

ARTICLE 1. TITLE, PURPOSE AND INTENT

Sec. 101. Title.

This Ordinance shall be known and cited as the "Zoning Ordinance of the City of Douglas." The provisions of this Ordinance may be cited as the "City of Douglas Zoning Regulations," or "City of Douglas Zoning Code," or simply "Zoning Code" or "Zoning Regulations."

Sec. 102. Purpose.

This Ordinance is hereby established approved and adopted by the City Council of Douglas, Arizona, for the purpose of promoting and protecting the public health, safety, ~~morals~~ and general welfare of the citizens of the City of Douglas and to provide for the social, physical and economic advantages resulting from the comprehensive and orderly planned use and conservation of land and constructed resources.

Sec. 103. Intent.

It is the intent of these regulations to ~~insure~~ ensure that future growth and revitalization of existing developed areas in the city occurs in a planned and orderly manner and in accordance with the City of Douglas' ~~Comprehensive General~~ Plan. Specifically, it is the intent of these regulations to stabilize and improve property values, provide for a variety of affordable housing types and a variety of commercial spaces and uses in closer proximity to neighborhoods, to secure adequate light and air, to secure safety ~~form~~ from fire, panic and other dangers, to lessen or avoid congestion in the streets, increase pedestrian traffic, improve public health, and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public facilities.

~~103-1A.~~ **Declaration.** In its interpretation and application, the provisions of the Ordinance shall be held to be minimum requirements. These regulations shall not annul any permits issued before the effective date of this Ordinance, nor shall they affect the right to continued use of existing property for the purpose used at the effective date of this Ordinance, nor uses prior to amendments of the Ordinance thereto.

ARTICLE 2. ESTABLISHMENT OF DISTRICTS, ZONING MAP

Sec. 201. Establishment of zoning districts.

A. **District Types.** For the purposes of these Zoning Regulations, the following types of zoning districts are hereby established:

1. SFR - Single-Family Residence
2. MFR - Multi-Family Residence
3. MHR - Mobile Home Residence

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4. [NC - Neighborhood Convenience](#)
 5. [LC - Limited Commercial](#)
 6. [OP - Office Professional](#)
 7. [GC - General Commercial](#)
 8. [IP - Industrial Park](#)
 9. [LI - Light Industrial](#)
 10. [HI - Heavy Industrial](#)
 11. [AA - Airport Airspace Overlay Zone](#)
 12. [H-P - Historic Preservation Overlay Zone](#)
 13. [DR - Design Review Overlay Zone](#)
 14. [MUI – Mixed Use/Infill Development Overlay Zone](#)
 15. [IC-R – Innovative Community-Residential Overlay Zone](#)
 16. [IC-C – Innovative Community-Commercial Overlay Zone](#)
 17. [IC-MU – Innovative Community-Mixed-Use Overlay Zone](#)

201-1B. Conformity to Regulations. The regulations set forth in this Ordinance for each zoning district shall be minimum regulations and shall apply uniformly to each class or kind of land or structure, except as hereinafter provided:

201-1(a)1. No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereinafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations hereinafter specified for the district in which it is located.

201-2C. Classification of Annexed Areas. All territory which may hereafter be annexed to the City of Douglas shall [occur in a manner consistent with A.R.S. §§ 9-471 and 9-462.04, or as otherwise required by statute as amended from time to time.](#) ~~initially be zoned into a district which permits no greater intensity of use and/or housing density (units per acre) than was permitted in that territory prior to annexation. If the annexation of such territory does not specifically establish a zoning classification, the territory shall be deemed, upon annexation, to be zoned into the district with the greatest intensity of use and/or housing density. Following annexation, the property may be rezoned following the procedures detailed in Article 13.~~

201-3D. Classification of Vacated Streets. Whenever a public street or alley is vacated by official action of the City Council, the Zoning districts adjoining each side of such street or alley shall automatically be extended to the center-line thereof, and all land area thus vacated shall then and henceforth be subject to all regulations of the extended districts. [In no event, should a street or alley be vacated, so that a property be denied vehicular access to on-site parking. If an easement is necessary to continue such access, it shall be required, and legally-described.](#)

Sec. 202. Official Zoning Districts Map.

- ~~202-1A.~~ **Establishment.** The areas and boundaries of zoning districts are hereby established as shown on the Official Zoning Districts Map which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.
- ~~202-2B.~~ **Identification.** The Official Zoning Districts Map shall be identified by the 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 Districts Map which may, ~~form~~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

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 Section 17.10.1001\(A\)\(1\), 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;](#)
 - [i. Applicant/agent, site location and owner contact information;](#)
 - [ii. City Planner Interpretation and Applicant Rationale for Appeal based on record and applicable Zoning Code 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;

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. This right to petition should not be misconstrued as a promise of the City to act without respect to the regulations and application requirements, of the City, the State, and Federal government.

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, not supported by rights, and is a matter for consideration in judgment, however.

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 the City of Douglas, 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 Commission if considered major](#).

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~~;~~
- ~~(b)~~2. Sewage facilities, including but not limited to, pump stations, or sewage or storm water treatment plants~~;~~
- ~~(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~~;~~
- ~~(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](#)~~;~~
- ~~(f)~~6. Elementary, [middle](#) and high schools (public/secular)~~;~~
- ~~(g)~~7. Institutional buildings such as hospitals, colleges, churches and synagogues~~;~~
- ~~(h)~~8. Cemeteries~~;~~
- ~~(i)~~9. Nursing, retirement or convalescent homes~~;~~

~~(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;

~~(k)~~11. Solid waste transfer stations and solid waste landfills ;

~~(l)~~13. Recycling centers ;

~~(m)~~14. Transit facilities, including equipment storage centers ;

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

~~(o)~~15. Accessory dwelling units larger in size than the principal use structure.

~~(p)~~16. Recreational Vehicle Park ,*,*₂*

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

~~(q)~~17. Amusement Parks, Fair Grounds, Theme Parks ; and

~~(r)~~18. ———— Veterinary Hospitals providing all animals are maintained within enclosed structures.

~~310.3~~

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(F)*; 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(G).

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

~~310.5G.~~ 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(G)(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, 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.

~~(H).~~ 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 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:

- ~~(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.

I. 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.

~~310.6J.~~ **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 Sdevelopment 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.

~~310.7K.~~ **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) 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(J)(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.

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

~~311.2B.~~ **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.

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

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- (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 the required information. Unless rejected within three (3) working days of the date of receipt, and application shall be deemed to have been accepted.
 - (b)2. Notice. Upon acceptance of an application, posting of the required bond and payment of the required fees, ~~the Building Inspector~~ Development Services shall post the site with a sign indicating the proposed temporary use, the fifteen (15) working day deadline date for filing comment thereon, and any other pertinent information.
 - (c)3. Action ~~by Building Inspector.~~ No later than fifteen (15) working days after acceptance of an application, the ~~Building Inspector~~ City Planner shall make a finding and grant or deny the requested temporary use and indicate the conditions thereon, if any. If denied, the reasons therefore shall be stated, based in these zoning regulations, or other regulations of the City, and General Plan policies.
 - (d)4. [Issuance of Certificate.] If the temporary use is ~~(d)~~ permitted, a zoning compliance certificate shall be issued. Notice of ~~Building Inspector's~~ action shall be ~~mailed~~ sent to applicant, adjacent lot owners, and others who have requested notice.
 - (e)5. [Applicability of Certificate.] The certificate for a temporary use not otherwise permitted in the applicable zoning classification applies to the applicant only and does not carry ~~to~~ with the property to other parties. It will be unlawful to conduct any such temporary uses, and to install, place or maintain any such temporary structures without first obtaining a zoning compliance certificate therefore.

~~(f)~~D. **Appeals.**

1. Appeal of City Planner Decision to ~~Board of Adjustment~~ City Manager. Any person may appeal the ~~Building Inspector~~ City Planner's action to the ~~Board of Adjustment~~ City Manager within fifteen (15) working days following ~~his~~ such action which shall stay the effective date of the certificate.
 - a. Application with substantiated cause.
 - i. Applicant name, proposed temporary use, and pertinent sections of these zoning regulations, and any General Plan policies that hold to the appealed decision.
 - ii. Fee payment receipt, as required in Article 17.13 of these Zoning Regulations.
 - b. City Manager Decision. The City Manager may affirm, reverse, or refer the City Planner's Decision to the Board of Adjustment for an appeal hearing.
 - i. The City Manager shall provide a letter of the appeal decision to the appellant, and file a copy with Development Services within thirty (30) days of the appeal application.
2. Appeal of Decisions to be heard by the Board of Adjustment.
 - a. If the City Manager's Appellate Decision is appealed, the Appellant must file an application with payment of fees, and Development Services shall schedule a public hearing of the Board of Adjustment relating to the appeal.
 - b. If the City Manager refers the City Planner's Decision to the Board of Adjustment without judgment, Development Services shall schedule a public hearing of the Board of Adjustment relating to the appeal.
 - c. Appellant shall pay the costs of publishing the legal notice of public hearing, on receiving invoice from the City of Douglas.

d. Board of Adjustment Appellate Decision. Upon application and fee payment for appeal, all materials on the matter shall be filed by ~~the Building Inspector~~Development Services with the Board of Adjustment which is authorized to review the case, ~~and b~~Based on the record certified to it, the Board of Adjustment may either uphold the action of ~~the Building Inspector~~City Planner, or remand the matter back to ~~him~~the City Planner with such instructions as the Board deems proper that are statutorily legal. If the Board deems that it needs additional information or evidence, it may hold a public hearing and proceed in accordance with its standard procedures.

