Map which may, from time to time, be made or published, which shall be stored in the vault, under the authority of the City Clerk, and shall be the definitive map to determine the current zoning status of land areas, buildings, and other structures in the City.~~

**202.3C. Changes.** If, in accordance with the provisions of this Ordinance changes are made in district boundaries or in other matters portrayed on the Official Zoning Districts Map, such changes shall be made ~~on to~~ said map promptly thirty (30) days after the amendment has been approved by the City Council, ~~together with an entry signed by the City Clerk certifying to the accuracy and date.~~ No amendment to this Ordinance which involves matter portrayed on the Official Zoning Districts Map shall become effective until after such change and entry have been made on said map. No changes of any nature shall be made on the Official Zoning Districts Map of matter shown thereon except in conformity with the provisions of this Ordinance. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Ordinance and punishable as hereinafter provided in Article 17.14.

**202.4D. Replacement.** In the event that the Official Zoning Districts Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may, by resolution, adopt a new Official Zoning Districts Map which shall supersede the prior map. The new Official Zoning Districts Map may correct drafting or other errors or omissions in the prior map, but no such correction shall have the effect of amending the original zoning ordinance or any subsequent amendment thereof. ~~The new Official Zoning District Map shall be identified by the signature of the Mayor attested by the City Clerk, and bear the seal of the City of Douglas under the following words: "This is to certify that this Official Zoning District Map supersedes and replaces the Official Zoning District Map adopted October 10, 1966 as part of Ordinance No. 350 of the City of Douglas, Arizona."~~

**202.5E. Interpretation.** Where, due to scale, lack of detail, or illegibility of the Official Zoning Districts Map there is an uncertainty, contradiction, or conflict as to the intended location of any district boundary shown thereon, the exact location of such boundary shall be determined by the ~~Board of~~ Adjustments City Planner. The ~~Board of Adjustments~~ City Planner, in reaching ~~its a~~ determination, shall apply the following standards:

- ~~(a)~~ 1. Zoning district boundary lines are intended to follow lot lines, or be parallel or perpendicular thereto, or along the center-lines of streets, alleys or rights-of-way, unless otherwise fixed by dimensions shown on the Official Zoning Districts Map ~~;~~ ;
- ~~(b)~~ 2. In subdivided property, or where a zoning district boundary divides a lot, the exact location of such boundary, unless same is indicated by dimensions shown on the Official Zoning Districts Map, shall be determined by use of the map scale shown thereon ~~;~~ and
- ~~(c)~~ 3. If, after application of foregoing rules, uncertainty still exists as to the exact location of a zoning district boundary, by appeal in a public hearing, the Board of Adjustment shall determine and fix the location of said line in accordance with the purpose and intent of this Ordinance as provided for in Article 17.11.

## ARTICLE 3. GENERAL PROVISIONS

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## Sec. 301. Conformance mandatory.

Except as otherwise provided elsewhere in this Ordinance, no building shall hereafter be used, erected, constructed, reconstructed, moved or altered, nor shall any land be used except in conformity with these regulations for the zoning district in which the land or building is located. Provisions of other Titles of the Douglas Municipal Code are subordinate to this Ordinance regarding the use of buildings or private property.

## Sec. 302. ~~Resolution of disputes~~Administrative interpretations and appeals.

- A. Purpose.** In any dispute or question concerning the application of any provision of these Zoning Regulations, or of General Plan policy guidance, that resolution will be favored which is most reasonable and consistent with regard to the general purpose of these regulations, policies of the General Plan and ~~the~~ established and accepted principles of planning and zoning law.
- B. Authority.** The City Planner, per DMC 17.10.100(A)(1), is the responsible official with authority for administratively interpreting the intent and questioned provisions of these Zoning Regulations, referencing the policy intent of the General Plan and other subarea or functional plans incorporated into the General Plan by ordinance that guide such interpretations.
- C. Application.**
1. The City shall provide a form for applications requesting interpretation, which will require at minimum the following information:
    - a. Applicant/agent name and contact information; and
    - b. Detailed explanation of requested relief or clarification sought, with clear references to applicable Sections of the Zoning Code, or other Sections of the Douglas Municipal Code. An explanatory letter may be attached to the application.
- D. Certification of Interpretation.**
1. The City Planner shall issue a letter of interpretation, addressing each of the points or questions, per documented application, and payment of any associated fees as required in Article 17.13 of these Zoning Regulations.
- E. Appeals of interpretations.**
1. Requirements. Appeals of interpretation decisions affirming the initial interpretation of the City Planner must also be filed as separate applications, with payment of any associated fees as required in Article 17.13 of these Zoning Regulations;
    - a. Appeal of City Planner interpretation application to the City Manager shall include at minimum the following:
      - i. Applicant/agent, site location and owner contact information;
      - ii. City Planner Interpretation and Applicant Rationale for Appeal based on record and applicable zoning regulations and General Plan policies; and
      - iii. Receipt of fee payment, as required in Article 17.13 of these Zoning Regulations.
    - b. Any person aggrieved by a decision of the City Manager may file an appeal to the Board of Adjustment in accordance with Article 17.11, with receipt of fee payment, as required in Article 17.13 of these Zoning Regulations.