~~311.4E.~~ **Permitted Temporary Uses.** The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Code.

~~(a)~~1. Carnival or Circus.

- ~~1~~a. Permitted in any district.
- ~~2~~b. Maximum length of permit shall be fifteen (15) days.
- ~~3~~c. No structure or equipment shall be located within five hundred (500) feet of any residential property line.

~~(b)~~2. Christmas Tree Sales.

- ~~1~~a. Permitted in any district.
- ~~2~~b. Maximum length of permit for display and open-lot sales shall be forty-five (45) days.

~~(c)~~3. Contractor's Office and Construction Equipment Sheds.

- ~~1~~a. Permitted in any district where used is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
- b. Portable toilet(s) may be allowed on-site, during construction.
- ~~2~~c. Maximum length of permit shall be one (1) year. This may be renewed as construction on some projects may be longer than one year.
- ~~3~~d. Office or shed, and any portable toilet(s) shall be removed upon completion of construction project.

~~(d)~~4. Events of Public Interest.

- ~~1~~a. Permitted in any district.
- ~~2~~b. Events may include, but are not limited to, outdoor concerts, auctions, or similar activities.
- ~~3~~c. Maximum length of permit shall be 72 hours.

~~(e)~~5. Real Estate Sales Office.

- ~~1~~a. Permitted in any district for any new subdivision approved in accordance with City of Douglas subdivision regulations. The office may not contain sleeping or cooking accommodations, but may include restroom facilities, as approved by the City Wastewater Division of Public Works. A model home may be used as a temporary sales office.
- ~~2~~b. Office shall be removed upon completion of the sale of all units in the subdivision.

~~(f)~~6. Religious Tent Meeting.

- ~~1~~a. Permitted in any district.
- ~~2~~b. Maximum length of permit shall be fourteen (14) days.

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- ~~(e)~~7. Horse Show or Exhibition. Permitted for any commercial or private stable for special events, including, but not limited to, shows, exhibitions, and contests.
- ~~(h)~~8. Temporary Shelter. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation/reconstruction of the original residence or construction of a new residence is permitted subject to the following additional regulations:
- ~~1~~a. Required water and sanitary facilities must be provided.
 - ~~2~~b. Maximum length of permit shall be six (6) months, but ~~the Building Inspector~~Development Services may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner.
 - ~~3~~c. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit.
 - ~~4~~d. The mobile home shall be removed from the property upon issuance of any occupancy permit for the new or rehabilitated residence.
- ~~(i)~~9. Tent Theater.
- ~~1~~a. Permitted in any district.
 - ~~2~~b. Maximum length of permit shall be five (5) months per calendar year.
- ~~(j)~~10. Additional Regulations. A carnival or circus, religious tent meeting, tent theater, horse show or exhibition, and events of public interest shall be subject to the following:
- ~~1~~a. Documentation must be provided from the County Health Department that adequate arrangement for temporary sanitary facilities has been insured.
 - ~~2~~b. No permanent or temporary lighting shall be installed without an electrical permit and inspection.
 - ~~3~~c. All uses shall be confined to the date specified in the permit.
 - ~~4~~d. Hours of operation shall be confined to those specified in the permit.
 - ~~5~~e. The site shall be cleared of all debris at the end of the special event and cleared of all temporary structures within thirty (30) days after the closing event. A cash bond for a minimum of twenty-five (\$25.00) dollars and not to exceed five thousand (\$5,000) dollars shall be posted or a signed contract with a disposal firm shall be required as a part of the application to ~~insure~~ensure that the premises will be cleared of all debris during and after the event.
 - ~~6~~f. Public parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained. It shall be the responsibility of the applicant to guide traffic to these areas and to prevent patrons from unlawful parking.
 - ~~7~~g. Traffic control arrangements required by the Public Works Director in the vicinity of major intersections shall be arranged for by the applicant.
 - ~~8~~h. A cash bond for a minimum of twenty-five (\$25.00) dollars and not to exceed five thousand (\$5,000) dollars shall be posted to insure the repair of any damage resulting to any public right-of-way as a result of the event.
 - ~~9~~i. Serving of alcoholic beverages shall require the approval of the City ~~council~~Council and or other appropriate agencies.

~~(k)~~11. Revocation of Temporary Permits. The failure of any applicant to fulfill the requirements of any temporary permit issued under the provisions of this article shall result in the revocation of the permit and the denial of future permits.

~~The Building Inspector~~ Development Services may revoke a permit for temporary use after written notice upon violation of any provision of this Code or to protect the public health, safety and general welfare.

Sec. 312. Uses prohibited.

Any use not specifically permitted in a district, either as a permitted use or a conditional use granted by the ~~Board of Adjustment~~ Planning and Zoning Commission, or the City Planner as provided in Minor Conditional Use in Sections 17.03.310(D) and 17.03.310(G), or by Administrative Interpretation in Section 17.03.302, if not issued with an approval letter for recording by the City Planner or designee thereof is specifically prohibited from that zoning district.

Sec. 313. Exempt uses.

The following uses shall be permitted with complete application submittal per requirements of Title 12 in any zoning district and exempted from the provisions and requirements of these Zoning Regulations, unless otherwise specified:

- ~~(a)~~A. Public rights-of-way for streets, alleys, drainage-ways, and other public rights-of-way; and
- ~~(b)~~B. Essential services of public utilities duly authorized to furnish to the public under state of federal regulations services such as electricity, gas, steam, communications, water, water drainage, flood control, irrigation, solid waste disposal, and sewage disposal, together with equipment and accessories in connection therewith which are reasonably necessary for the furnishing of adequate service by such utilities for the public health, safety convenience or general welfare.

Sec. 314. Splitting, combining, or adjusting boundaries of lots.

- A. Intent of Regulation. The City of Douglas reserves the authority to regulate the splitting and combination of lots, and the adjustment of boundaries for same to ensure that any lots created or amended for filing with the Cochise County Assessor's Office and recording with the Cochise County Recorder of Deeds comply with the Zoning District property development regulations within which such properties are situated.
- B. Consultation. Any adjustment, split, or combination of lots requires that the property owner or representative agent meet with Development Services staff at least one (1) week in advance of filing application to discuss the intentions of the property owner or representative agent to identify the applicable process and substantive requirements.
- C. Application. A complete application submittal on a form provided by Development Services shall include:
 - 1. Accurate site location:
 - a. Site Address(es);
 - b. County Assessor's Parcel Number(s); and
 - c. Existing Legal Description(s).
 - 2. Proof of property ownership.

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3. Desired number of splits, combinations, adjustments and land areas for each lot to be created, combined or adjusted.
 4. Certificate or Record of Survey required with application. A certificate or record of survey shall be provided by a State of Arizona professionally-registered surveyor or professionally-registered civil engineer featuring:
 - a. Form and Scale:
 - i. Drawn at an engineering scale not more than one hundred (100) feet to the inch.
 - b. Identification Data:
 - i. Name, address, phone number and email address of property owner(s);
 - ii. Name, address, phone number, and email address of person preparing the certificate of survey;
 - iii. Scale, North Arrow, and date of preparation, including any revision dates.
 - c. Existing Conditions Data:
 - i. General location of water wells, washes and drainage ditches, including direction of flow, location and extent of areas subject to flooding;
 - ii. Location, widths, and names of all platted streets, alleys, utility rights-of-way of public record, easements, public areas, and permanent structures to be retained within or adjacent to tract;
 - iii. Name, book, and page numbers of recorded plats abutting the subject area, or across a boundary street;
 - iv. Location of split, combination, or adjustment by section, township, range and county;
 - v. Dimensions of the subject area of the proposed split, combination, or adjustment, with acreage of the subject area.
 - d. Survey Data:
 - i. Proposed boundaries of created or adjusted lots with dimensions in feet and decimals thereof, showing all bearings;
 - ii. Locations, widths, and proposed use(s) of easements;
 - iii. Existing structures, their uses, and encroachments with exterior dimensions;
 - iv. Legal Descriptions for each lot created or adjusted; and
 - v. Draft of proposed deed restrictions, if applicable.
 5. Proof of payment of application fees, per *Article 17.13 – Schedule of Fees, Charges, and Expenses.*

D. Certifications for Approval required:

1. Certificate of Survey is sealed, signed and dated prior to application approval by the registered surveyor or civil engineer who prepared the survey, 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. Receipted payment 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 Federal and State regulations by ~~the Board of Adjustment~~ Development Services in accordance with regulations of that Zoning District.
- ~~317-2B.~~ **Dumping of Excavation Material.** The dumping of dirt, sand, rock or other material excavated from the earth ~~shall~~ may be permitted in any zoning district, provided any 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:

- ~~320.11~~ **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 of such devices. An administrative alternative design interpretation may be required for approval.](#)

~~320.22.~~ **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.

~~320.33.~~ **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.

~~320.44.~~ **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, if applicable), and the substantive and procedural requirements of Section 17.03.310.
 2. The City Planner may be asked for an Administrative Interpretation by application submittal 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.

~~324.1~~**A. 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 has paid for the City Business License.

~~324.2~~**B. 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:
 - ~~1~~a. Signage according to the requirements for Article 17.07;

- ~~2~~b. 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;
- ~~3~~c. 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;
- ~~4~~d. There is not outside storage of materials other than plant materials intended as landscaping;
- ~~5~~e. There are no employees other than family members who reside at the dwelling;
- ~~6~~f. The use will not tend to ~~destroy~~ negatively impact the residential character of the neighborhood;
- ~~7~~g. The generation of excessive noise, vibrations, odors, heat or glare detectable beyond any property line is prohibited; and
- ~~8~~h. 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.

~~324.3~~C. **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.

~~324.4~~D. **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.

~~324.5~~E. **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, on one hand, practical latitude for utilization of land for locating principal and accessory use structures as allowed on other properties similarly zoned, but at the same time maintain adequate 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 property of the same district; and

b. The special circumstances applicable to the property are not self-imposed by the property owner and involve something 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 exist~~s~~ 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 as provided in Article 10 or action of the Board of Adjustment as provided in Article 11~~;~~ 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 plan.
- (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.

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.

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7. Transitional Zones. Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevations the approach surface, and extending a horizontal distance of five thousand (5,000) feet measured at ninety (90) degree angles to the extended runway centerline.
 8. Helipport Transitional Zones. Slope two (2) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of two hundred fifty (250) feet measured horizontally from and at ninety (90) degree angles to the primary surface centerline and heliport approach zones centerline.
 9. Horizontal Zone. Established at one hundred fifty (150) feet above the airport elevation.
 10. Conical Zone. Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty (150) feet above the airport elevation and extending to a height of three hundred fifty (350) feet above the airport elevation.

512.4 Use regulations. The provisions and regulations of the zoning district over which Airport Airspace (AA) Districts are superimposed, if more restrictive, shall prevail. No use shall be made of land underlying the surface boundaries of any zone created by this article in such a manner as to create electrical interference with radio communications of the airport or aircraft; make it difficult for flyers to distinguish between airport lights and others; result in glare in the eyes of the flyers using the airport, impair visibility in the vicinity of the airport or otherwise endanger the landing, taking off, or maneuvering of aircraft.

512.5 Hazard marking. Any use permit that is granted for property underlying the surface boundaries of any zone created by this article, may be so conditioned as to require the owner of the property for which said permit is desired, at the owner's expense, to install, operate, and maintain such marking and lights as may be necessary to indicate to flyers the presence of an airport hazard in order to effectuate the intent of this article.

Sec. 513. H-P - Historic Preservation Overlay Zoning District.

513.1 Purpose. The Historical Preservation (H-P) Overlay Zoning District is intended to protect and enhance the distinctive character and historical significance of various sections of the City, to protect and preserve buildings of unique, characteristic architecture and to protect and preserve groups of buildings and street facades of historical significance or unique architectural character. Preservation of historical areas and buildings will be a significant factor contributing to the social and economic welfare of inhabitants. The regulations contained herein encourage adaptive reuse of existing buildings and neighborhood context-sensitive new construction rather than contemporary conventional structures more suited to rural or suburban contexts. The creation of this district is therefore considered to be in furtherance of the health, safety and general welfare of the City.

The Historic Preservations (H-P) Overlay Zoning District is a supplemental special district which, when ~~superimposes~~ superimposed over another zoning district, requires that the proposed uses and development plans for all sites, buildings, structures, or appurtenances thereto, to be erected, constructed, converted, established, altered or enlarged within the district to be reviewed and approved by the City Planner and Building Inspector prior to any construction, removal or site work. Where the work to be done is patently in keeping with the intent and purpose of the historical preservation district no further review or approval other than that of the City Planner

and Building Inspector is required. If the City Planner or Building Inspector disapproves of said plans, then the applicant may appeal the decision to the design review board.

In instances involving major reconstruction or [major additions, as defined per Article 17.10](#), to buildings or other structures within the historical preservation district which will affect the character of the structure or building and its neighboring buildings or when new construction is involved, the City Planner or designee shall call meeting of the design review board for the purpose of reviewing and approving such plans. The City Planner shall also call a meeting of the siding review board or design review board whenever there is reasonable expectation that the proposed work anticipated will be controversial in nature.

The Historic Preservation (H-P) Overlay Zoning District also provides authority to the Design Review Board to override parts of this ordinance when it would be impossible to maintain the historic qualities of the H-P Overlay Zoning District by enforcing all use and development standards supplemental to the district's primary underlying zoning district. This is particularly the case in the downtown district where yard and building setbacks, and off-street parking requirements cannot be met and keep the historic and unique character of the district.

513.2 Permitted Uses.

A. Permitted principal uses.

A mix of more socially- and economically-activating commercial and employment land uses located within existing buildings having transparent storefronts are favored within the Historic Preservation (H-P) Overlay Zoning District; therefore, the uses principally-permitted are broader in range than other zoning districts, per:

1. Underlying Zoning. All uses allowed by the underlying zoning district are allowed within the Historic Preservation (H-P) Overlay Zoning District, with development standards of the H-P Overlay Zoning District applied rather than those associated with the underlying zoning district;
2. Compatibility with Less intense Zoning Districts Than Underlying Zoning. To promote mixed use and adaptive reuse of existing structures, except where an underlying zoning district is single-family residential or mobile home residential, uses permitted within all intensities of commercial and office zoning districts shall also be permitted within the H-P Overlay Zoning District, with development standards of the H-P Overlay Zoning District applied rather than those associated with any of the zoning districts typically hosting such uses.

B. Permitted conditional uses.

More socially- and economically-activating crafting land uses located within existing buildings having transparent storefronts are also favored within the Historic Preservation (H-P) Overlay Zoning District; therefore, the uses conditionally-permitted in addition to those listed in Section 310 include smaller-scaled forms of industrial uses and innovative agriculture not encouraged elsewhere in the City:

1. Craft and artisanal manufacturing and production uses typically associated with Light Industry or Heavy Industry zoning districts may be permitted conditionally within the H-P Overlay Zoning District, provided there is a safe, but visible connection between production, enterprise and customers, visitors, and passersby.
 - a. Craft brewing. Micro scale, nano-scale, or pico-scale production of beers, ales, meads and associated products for commercial consumption, whether combined with on-site packaged beverage sales, merchandise sales, or restaurant uses per A.R.S. 4-205.08, 4-206.01, 4-243.02(A), et al.
 - i. Separation distance requirements. Per A.R.S. § 4-207, alcohol manufacturing, sales, and service establishments must be [300 feet](#) from schools and places of worship, and the separation distance must be applied during site selection for a

proposed unless an exemption is issued from the City of Douglas City Council, per an adopted entertainment district resolution.

- b. Craft distilling. Micro-scale, nano-scale, and pico-scale production of distilled spirits and associated products for commercial consumption, whether combined with on-site packaged beverage sales, merchandise sales, or restaurant uses per A.R.S. 4-205.10, 4-206.01, 4-243.02(B), et al.
 - i. Separation distance requirements. Per A.R.S. § 4-207, alcohol manufacturing, sales, and service establishments must be [300 feet](#) from schools and places of worship, and the separation distance must be applied during site selection for a proposed unless an exemption is issued from the City of Douglas City Council, per an adopted entertainment district resolution.
- c. Craft winery. Micro-scale, nano-scale, and pico-scale production of wines and associated products for commercial consumption, whether combined with on-site packaged beverage sales; merchandise sales, or restaurant uses per A.R.S. 4-205.04, 4-206.01, 4-243.02(B).
 - i. Separation distance requirements. Per A.R.S. § 4-207, alcohol manufacturing, sales, and service establishments must be [300 feet](#) from schools and places of worship, and the separation distance must be applied during site selection for a proposed unless an exemption is issued from the City of Douglas City Council, per an adopted entertainment district resolution.
- d. Custom and craft furniture making.
- e. Custom jewelry-making.
- f. Textiles crafting.
- g. Artisanal bakery.
- h. Craft coffee-roaster.
- i. Craft blacksmith, craft metal-working shop, including welding.
- i. Custom automobile and motorcycle crafting shop.
- k. Custom bicycle crafting shop.
- l. Custom and craft toy-making shop.
- m. Other undefined crafting uses of similar intensity may be administratively deemed appropriate within the H-P Overlay Zoning District by the City Planner, consistent with the process described in Section 17.03.302 of these regulations.

- 2. Vertical agriculture. Where possible, allow for adaptive reuse of vacant buildings and spaces within the H-P Overlay Zoning District to include vertical agricultural use, including hydroponic, aquaponic, and other forms of urban agriculture. These uses can support food security and local food and beverage production objectives.

C. Permitted accessory uses.

- 1. Any use customarily incidental to a permitted principal use, meeting the development standards requirements of Section 513.3 and the submittal review requirements and procedure of Section 513.4.
- 2. Rooftop gardens. Protecting roofs by absorbing water in planters, raised planting beds, green roof containers or similar vessels supports an approach to resilience and food security with limited resources.