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F. Alternative Design. Where a proposed or existing use is calculated to be in violation of property development standards of a situated zoning district or overlay zoning district, but does not exceed twenty-five percent (25%) of the particular minimum development standard, the City Planner may administratively approve such deviation from the property development standard. A party requesting such approval shall file an application and fee payment for administrative review and decision. The City Planner shall create a policy for review and approval of such applications.

### **Sec. 303. Right to petition.**

Every person affected by the application of these Zoning Regulations shall always have the right to petition and be heard, and the City has a process for administrative interpretation and appeals thereof to satisfy this right.

### **Sec. 304. Fundamental rights of owners.**

The application of these Zoning Regulations shall be governed by all the particular facts of each case, and no individual owner shall be prejudiced by reason of ~~his~~-being in a minority, either in demographic number nor amount of land owned, and an owner ~~he~~ shall be entitled to a balancing of the equities of all interests concerned. Violating these regulations is an action, however, not supported by rights and is a matter for consideration in judgment.

### **Sec. 305. Special privileges forbidden.**

No special favors or privileges shall be granted to any person under the terms of these Zoning Regulations.

### **Sec. 306. Minimum requirements.**

The provisions of ~~These these~~ Zoning Regulations are minimum requirements. Where these regulations impose a greater restriction ~~that than~~ is imposed or required by other provisions, including other titles of the municipal code, or private covenants and restrictions within Douglas Municipal Limits, these Zoning Regulations shall control as applicable.

### **Sec. 307. Private agreements.**

The provisions of these Zoning Regulations shall apply independently of any recorded easements, restrictions, covenants or other purported or documented agreements between private parties. However, coordination of private and public regulations is essential, as the most stringent regulation(s) are applied without invalidating the applicability of either. It shall be the responsibility of agents or applicants to notify the City of and produce copies of recorded private restrictions that apply to a subject property.

### **Sec. 308. Continuing existing uses.**

Nothing contained in these Zoning Regulations shall affect existing uses of property nor the right to its continued use or the reasonable repair or alteration thereof for the purpose for which used at the time these Zoning Regulations were originally adopted, nor prior to points in time when these Zoning Regulations were amended by subsequent ordinances ~~take effect.~~

### **Sec. 309. Permitted uses.**

Uses designated as permitted by any zoning district regulation shall be permitted upon application approval as provided in Article 17.10. No such approval shall be granted except upon compliance with all of the regulations specified for the zoning district or overlay zoning district in which the use is sought to be maintained.

## Sec. 310. Conditional uses.

**310.1A. Purpose.** Each district in the City contains designated permitted uses. In addition to the designated permitted uses in each district, there are conditional uses, neither absolutely permitted as a right nor prohibited by law, which may be compatible within the district. These are privileges, in a sense, which must be applied for and approved by the City Planner or responsible official per Article 17.10, if considered minor, or by the Planning & Zoning Commission if considered major, per Section 17.03.310(C).

**B. Intent.** It is the intent of this Article to provide a set of procedures, ~~and~~ standards and processes for permitting conditional uses of land or structures which, because of their unique characteristics relative to locational features, design, size, operation, circulation, and public interest or service, 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:

- ~~(a)~~1. Allow, on one hand, practical latitude for utilization of land and structures, but at the same time maintain adequate provision for the protection of the public health, safety, ~~convenience~~ and general welfare of the community and adjacent properties; and
- ~~(b)~~2. Provide a mechanism for periodic review of conditional use permits to provide for further conditions to more adequately assure conformity of such uses to the public welfare.