513.3 Property development standards.

- A. Required area. No minimum area requirement. A ten thousand (10,000) square foot maximum area requirement applies for permitted conditional uses.
- B. Maximum building height. No new building in the H-P Overlay Zoning District shall exceed forty-five (45) feet in height, nor four (4) stories in levels, measured above ground.
- C. Minimum distance between main buildings. As prescribed by the Uniform Building Code, applicable to historic buildings.
- D. Required yards:
 - 1. Front yard:
 - a. Zero (0) feet. Regardless of double frontage on two (2) streets.
 - 2. Side yard:
 - a. Zero (0) feet.
 - 3. Rear yard:
 - a. Zero (0) feet.
- E. Departures. Though flexibility exists more so in the H-P Overlay Zoning District than in other zoning districts, departures from the property development standards may be applicable through a conditional use permit process.

513.4 Design Review Requirements and Procedure.

- A. Prior to the preparation of final architectural or engineering drawings for any building within the Historic Preservation (H-P) Overlay Zoning District, the property owner or his representative shall submit the following consideration:
 - 1. Rendered elevations of the front, sides and rear of the building, to scale, adequately illustrating the building's character and treatment.
 - 2. A list of exterior materials, colors, and their application.
- B. Minor improvements and construction.
 - 1. Any painting, cleaning, masonry-repointing, in-kind material replacement for facades, signs, fencing, and any addition or exterior remodeling of less than twenty percent (20%) of the total existing building area, or fencing that is consistent with the architectural design and material consistency with the primary structure qualifies as a minor improvement and will go through administrative design review, with application and fees.
 - 2. Administrative design review approval for a minor improvement is required prior to review and approval of a building permit.
 - 3. Any proposed demolition, partial or whole of a structure, may not be considered a minor improvement and must be reviewed by the Design Review Board in a public hearing.
- C. Major improvements and construction. If the applicant is required by this ordinance Any improvements that cannot qualify per 17.05.513.4(B) above as minor must be scheduled to appear before the Design Review Board for approval of his plans, and the following additional information shall be submitted:
 - 1. An application for Design Review approval. Said application to be furnished by the Development Services Department and to include applicant's name, mailing address, location of property,

property owner name and mailing address, property owner authorization, legal description and such other information as deemed necessary by the Design Review Board.

2. A site plan, to scale, showing area covered by building, parking areas and landscaping treatment. The site plan submittal package shall also include space occupancy amounts for land uses permitted within Section 513.2 and conform to the development standards of Section 513.3.

~~CD.~~ Prior to the issuance of a building permit within the H-P Overlay Zoning District, the ~~Building Inspector~~City Planner or designee thereof shall ~~ascertain~~confirm that the ~~Design Review Board has~~ building permit application submittal substantially conformity with Design Review approved plans which are in substantial conformance to those presented with the building permit application and that the time limitations imposed by this ordinance or the Design Review Board have not elapsed. If the ~~Building Inspector~~City Planner or designee ~~has~~have any questions as to whether the plans are in substantial conformance with the plans approved by the Design Review Board, the plans ~~shall~~may be referred to the Design Review Board for their consideration.

~~DE.~~ Prior to the change of any building's exterior character, by remodeling or alteration, the property owner or his designated agent shall secure that approval of the City Planner or designee thereof, or the Design Review Board~~Board, or the Building Inspector~~, as the circumstances require.

~~EF.~~ The City Planner and Design Review Board shall impose such conditions as ~~it~~they may deem necessary in order to carry out fully the provisions and intent of this Ordinance. A notation of the City Planner or Design Review Board's action shall be indelibly imprinted on each sheet of two sets of plans. One set shall be retained ~~In the Building Inspections file~~by Development Services and one set shall be returned to the owner or his representative.

~~FG.~~ The City Planner ~~and Building Inspector of the City~~or designee thereof shall ensure that all matters approved ~~by the Design Review Board~~ are undertaken and completed according to the details of the recorded approval ~~of the Design Review Board~~ and ~~is~~are hereby authorized and required to cause the stoppage of any work attempted to be done without or contrary to the recorded approval ~~of the Design Review Board~~ and shall cause any violator to be prosecuted.

~~GH.~~ Any citizen of the City of Douglas shall also have the right, within thirty (30) days, to appeal an administrative design review decision of the City Planner ~~and/or Building Inspector~~designee thereof to the Design Review Board.

~~H.~~ ~~The decisions made by the City Planner and Building Inspector under subsection 513.4 shall be published as a legal notice in a newspaper of record within fourteen (14) days after said decision.~~

513.5 **Criteria.** In considering any application for Design Review approval, the City Planner or designee thereof and the Design Review Board shall be guided by the following criteria:

- A. The architectural character of the proposed structure shall be in harmony with and compatible to those structuress in the Historical Preservation Overlay Zone.
- B. The architectural character of the proposed structure shall be in harmony with and compatible to the architectural character hereinafter adopted for any given area.

513.6 **Demolition of Historic Buildings.** No permit shall be issued by ~~the Building Inspector~~Development Services for demolition of all or any significant part of any residential, commercial or industrial building, which is in the designated historic district before approval by the Design Review board.

In making the decision, the Design Review Board shall determine if the applicant has shown that the preservation of the building is physically and/or economically infeasible.

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- A. If preservation is found to be both physically and economically infeasible, they shall notify the City Planner ~~and Building Inspector~~ or designee thereof that the issuance of the demolition permit is approved by the Design Review Board.
 - B. If the preservation of the building is found by consideration of testimony and evidence to be feasible, the Design Review Board shall notify persons or groups interested in historic preservation who may either attempt to convince the owner to preserve the building for at least five (5) years in accordance with the provisions of this article, or if the owner does not so agree, to attempt to have the property purchased by someone who will agree to preserve the building for five (5) years' in accordance with the provisions of this article.
 - C. If the owner is not convinced to retain the building and does not make an agreement to that effect and no one else has agreed to purchase ~~it-the property from him~~ within ninety (90) days after public notification of ~~his-the~~ application for demolition permit, the Design Review Board shall notify the City Planner ~~and Building Inspector~~ or designee thereof that the ~~issuance~~ issuance of a permit to demolish the building is approved.
 - D. Approval by the Design Review Board of the issuance of a permit does not mandate the granting of the permit by the City Planner ~~nor Building Inspector~~ or designee thereof if substantial reasons exist to deny it under other provisions of the Douglas Municipal Code.

(Ord. No. 22-1143 , § 2(Exh. A), 4-13-2022)

Sec. 514. (DR) - Design Review Overlay Zone.

514.1 Purpose. The Design Review District is intended to protect and enhance the distinctive character and natural attractiveness of the City of Douglas in areas that may not otherwise be deemed to be historic.

It is also the intent of this district to enhance the aesthetic and visual environment, to assurance appropriate architectural design and to protect the unique architecture and items of historical significance from the effects of inharmonious, bizarre, and out-of-scale development. Enrichment of civic beauty is also a significant factor contribution to the social welfare of its inhabitants, and the creation of this district is therefore considered to be in furtherance of health, safety, and general welfare.

The (DR) Design Review Overlay Zone is a supplemental special district which, when superimposed over any other zoning district, requires the review of the exterior design and site plans for all buildings, structures, or appurtenances thereto, to be erected, constructed, converted, established, altered or enlarged within the district.

514.2 Review Requirements and Procedure.

- A. Prior to the preparation of final architectural or engineering drawings for any buildings within and area containing the supplemental (DR) Design Review Zoning, the property owner or his representative shall submit the following for the Design Review Board consideration:
 - 1. An application for Design Review approval. Said application to be furnished by the City ~~Community~~ Development Services Office and to include applicant's name, mailing address, location of property, legal description of property and such other information as deemed necessary by the Building Inspector and the Design Review Board.
 - 2. Rendered evaluations of the front, sides, and rear of the building, to scale, adequately illustrating the building's character and treatment.
 - 3. A site plan, to scale, showing area covered by building, parking areas and landscaping treatment.
 - 4. A list of exterior materials, colors and their application.

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- B. Prior to the issuance of a building permit within any area containing the supplemental (DR) zoning, the City Planner or designee thereof ~~Building Inspector~~ shall ascertain that the Design Review ~~board~~ Board has approved plans which are in substantial conformance to those presented with the Building Permit application and that the time limitations imposed by this ordinance or the Design Review Board have not elapsed. If the Inspector of Building has any questions as to whether the plans are in substantial conformance with the plans approved by the Design Review Board for the consideration.
 - C. Prior to the change of any building's exterior character, by remodeling or alteration, the property owner, or his designated agent, shall secure the approval of the Design Review Board.
 - D. The Design Review Board shall impose such conditions as it may deem necessary in order to fully carry out the provisions and intent of this ordinance. A notation of the Design Review Board's action shall be indelibly imprinted on each sheet of two set plans. One set shall be retained in the Building Inspection file and one set shall be returned to the owner or his representative.
 - E. The City Planner or designee thereof ~~Building Inspector of the City~~ shall insure that all matters approved by the Design Review Board are undertaken and completed according to the approval of the Design Review Board and shall cause any violator to be prosecuted.

514.3 **Criteria.** See subsection 513.5.

(Ord. No. 22-1143 , § 2(Exh. A), 4-13-2022)

Sec. 515. Mixed Use/Infill Development Overlay Zone (MUI).

515.1 **Purpose and Intent.** The Mixed Use/Infill Development Overlay Zone (MUI) is intended to protect and enhance the distinctive character of the original townsite and other early established areas by encouraging mixed use and infill development or redevelopment in those areas. The primary purpose of the MUI Overlay Zone is to encourage redevelopment of nonconforming residential and commercial structures, lots, and uses that were in place prior to the adoption of the City's Zoning Regulations in 1966. Regulations are designed to stabilize the character of the original townsite while promoting and encouraging mixed use and infill development.

The City of Douglas recognizes that there are considerable financial and design challenges inherent to developing successful infill projects in many of the City's older neighborhoods. This is due to infrastructure costs, irregular lot sizes, inability to benefit from economies of scale, and lower sales and rental prices than some newer areas of the City. The provisions of this Ordinance [section] thus facilitate the development of vacant and underutilized parcels located in the mature portions of Douglas and those parcels ready for redevelopment within the original townsite area. The provisions also ensure that new infill development is consistent in character and scale with established neighborhoods and business districts.

The specific objectives of this section are to:

- (a) Allow flexibility to facilitate mixed use and infill development.
- (b) Provide development standards and flexibility that can achieve high quality design, promote compatibility between new and existing development and enhance the overall look of the neighborhood.
- (c) Revitalize blighted, distressed and underutilized areas through redevelopment.
- (d) Encourage redevelopment of nonconforming properties.
- (e) Allow for development of mixed-use buildings with neighborhood-oriented commercial services and other uses.

and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot.

- (iii) The placement and/or design of windows on the ground floor of the zero lot line buildings shall address issues of privacy for the occupants of the abutting lot. For example, the privacy standard may be met by using clerestory windows along zero lot property lines.

(b) *Design Elements.* See the City of Douglas MUI Overlay Zone Design Guidelines.

(c) *Building Orientation.* All buildings shall be oriented to a public street, except when buildings cannot be oriented to the street due to inadequate street frontage. In this case, buildings may be oriented to a private street or lane, which shall be developed in conformance with city standards for pedestrian and vehicular circulation.

Duplexes and attached houses on comer lots shall be designed so each unit is oriented towards a different street, which gives the structure the overall appearance of a house when viewed from either street in accordance with the following:

- (i) Qualifying situations: New development on comer lots in the residential zones. Conversion of existing housing is not allowed.
 - (ii) Each unit of the duplex or attached house must have its address, front door, driveway, and parking area or garage oriented to a separate street frontage.
- (d) *Off-street parking.* It is understood that many locations in the MUI Overlay Zone do not meet the specifications set in Article 6 regarding requirements to provide off-street parking. Strict enforcement of the provisions in Article 6 could jeopardize the intent and purpose of the MUI Overlay Zone. Therefore, off-street parking will not be required where physical constraints make adherence to the requirement not feasible. However, should an area be available for off-street parking, applicant will be required to provide off-street parking to the extent it is possible to do so.

515.10 **Notice to Abutting Property Owners.** The Community Development Department shall give written notice of any infill development under consideration to abutting property owners. The City shall make every effort to address the concerns of abutting property owners during the plan review process.

515.11 **Appeals.** Appeals to the City Manager, or his designee, concerning interpretation or administration of the Mixed Use/Infill Development Overlay Zone (MUI) may be taken by any person aggrieved by any decision of the Community Development Director. Such appeals shall be filed within thirty (30) days of the decision of the Community Development Director, including all papers constituting the record upon which the action appealed is taken. Upon good cause shown, the City Manager, or his designee, may reverse, affirm, or modify the decision of the Community Development Director. The decision of the City Manager is final.

(Ord. No. 08-919 , § 1(Exh. A), 2-13-2008)

Sec. 516. Innovative Community Overlay Zones (IC).

- A. Purpose and Intent.** The Innovative Community (IC) Overlay Zones, including Innovative Community-Residential (IC-R), Innovative Community-Commercial (IC-C), and Innovative Community-Mixed Use (IC-MU) are intended to protect smaller properties in zoning districts that require larger redevelopments than , while encouraging adaptive reuse of existing buildings where underlying zoning district regulations prohibit this. Similar to the Mixed-Use/Infill Development (MUI) Overlay Zoning District, the primary purpose of the IC Overlay Zones is to encourage reinvestment, redevelopment and infill development of nonconforming residential and commercial structures, lots, and uses that were in place prior to the adoption of the City's Zoning Regulations in 1966. But secondarily, recognizing that the

overlays concentrate opportunities for a variety of residential and commercial uses is both desirable and consistent with the General Plan, increased flexibility is suitable for other parcels within the Overlay Districts. Regulations are designed to stabilize the character of the existing development while promoting and encouraging infill development.

The City of Douglas recognizes that there are considerable financial and design challenges inherent to developing successful infill projects in many of the City's older neighborhoods. These provisions thus facilitate the development of vacant and underutilized parcels located in the mature portions of Douglas and those parcels ready for redevelopment. The provisions also ensure that new infill development is consistent in character and scale with established neighborhoods and business districts.

B. Objectives. The specific objectives of this section are to:

1. Facilitate innovative residential, commercial, and mixed-use infill development.
2. Provide development standards and flexibility that can achieve high quality design and innovation, promote resiliency, and compatibility between new and existing development and enhance the appeal of Douglas neighborhoods.
3. Revitalize blighted, distressed and underutilized areas through relaxed regulations toward improving existing non-conforming uses as a first step.
4. Encourage redevelopment of non-conforming properties where market demand exists, and create opportunities for increased development intensity.
5. Allow for innovative design and development of single-family and multi-family dwellings, mixed-use buildings with neighborhood-oriented retail, restaurant, and commercial services and other uses that are suited to the character of neighborhoods in which they are situated.

C. Establishment of the Innovative Community Overlay Zones. The areas and boundaries of the Innovative Community-Residential (IC-R), Innovative Community-Commercial (IC-C), and Innovative Community-Mixed-Use (IC-MU) Overlay Zones are hereby established as shown on the official City Zoning Districts Map, which together with explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Ordinance.

D. Definitions.

1. *Abutting property.* Any property that touches or joins at the edge or border of a parcel or lot subject to this chapter.
2. *Infill parcel.* Any vacant or underutilized lot where infrastructure is already present.
3. *Innovative.* Different, improving, demonstrating new possibilities with regards to housing and commercial types, building materials, and arrangements where conventional suburban regulations have been stifling.
4. *Mixed use.* Any combination of commercial and non-commercial uses mixed horizontally (i.e. a combination of uses arranged side by side) or vertically (i.e. a combination of uses within a multi-story building).
5. *Overlay District.* A designated area wherein existing, underlying zoning district regulations may be chosen, but other regulations that offer greater flexibility may be chosen instead.

E. IC-R – Innovative Community-Residential Overlay Zoning District regulations.

1. Purpose and Intent. The Innovative Community-Residential (IC-R) Overlay Zoning District recognizes that existing regulations of underlying zoning districts are too challenging and restrictive for providing housing placement or construction in contemporary market conditions. The IC-R intends to allow for affordable housing types through flexibility of property

development standards, and for placement and construction of contemporary innovations in housing types rather than requiring only one type of housing.

2. Qualifications.

- a. Parcel must be located in the Innovative Community-Residential (IC-R) Overlay Zoning District; and
- b. Parcel must have an underlying residential zoning district designation.

3. Limitations.

- a. An Innovative Community-Residential (IC-R) Overlay Zoning District cannot modify requirements of the International Building Codes, International Fire Codes, Engineering Standards, Federal Emergency Management Agency (FEMA) regulations, and State Health Laws.

4. Permitted Uses.

- a. All the land uses permitted by the underlying zoning, that can meet the property development standards of Section 17.05.516(E)(5);
- b. Single-family detached housing types, that can meet the property development standards of Section 17.05.516(E)(5), including but not limited to:
 - i. Conventional suburban house;
 - ii. Tiny/cottage house;
 - iii. Container house.
- c. Multi-family housing, including but not limited to duplexes, triplexes, attached houses and multiple cottages/tiny homes that can meet the property development standards of Section 17.05.516(E)(5).

5. Property Development Standards. All site plans and building specification plans submitted for review and approval pursuant to this section must address all of the following property development and design standards that apply to the proposed use:

- a. Required minimum lot size: 3,000 square feet for both single-family detached or multi-family;
- b. Maximum unit density: one (1) dwelling per 1,500 square feet;
- c. Minimum lot width (for single-family detached): Twenty-five (25) feet;
- d. Minimum yard requirements for residential uses.
 - i. Front (street frontage) yard: Four (4) feet, including from the edge of any porch footing;
 - ii. Side yard: Four (4) feet, with a minimum of five (5) feet from any other structures, residential or accessory use, on-property or off-property; and
 - iii. Rear yard: Zero (0) feet when located along an alley, five (5) feet without an alley.

6. Permitted accessory uses and structures.

- a. Private garage or carport;
- b. Garden shed, tool shed, ramada, swimming pool; and
- c. Home occupation, per Section 17.03.324.

7. Off-street parking. It is understood that many locations in the Innovative Community-Residential (IC-R) Overlay Zoning District do not meet the specifications set in *Article 17.06* regarding requirements to provide off-street parking. Strict enforcement of the provisions in *Article 17.06* could jeopardize the intent and purpose of the IC-R Overlay Zoning District. Therefore, off-street parking will not be required where physical constraints make adherence to the requirement infeasible. However, should an area be available for off-street parking, applicant will be required to provide off-street parking to the extent it is possible to do so, in compliance with *Article 17.06*.