**310.2C. Permitted Major Conditional Uses.** The following are conditional uses which may be permitted in certain districts subject to the standards detailed herein, as decided by the Planning and Zoning Commission:

- ~~(a)~~1. Utility structures, including, but not limited to, substations, telephone switching stations, electrical generation facilities and other facilities required for the transmission of power or communications~~;~~<sub>i</sub>
- ~~(b)~~2. Sewage facilities, including but not limited to, pump stations, or sewage or storm water treatment plants~~;~~<sub>i</sub>
- ~~(c)~~3. Water systems, including, but not limited to, treatment plants, storage reservoirs, pump stations or other major facilities associated with the supply or distribution of water~~;~~ and
- ~~(d)~~4. Emergency service facilities or other public service facilities needing locations in the area to permit effective service within the area~~;~~<sub>i</sub>
- ~~(e)~~5. Private clubs, fraternities, sororities and lodges with more than 1,000 square feet of interior building area and/or when located closer than one hundred-fifty (150) linear feet from the nearest residential use structure~~;~~<sub>i</sub>
- ~~(f)~~6. Elementary, middle and high schools (public/secular)~~;~~<sub>i</sub>
- ~~(g)~~7. Institutional buildings such as hospitals, colleges, churches and synagogues~~;~~<sub>i</sub>
- ~~(h)~~8. Cemeteries~~;~~<sub>i</sub>
- ~~(i)~~9. Nursing, retirement or convalescent homes~~;~~<sub>i</sub>
- ~~(j)~~10. Child care facilities with more than five hundred (500) square feet of interior building area and more than five hundred square feet of enclosed outdoor play area~~;~~<sub>i</sub>
- ~~(k)~~11. Solid waste transfer stations and solid waste landfills~~;~~<sub>i</sub>
- ~~(l)~~12. Recycling centers~~;~~<sub>i</sub>
- ~~(m)~~13. Transit facilities, including equipment storage centers~~;~~<sub>i</sub>



~~(n).~~ ~~Medical offices when developed in conjunction with a planned hospital development.~~;

~~(o)~~14. Accessory dwelling units;

~~(p)~~15. Recreational Vehicle Park.\*;\*

\*Recreational Vehicle Parks shall adhere to the conditions set forth in Article 17.08.

~~(q)~~16. Amusement Parks, Fair Grounds, Theme Parks; and

~~(r)~~17. ——— Veterinary Hospitals providing all animals are maintained within enclosed structures.

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**D. Permitted Minor Conditional Uses.** The following are conditional uses which may be permitted in certain districts subject to the standards detailed herein, as decided by the City Planner:

1. Private clubs, fraternities, sororities and lodges with less than one thousand (1,000) square feet of interior building area, and is located more than one hundred-fifty (150) linear feet from the nearest residential use structure;
2. Child care facilities with less than five hundred (500) square feet of interior building area, and less than five hundred (500) square feet of enclosed outdoor play area;
3. Medical offices when developed in conjunction with a planned hospital development;
4. Commercial uses of existing buildings on industrially-zoned properties; and
5. Accessory dwelling units smaller in size than the principal use structure, and meets setback requirements of applicable development standards.

**E. Application Required.**

1. Applicant must complete a Conditional Use Permit 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 conditional use that addresses the locational criteria described and listed in Section 17.03.310(G); 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 decide whether a conditional use permit application may be considered administratively as a Minor Conditional Use Permit, per Section 17.03.310(H).

**F. Authority Authorities and Commission Actions.** The City Planner or Planning and Zoning Commission may approve, approve with conditions, or deny the application for a conditional use permit, with authority of the City Planner or Commission depending on the scope of a proposed conditional use. In

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permitting a new conditional use or the alteration of an existing conditional use, the City Planner or Commission may impose, in addition to those standards and requirements expressly specified by this Code, additional conditions which ~~it finds~~are found necessary to avoid a detrimental environmental impact and to otherwise protect the ~~best interest of the surrounding area or~~public health, safety, and general welfare of the community as a whole. These conditions may include, but are not limited to, the following:

- ~~(a)~~1. Limiting the manner in which the use is conducted including restricting the time a certain activity may take place and restraints to minimize such environmental effects as noise, vibration, air pollution, glare and odor.
- ~~(b)~~2. Establishing special yard, open space, lot area or dimensional requirements.
- ~~(c)~~3. Limiting the height, size, number, and location and nature of vehicle access points.
- ~~(d)~~4. Designating the size, location, screening, drainage, surfacing or other improvements of a parking or loading area.
- ~~(e)~~5. Limiting or otherwise designating the number, size, location, height and lighting of signs.
- ~~(f)~~6. Limiting the intensity of outdoor lighting and require its shielding.
- ~~(g)~~7. Requiring diking, screening, landscaping or another facility to protect adjacent or nearby property and designates standards for its installation and maintenance.
- ~~(h)~~8. Designating the size, height, location, of screening and materials for a fence.
- ~~(i)~~9. Protecting and preserving existing trees, vegetation, water resources, wildlife habitat or another significant natural resource.