F. IC-C – Innovative Community-Commercial Overlay Zoning District regulations.

1. Purpose and Intent. The Innovative Community-Commercial (IC-C) Overlay Zoning District recognizes that existing regulations of underlying zoning districts are too challenging and restrictive for allowing rehabilitation of existing commercial buildings, or reconstruction and new construction in contemporary market conditions for smaller parcels. The IC-C Overlay Zoning District intends to allow for adaptive commercial re-use, reconstruction, redevelopment and new construction through flexibility of property development standards. These regulations should allow the placement and construction of contemporary innovations in commercial building types rather than requiring only suburban-style off-street parking-intensive strip mall development.
2. Qualifications.
 - a. Parcel must be located in the Innovative Community-Commercial (IC-C) Overlay Zoning District; and
 - b. Parcel must have an underlying commercial zoning district designation.
3. Limitations.
 - a. An Innovative Community-Commercial (IC-C) Overlay Zoning District cannot modify requirements of the International Building Codes, International Fire Codes, Engineering Standards, Federal Emergency Management Agency (FEMA) regulations, and State Health Laws.
4. Permitted Uses.
 - a. All permitted uses listed in the commercial zoning districts of *DMC 17.05.504*, *-505*, *-506*, and *-507*, that can meet the property development standards of *Section 17.05.516(F)(5)*;
5. Property Development Standards. All site plans and building specification plans submitted for review and approval pursuant to this section must address all of the following property development and design standards that apply to the proposed use:
 - a. Required minimum lot size: 3,000 square feet;
 - b. Maximum unit density: none;
 - c. Minimum lot width: Twenty-five (25) feet;
 - d. Minimum yard requirements for commercial uses.
 - i. Front (street frontage) yard: Zero (0) feet;
 - ii. Side yard: Zero (0) feet, with a minimum of five (5) feet from any other structures, commercial or accessory use, on-property or off-property; and
 - iii. Rear yard: Zero (0) feet when located along an alley, five (5) feet without an alley.
6. Off-street parking. It is understood that many locations in the Innovative Community-Commercial (IC-C) Overlay Zoning District do not meet the specifications set in *Article 17.06*

regarding requirements to provide off-street parking. Strict enforcement of the provisions in Article 17.06 could jeopardize the intent and purpose of the IC-C Overlay Zoning District. Therefore, off-street parking will not be required where physical constraints make adherence to the requirement infeasible. However, should an area be available for off-street parking, applicant will be required to provide off-street parking to the extent it is possible to do so in compliance with Article 17.06.

G. IC-MU – Innovative Community-Mixed-Use Overlay Zoning District regulations.

1. Purpose and Intent. The Innovative Community-Mixed-Use (IC-MU) Overlay Zoning District recognizes that existing regulations of underlying residential or commercial zoning districts are too challenging and restrictive for allowing rehabilitation of existing non-conforming residential or commercial buildings, or reconstruction and new construction in contemporary market conditions for smaller parcels. The IC-MU Overlay Zoning District intends to allow for adaptive re-use or reconstruction for existing single-purpose residential and commercial buildings. The IC-MU will also allow permitting of purposefully mixed-use redevelopment and new construction through flexibility of permitted uses and property development standards. These regulations should also encourage the placement and construction of contemporary innovations in mixed-use building types rather than requiring only suburban-style off-street parking-intensive development.
2. Qualifications.

 - a. Parcel must be located in the Innovative Community-Mixed-Use (IC-MU) Overlay Zoning District; and
 - b. Parcel may have an underlying residential zoning district designation, with an existing commercial purpose building; or
 - c. Parcel may have an underlying commercial zoning district designation, with an existing residential purpose building; or
 - d. Parcel is undeveloped, adjacent to existing commercial uses and carries either a commercial zoning district or residential zoning district designation.
3. Limitations.

 - a. An Innovative Community-Mixed-Use (IC-MU) Overlay Zoning District cannot modify requirements of the International Building Codes, International Fire Codes, Engineering Standards, Federal Emergency Management Agency (FEMA) regulations, and State Health Laws.
4. Permitted Uses.

 - a. All permitted uses listed in the commercial zoning districts of DMC 17.05.504, -.505, -.506, and -.507, that can meet the property development standards of Section 17.05.516(G)(5);
 - b. Existing residential units, whether single-family detached or multi-family, and including accessory dwelling units;
 - c. Proposed mixed use with commercial uses below residential use;
 - d. Proposed mixed use with commercial uses in front of residential use;
 - e. Proposed multi-family attached or detached tiny/cottage housing limited per Section 17.05.516(G)(5)(b).

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5. Property Development Standards. All site plans and building specification plans submitted for review and approval pursuant to this section must address all of the following property development and design standards that apply to the proposed use:
- a. Required minimum lot size: 3,000 square feet;
 - b. Maximum dwelling unit density: One (1) unit per 1,000 square feet of parcel area, after subtracting commercial use area if mixed-use;
 - c. Minimum lot width: Twenty-five (25) feet for single use, fifty (50) feet for mixed-use;
 - d. Minimum yard requirements.
 - i. Front (street frontage) yard: Zero (0) feet;
 - ii. Side yard: Zero (0) feet, with a minimum of five (5) feet from any other structures, commercial or accessory use, on-property or off-property; and
 - iii. Rear yard: Zero (0) feet when located along an alley, five (5) feet without an alley.
6. Off-street parking. It is understood that many locations in the Innovative Community-Mixed-Use (IC-MU) Overlay Zoning District do not meet the specifications set in Article 17.06 regarding requirements to provide off-street parking. Strict enforcement of the provisions in Article 17.06 could jeopardize the intent and purpose of the IC-C Overlay Zoning District. Therefore, off-street parking will not be required where physical constraints make adherence to the requirement infeasible. However, should an area be available for off-street parking, applicant will be required to provide off-street parking to the extent it is possible to do so in compliance with Article 17.06.

H. Application Process.

- 1. Notification of intent to neighbors required. The Applicant shall provide written notice of their permitting intentions; and must:
 - a. Acquire petition signatures of approval or certified mail receipts from their abutting property owners prior to or concurrent with filing a building permit application with the City.
- 2. Conceptual Plan Pre-Application Review Meeting required, to consider the following provided by the applicant:
 - a. Conceptual site plan, indicating locations of any proposed structures, off-street parking, landscaping; and
 - b. Proposed project scope, including amounts of use in square feet, number of spaces, dwelling units as appropriate.
- 3. Application Submittal Requirements. All of the following must be provided:
 - a. Application Form completed;
 - b. Site Plan. Showing property lines with dimensions, existing and proposed structures with dimensions, adjacent rights-of-way named, and setback distances among structures and property lines shown;
 - c. Building specification plans for every proposed structure;
 - d. Proof of notification of abutting property owners, whether petition of proposal approval or certified mail receipts, per Section 17.05.516(H)(1)(a) above; and
 - e. Receipt of fee payment.

I. Appeals. Appeals to the City Manager, or the designee, concerning interpretation or administration of the Innovative Community-Residential (IC-R), Innovative Community-Commercial (IC-C), and Innovative Community-Mixed-Use (IC-MU) Overlay Zoning Districts may be taken by any person aggrieved by any decision of the City Planner or designee thereof. Such appeals shall be filed within thirty (30) days of the decision of the City Planner, including all papers constituting the record upon which the action appealed is taken. Upon good cause shown, the City Manager, or the designee, may reverse, affirm, or modify the decision of the City Planner in writing. The notarized decision of the City Manager is final and shall be filed with any associated permitting documents.

ARTICLE 6. SUPPLEMENTARY DISTRICT REGULATIONS—PARKING

Sec. 601. Off-street parking, general.

In all zoning districts, off-street parking facilities shall be provided in an amount not less than that hereinafter specified, for the parking of self-propelled motor vehicles, for the use of occupants, employees, patrons, members and clients of buildings and uses erected or established after the effective date of this Ordinance, and of existing buildings and uses which are extended, enlarged or changes thereafter.

601.1 Pre-Existing Buildings and Uses. Buildings and uses in existence at the effective date of this Ordinance, shall be exempt from parking requirements hereinafter specified; provided however, that whenever the usable floor area of such an existing building is changed, or an existing use of premises is extended, off-street parking for the increased floor area or use shall be provided in the minimum amount hereinafter specified for that kind of use. Section 608.3 requiring landscaping in off-street parking lots with more than fifteen (15) parking spaces shall not apply to pre-existing buildings or uses unless changes in the amount of usable floor area of a pre-existing building or changed use of the premises requires more than twenty-five (25) percent increase in the number of off-street parking spaces required.

601.2 Replacement Space Required. The owner or occupant of any building or use subject to off-street parking requirements under this Ordinance shall no discontinue or reduce any existing required parking lot without first having established other parking space in replacement therefore, which replacement space meets all requirements of this Ordinance.

601.3 Prohibited Use of Parking Space. The use of Off-street parking space as required under this Code, for the storage of merchandise, vehicles for sale or rent, or repair of vehicle, shall be expressly prohibited.

Sec. 602. Computation of off-street parking requirements.

In order to compensate off-street parking requirements, the following general rules shall apply:

standards, as may be supplemented or modified by the City Council, and shall conform to time limitations established by the City Council.

902.6 Action Following Zoning for Planned Area Development. After plans are approved for a Planned Area Developments, no use permit shall be issued in such districts unless and until Community Development Director shall have approved final plans and reports for the development as a whole or stages or portions deemed by the Community Development Director to be satisfactory with relation to total development.

Before development may proceed, agreements, contracts, deed restrictions, and sureties shall be in form by appropriate officers or agencies of the City of Douglas.

Approval of final plans and reports will be by the same manner as for building permits in general, provided that any requirements concerning the order or location in which building permits are to be issued in the particular Planned Area Developed shall be observed. Except as provided below, the final plans and reports approved by the Building Inspector shall be binding upon the applicant and any successor in interest.

902.7 Changes in Approved Final Plans. Changes in approved final plans may be permitted by the Community Development Director upon application by the applicant or successors in interest, but only upon a finding that such changes are in accord with all regulations in effect at the time the change is requested, and with the general intent and purpose of the City of Douglas Comprehensive Community Development Plan in effect at the time of the proposed change. Changes other than as indicated above shall be made only through the submittal of a new Planned Area Development application.

ARTICLE 10.

ADMINISTRATION, INTERPRETATION AND ENFORCEMENT

Sec. 1001. Administrative official.

A. The provisions of this Ordinance shall be administered and enforced by the ~~Building Inspector~~ City Planner, also referenced elsewhere in the Douglas Municipal Code as the Zoning Administrator, ~~who~~ The City Planner may employ the assistance of ~~such other persons, such as a~~ the Building Inspector, zoning code Code enforcement Enforcement officer Officer, and other such persons as the City Council may approve or direct. Additionally, the City Planner may provide administrative interpretation of this Ordinance as applicable to planning, zoning, development and building.

~~1001.11.~~ **Duties of the ~~Building Inspector~~ City Planner.** In conjunction with ~~his~~ the responsibility for administration, interpretation and enforcement of this Ordinance, the ~~Building Inspector~~ City Planner and delegates thereof shall have the following duties:

- ~~(a)~~ a. Receive and examine applications for, and process issuance of ~~issue~~ Building Permits, Zoning Compliance Certificates, and Occupancy Permits.
- ~~(b)~~ b. Make or direct other staff to conduct such inspections of buildings, structures and premises as are necessary to enforce the provisions of this Ordinance.
- ~~(c)~~ c. Carry out the orders of the Council, Commission, and/or Board as authorized by this Ordinance.
- ~~(d)~~ d. Deny any application for Building Permit, Zoning Compliance Certificate, or Occupancy Permit, for a use which by the terms of this Ordinance requires the review and approval of the Board of Adjustment.

~~1001.22.~~ **Limitations.** Under no circumstances shall the ~~Building Inspector~~ City Planner or designee thereof:

- ~~(a)~~a. Grant exceptions to the actual meaning of any clause, order, or regulation contained in this Code except as expressly defined in this Title.
- ~~(b)~~b. Make changes in or vary the terms of this Code.
- ~~(c)~~c. Refuse to issue a Building Permit, Zoning Compliance Certificate or Occupancy Permit when the applicant has ~~compiled~~ complied with all provisions of this and other applicable ordinances and codes, despite any violations of contracts, covenants, or private agreements which may result therefrom.

Sec. 1002. Zoning compliance certificates required.

A. Applicability.

- 1. Prior to Conduct of Activities. It shall be unlawful to commence any excavation for, or erection, alteration, enlargement, extension, or moving, of any building or structure, or part thereof, or to change or extend the use of any lot or parcel, or to change the use or type of occupancy of any building or structure, except as may be provided elsewhere in this Ordinance, until a Zoning Compliance Certificate for such work has been issued by the City Planner ~~Building Inspector or the Zoning Compliance Officer~~ or designee thereof.
- 2. Combined Activities Under One Certificate. Accessory buildings or structures, when proposed for erection at the same time as a main building and included on the application there-fore, shall not require a separate Certificate. No Zoning Compliance Certificate shall be issued except in conformity with the provisions of this Ordinance; except after written order by the Board of Adjustment.

~~1002.1B.~~ **Application for Zoning Compliance Certificates.** All applications for Zoning Compliance Certificates shall be filed on standard forms provided for the purpose, or incorporated into other applications, and shall be accompanied by plans in duplicate, drawn to scale, showing the following and such other information as the City Planner, Building Inspector, or designee thereof may require to ~~insure~~ ensure conformity of the proposed building or structure with the provisions of this Ordinance-:

- ~~(a)~~1. Dimension, area and shape of the property to be built upon, and the boundaries of all lots or parcels under separate ownership contained therein;
- ~~(b)~~2. Dimensions, size, height and use of any buildings, ~~or~~ structures, and driveway areas already existing on the property, and their exact location thereon;
- ~~(c)~~3. Width and alignment of all streets, alleys and easements for public access, in or abutting the property;
- ~~(d)~~4. Size and height of all buildings and structures proposed to be erected or altered, and their exact position on the property, with setback distances from property lines and other structures indicated;
- ~~(e)~~5. Proposed uses of building, structures, and land including the number of families or dwelling units, if any, the building is designed to accommodate.

~~1002.2C.~~ **Issuance of Zoning Compliance Certificate.** Within ten (10) days after the filing of ~~an~~ a complete application for a Zoning Compliance Certificate, according to the provisions of this Ordinance, the ~~Building Inspector~~ City Planner shall either issue or refuse to issue same-, ~~when~~ When such permit is refused; the ~~Building Inspector~~ City Planner shall state in writing ~~his~~ the reasons for such refusal, so

informing the ~~application applicant~~ of same and retaining a file copy of the action. One (1) copy of the plans shall be returned to the applicant marked either "APPROVED" or "~~DISAPPROVED~~DENIED" by the ~~Building Inspector~~City Planner and attested to by his signature. The second copy of plans, similarly marked and signed, shall be retained in the files of ~~the Building Inspector~~Development Services.

Sec. 1003. Occupancy permits required.

A. Intent. It shall be unlawful to use or permit the use of occupancy of, any building or structure, or any change or extension of a use of land for which a Zoning Compliance Certificate has been issued therefore by the ~~Building Inspector~~City Planner or designee thereof without the issuance of an occupancy permit.

~~1003.11.~~ **Issuance of Occupancy Permits.** Within ten (10) days after having received notice that the building, structure or premises, or part thereof, has been completed and is ready for use or occupancy, the Building Inspector or designee of the City Planner shall make a final inspection thereof to determine whether construction has been completed in conformity with the provisions of this Ordinance. If ~~he finds~~ construction is found to be in conformity with permitted plans, ~~he shall issue~~ an Occupancy Permit shall be issued.

~~1003.22.~~ **Temporary Occupancy Permits.** The ~~Building Inspector~~City Planner or designee thereof may issue a Temporary Occupancy Permit for a part of a commercial building, structure, or use prior to completion of the entire building, structure or use, provided that such part has been completed in conformity with all provisions of this Ordinance and is considered safe and suitable for use or occupancy. A Temporary Occupancy Permit shall remain in force until the entire building, structure, or use has been completed and inspected, and an Occupancy Permit has been issued.

Sec. 1004. Inspection fees.

Before and Zoning Compliance Certificate or Occupancy Permit shall be issued, the inspection fee shall have been paid to the City Clerk or designee thereof. Inspection fees shall be determined according to the schedule contained in Article 17.12 and Article 17.15 of this Ordinance, and posted in ~~the office of the Building Inspector~~Development Services.

Sec. 1005. Plan Review.

A. Applicability. Staff of Development Services, Public Works, Fire Prevention, and other departments as appropriate may review proposed developments for conformity with various City regulations, plans, and support for other City initiatives.

B. Pre-Application Submittal and Review. At the discretion of the City Planner, a potential applicant for development permits may submit a request to meet with staff before submitting application. The potential applicant must provide at minimum:

1. Conceptual Site Plan. A rough site plan indicating location of proposed uses, with approximate measurements, showing circulation, parking, and landscaping, if appropriate, for consideration by City staff.

C. Application. A complete application must include the following:

1. Application Form completed fully;
2. Contractor Affidavit completed, signed and dated;
3. Site Plan;

4. Building Detail Plans; and

5. Receipt of fees payment as required in Article 17.13 of these Zoning Regulations, and Chapter 15.08 of the Douglas Municipal Code.

D. Fees. Before staff will review plans associated with an application, the fees shall have been paid to the City of Douglas. Fees shall be determined according to the schedules contained in Article 17.13 of this Ordinance, and Chapter 15.08 of Douglas Municipal Code, posted in Development Services.

Sec. 1006. Administrative Interpretation.

A. Applicability. Where questions of absence or omission, ambiguity, or conflict of terms, meanings, and directions among provisions of these zoning regulations, and with other regulations of the City that apply to land use and development generally without regard to a specific location, the City Planner may initiate or receive Administrative Interpretation applications. Administrative Interpretations shall not supersede other applications of location-specific administrative, quasi-judicial, or legislative processes such as conditional use permits (Section 17.03.310), variances (Section 17.03.325), code amendments or rezones (Article 17.12)

B. Process. As provided in Section 17.03.302 of these regulations.

ARTICLE 11. BOARD OF ADJUSTMENT

Sec. 1101. Membership, terms of office, vacancies.