~~310.4~~G. **Location Criteria.**

- ~~(a)~~1. The provisions of this section are designed to provide citing criteria for the conditional uses specified herein and guidelines for the imposition of additional conditions not specifically provided for herein, to the end that such uses will:
  - ~~a.1.~~ — Be consistent with the intent and purpose of the district in which it is proposed to locate such use, meet requirements of the general plan with regard to providing benefit to the general welfare of the public, and fill a probable need of the public which can best be met by a conditional use at this time and in this place.
  - ~~2.~~b. Comply with the requirement of the district within which the conditional use is proposed and in accordance with conditions attached to such use under the authority of this article.
- ~~(b)~~2. Conditional Uses shall be located subject to the following specific standards:
  - ~~1.~~a. — Buffering, screening or other means shall be used where necessary to protect the privacy and safety of neighboring properties.
  - ~~2.~~b. — Solid waste landfills, transfer stations, natural gas storage, sewage treatment plants, electrical generating facilities and recreational vehicle parks shall not be in or adjacent to established residential areas.
  - ~~3.~~c. Solid waste landfills, transfer stations, natural gas storage, sewage treatment plants, recreational vehicle parks\* and electrical generating facilities shall not be directly accessible form local residential or collector streets. Recycling centers, water reservoirs, telephone communication and switching facilities, runoff detention facilities and City or County maintenance facilities shall not be directly accessible form local residential streets.



- 4d. The site layout promotes energy conservation and user convenience, as well as operational efficiency.
- 5e. The site layout conforms to the established street and circulation pattern.
- 6f. Noise levels and lights from the facility will not interfere with adjacent land uses.
- 7g. Recreational Vehicle Parks shall adhere to the conditions set forth in Article 17.08.

**310.5H. Minor Conditional Use Permit Administrative Review Procedure.**

- 1. Administrative Consideration by the City Planner.
  - a. Applicability.
    - i. Minor conditional uses. For those uses listed and described as minor in Section 17.03.310(D), and as described further in Section 17.03.310(H)(1)(b)(i), application to the City Planner for a Conditional Use Permit may be processed as a Minor Conditional Use Permit.
  - b. Reviewed for approval or deference to the Planning and Zoning Commission.
    - i. In consideration of an application, the City Planner may determine that a proposed conditional use is minor, if the land area and/or building area of the proposed use is smaller than that required for permitted uses, and the use is anticipated to have less impact in the following aspects associated with principally-permitted uses of the zoning district:
      - (1) Noise;
      - (2) Air Quality;
      - (3) Visual Character of Proposed Use(s) or Structures; and
      - (4) Vehicular and/or Pedestrian Traffic Safety.
    - ii. The City Planner may determine that a proposed conditional use is major, and may significantly impact the community such that the proposal should be sent to the Planning and Zoning Commission for their consideration at a public hearing, with meeting notification requirements.
  - c. Decision. If processed as a Minor Conditional Use Permit, the decision of the City Planner shall be provided to the Applicant, and self-identified interested parties.
  - d. Appeal. A Minor Conditional Use Permit decision of the City Planner may be appealed to the Planning and Zoning Commission, with separate application, notification costs and fees to be paid for by the conditional use permit applicant as required in Article 17.13 of these Zoning Regulations

**~~(a)~~I. Major Conditional Use Permit Consideration by the Commission.**

- 1. All applications for conditional use permits shall be considered administratively by the City Planner, or by the Commission at a public hearing, advertised and conducted in accordance with the provisions of ~~Section 1102~~this Zoning Code. Notice of public hearing by both publication in a newspaper of general circulation ~~in accordance with section 1202 and 1203, and,~~ where applicable, posting notice in conspicuous places close to the property affected and to the following persons:

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- ~~(a)~~a. Any person or organization who files with ~~the Community Development Director~~ Development Services a request to receive such notice upon payment of a reasonable fee;
  - ~~(b)~~b. Applicable adjoining political subdivisions where the property, which is the subject of the application, is within five hundred (500) feet of the City boundary; and
  - ~~(c)~~c. Such other persons as the Director of the department incorporating Development Services, the City Planner, or designee thereof determines are likely to be affected by the proposed use.
2. The notice shall contain:
- ~~(a)~~a. A description of the proposed conditional use and its location; and
  - ~~(b)~~b. The place and time of the public hearing at which comments on the proposed use must be filed.
3. The Commission shall review each application presented for compliance with the criteria and requirements set forth in this article. The Commission may approve, approve with conditions, or deny the application for a conditional use provided that the applicant provides evidence substantiating that all the requirements of this Code relative to the proposed use are satisfied, and further provided that the applicant demonstrates that the proposed use also satisfies the following criteria:
- ~~(a)~~a. The characteristics of the site are suitable for the proposed use, considering size, shape, location, topography, existence of improvements and natural features~~;~~;
  - ~~(b)~~b. The proposed development is timely, considering the adequacy of transportation systems, public facilities and services existing or planned for the area affected by the use~~;~~;
  - ~~(c)~~c. The proposed use will not alter the character of the surrounding area in any manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses listed in the district~~;~~ and
  - ~~(d)~~d. The proposed satisfied those goals, objectives, and policies of the General Plan that are applicable to the proposed use.
4. Written notice of the Commission's decision on major conditional use permit applications shall be provided by ~~the Community Development Director~~ Services to:
- ~~(a)~~a. The applicant;
  - ~~(b)~~b. Any person notified of the application for a conditional use pursuant to Section 1103.2(a)1; and
  - ~~(c)~~ — The Building Inspector.

#### **J. Appeal of Denial Decision.**

1. The applicant may appeal a denial decision within seven (7) days from the date of the Planning and Zoning Commission hearing, by filing an appeal to the City Council. Upon receipt of such an appeal, the City Council shall schedule and hold a public hearing upon due notice published at least fifteen (15) days in advance of the appeal hearing in the newspaper of record and posting of the site at least fifteen (15) days in advance of the appeal hearing date.

#### **310.6K. Revocation of Conditional Use Permit.**



~~(a)~~1. Any previously granted conditional use permit may be revoked by the Commission, on recommendation of staff or citizen complaint, after a hearing conducted in the manner required for approval of a conditional use permit initially, upon the following grounds:

~~1a.~~ Failure to comply with the conditions of approval;

~~2b.~~ Discontinuance of the use for a period in excess of one (1) year.

~~3.~~ Failure to comply with other applicable provisions of the General Plan regarding design, dimensional or use requirements. [WDO1]

~~4c.~~ A change in the ~~General Plan or S~~development standards of the district within which the use is located that have the effect of no longer allowing a new conditional use permit application to be considered in that district.

~~(b)~~2. Revocations ~~initiated under Section 1103.21 above~~ shall not be initiated for at least six (6) months after approval of the conditional use permit. Revocations initiated ~~under above~~, shall have the effect of making the previously granted conditional use permit void until a new application is submitted and granted. Revocations initiated ~~under Section above~~, shall have the effect of making the previously granted conditional use a nonconforming use.

#### ~~310.7~~L. Automatic Termination of Conditional Use.

~~(a)~~1. Unless otherwise provided by the Commission in the resolution granting approval of the conditional use permit, a conditional use permit shall automatically become null and void one (1) year after the effective date upon which it was granted unless one of the following events occur:

~~1a.~~ The applicant or his successor in interest has secured a building permit within said one-year period, if a building permit is required, and has actually commenced construction of the building or structure authorized by the permit within said one-year period.

~~1b.~~ The applicant or his successor in interest has commenced the activity or installation of the facility or structure authorized by the conditional use permit within said one-year period.

~~2c.~~ The applicant may submit a request to ~~the Commission~~ Development Services for an extension of time on the conditional use permit to avoid the permit becoming null and void. The requirements for extension must be filed with the City ~~Clerk-Planner~~ prior to the expiration of the times established by the Subsection 17.03.310(K)(1)(a) above. The ~~Commission-City Planner~~ may, in ~~the resolution~~ granting such conditional use permit, provide for an extension of time beyond one (1) year, or remand the extension request to the Commission for a public hearing, with required application, notification costs and fees to be paid for by the conditional use permit applicant.

(Ord. 20-1127, § 4, 2-10-2021)

## Sec. 311. Temporary uses.

~~311.1~~A. **Authorization.** Temporary uses are permitted only as expressly provided for in this section.

~~311.2~~B. **Temporary Use Permit Required.** No temporary use shall be established unless a permit, evidencing the compliance of such use with the provisions of this section and other applicable provisions of this Code shall have first been issued.

~~311.3~~C. **Application and Procedures.**

~~(a)~~1. **Application.** A written application for a temporary use shall be filed with ~~the Community Development Department~~ Development Services on a form supplied by the City and shall contain