The Board of Adjustment created by the City of Douglas Ordinance 350, as amended, is hereby continued under the following provisions.

1101.1 **Membership.** The Board of Adjustment shall consist of seven (7) members, who shall be appointed by the City Council of the City of Douglas and shall serve without pay. No more than one (1) member may be a member of the City Council, nor shall more than one (1) member of the Planning and Zoning Commission serve on the Board of Adjustment.

1101.2 **Terms of Office.** In order to create a system of staggered terms, one (1) member will be appointed to serve a term expiring June 30, 1998, two (2) members will be appointed to serve a term expiring June 30, 1999, and three (3) members will be appointed to serve a term expiring June 30, 2000. After these initial appointments, members will be appointed to serve three-year terms. In the event of a death or resignation of a member, the vacancy may be filled by appointment by the Mayor with approval of the Council for the un-expired term of the member replaced.

1101.3 **Vacancies and Removal for Cause.** Vacancies on Board of Adjustment shall be filled by resolution of the City Council for the un-expired term of the member affected. Members of the Board of Adjustment may be removed from office by the City Council for cause upon written charges and public hearing. Vacancies thus created shall be filled for the un-expired term of the member whose office has become vacant.

(Ord. 702, § 2, 1997; Ord. No. 21-1134, 7-14-2021)

Sec. 1102. Procedure.

The Board of Adjustment shall conduct its affairs according to the following procedures.

- 1102.1 **Officers.** The Board of Adjustment shall annually elect its own Chairman, Vice-Chairman. The Chairman, or in his absence, the Vice-Chairman may administer oaths and compel the attendance of witnesses.
- 1102.2 **Rules.** The Board of Adjustment shall adopt rules as necessary to the conduct of its affairs, and in keeping with the provisions of this Ordinance.
- 1102.3 **Meetings.** Meetings of the Board of Adjustment shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. Four (4) members of the Board of Adjustment shall constitute a quorum for the transaction of all business, but a smaller number may adjourn from time to time until a quorum can be assembled.
- 1102.4 **Records.** The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and actions, all of which shall be of public record and be filed in the office of the Board of Adjustment.
- 1102.5 **Attendance.** Attendance at meeting of the Board of Adjustment shall be taken. If a member of the Board does not attend three (3) consecutive meetings, the Board may direct the Building Inspector or the Director of Community Development to determine why the member in question was unable to attend and to make recommendation as to a course of action. Acting on that recommendation, the Board may then vote to ask the Council to replace the member of the Board in question as outlined above in Section 1103.3.

(Ord. 04-862, § 1, 2004; Ord. No. 21-1134, 7-14-2021)

Sec. 1103. Power and duties.

It shall be the duty of the Board of Adjustment to interpret the provisions of this Ordinance, and shall have the power to grant conditional uses to, and variances from, the provisions of this Ordinance herewith specified.

1103.1 Interpretation.

The Board of Adjustment shall:

- (a) Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the ~~zoning Zoning administrator~~ Administrator in enforcement of the Zoning Ordinance.
- (b) Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surrounding, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of a special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.
- (c) Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the ~~zoning Zoning administrator~~ Administrator appealed from, and make such order, requirement, decision or determination as necessary.

The Board of Adjustment may not:

- (a) Make changes in the uses permitted in any zoning classification or zoning district or make any changes in the terms of the zoning ordinance provided the restriction in the paragraph shall not affect the authority to grant variances pursuant to this article.
- (b) Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

1103.2 Deleted.

~~1103.30 Variances. Upon appeal in specific cases, the Board of Adjustment shall authorize such variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship.~~

~~1103.31 Conditions for Granting a Variance. A variance shall not be granted by the Board of Adjustment unless and until the following conditions are met:~~

~~(a) The Board of Adjustment finds that:~~

- ~~1. 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 property of the same district; and~~
- ~~2. The special circumstances applicable to the property are not self-imposed by the property owner and involve something more than personal inconvenience or inadequate financial return on the use of the property; and~~
- ~~3. 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~~
- ~~4. Granting the variance will not injure or interfere with the rights and privileges of the other properties in the same district.~~

~~(b) Notice of Public Hearing has been given in accordance with requirements set forth above and in Section 1103.33.~~

~~(c) A public hearing has been held;~~

~~(d) 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;~~

~~(e) 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.~~

~~1103.32 Other Requirements.~~

~~(a) 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 13.~~

~~(b) No nonconforming 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.~~

~~(c) 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, or any use expressly or by implication prohibited by the terms of this Ordinance.~~

~~1103.33 Notification.~~

~~(a) Notice of public hearing must be given in accordance to the requirements set forth above in subsection 1103.2(a). [WDO2][WDO3]~~

(Ord. 20-1127, § 3, 2021; Ord. No. 21-1134, 7-14-2021)

[Sec. 1104. Reserved.]

Sec. 1105. Findings of fact.

Every decision of the Board of Adjustment shall be based upon findings of fact, and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to exist on any matter upon which the Board of Adjustment is authorized to pass under the Ordinance shall be construed as limitations on the power of the Board of Adjustment to act. A mere finding or recitation of the enumerated conditions, unaccompanied by the finding of specific fact shall not be deemed in compliance with this Ordinance.

(Ord. No. 21-1134, 7-14-2021)

Sec. 1106. Limitations.

Nothing herein contained shall be construed to empower the Board of Adjustment to change the terms of this Ordinance, to affect changes in the Official Zoning Map or to add to the uses permitted in any district.

(Ord. No. 21-1134, 7-14-2021)

Sec. 1107. Appeal from the Board of Adjustment.

Any person aggrieved by a decision of the Board of Adjustment, any taxpayer, or a municipal officer may, at any time within thirty (30) days after the filing of the decision by the Board of Adjustment, file a complaint for special action in the superior court to review the Board decision. Filing of the petition shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board of Adjustment, and for good cause shown, grant a restraining order, and on final hearing may reverse, affirm, or modify the decision reviewed.

(Ord. No. 21-1134, 7-14-2021)

Sec. 1108. Fees.

Upon filing an application or appeal, the applicant shall pay a filing fee to the City Clerk in accordance with a schedule contained in *Article 13* of this Ordinance, and posted in the office of the Building Inspector. No part of any such fee shall be returnable after an application is filed and such fee paid. In the case of an application for a variance or special exception to more than one (1) provision of this Code, the filing fee shall be the total for all provisions as prescribed by the fee schedule. Payment of the filing shall be waived when the applicant is the Building Inspector or any other officer or agency of the City, or the County, the State, or the Federal Government.

ARTICLE 12. AMENDMENTS

Sec. 1201. Amendments to regulations.

The City Council may from time to time, upon the recommendations of the Planning and Zoning Commission, amend, supplement, change or repeal the regulations, restrictions and zoning district boundaries herein established. Requests to amend this Ordinance may be initiated by the City Council or the Planning and Zoning Commission on their own motion, or be ~~petitioned~~ applied for as hereinafter set forth.

Sec. 1202. Applications for amendment.

Applications for amendment of this Ordinance shall be made to the Planning and Zoning Commission on a standard form provided for the purpose and shall be signed by a real property owner in the area for which amendment is applied for. ~~In the event that the application includes other property in addition to that owned by the applicant, there shall be filed by the applicant on a form provided therefore, a petition in favor of the request signed by the real property owners representing at least seventy-five (75) percent of the land area to be included in the application. Such petition shall be filed and checked for authenticity of ownership before the application is accepted by the Planning and Zoning Commission.~~ In the event that the application includes properties owned by more than one (1) owner, the City ~~Clerk~~ shall notify by certified first class mail, all property owners included in the area proposed for change. Such notice shall be postmarked not later than fifteen (15) days prior to any Planning and Zoning Commission hearing of the application.

Sec. 1203. Public hearing on amendment application.

Every application for amendment of this Ordinance shall be considered by the Planning and Zoning Commission at a public hearing. Said public hearing shall be held only after a public notice of time, place and date of such hearing has been published in a newspaper of general circulation in the City of Douglas, at least fifteen (15) days prior to such hearing. The Planning and Zoning Commission may, upon its own motion, after such public hearing, submit to the City Council a report of the hearing and a recommendation concerning amendment of this Ordinance, ~~whereupon the City Council shall arrange to hold its public hearing at which final action in regard to the amendment shall be taken. At least fifteen (15) days' notice of the time, place and date of such City Council hearing shall be published in a newspaper of general circulation in the City of Douglas. Notice of the time, place and date of the City Council hearing shall also be posted on the affected property at least seven (7) days prior to said hearing.~~

~~Sec. 1204. Appeal from denial of amendment.~~

~~In the event that the request for amendment is denied by the Planning and Zoning Commission, the applicant may, within seven (7) days form the date of the Planning and Zoning Commission hearing, file an appeal to the City Council. Upon receipt of such an appeal, the City Council shall arrange to hold a public hearing upon due notice and posting as heretofore specified.~~

Sec. 1205. Protests against amendments.

In the event that a ~~written~~ protest against a proposed amendment is presented at a meeting of the City Council, ~~hearing on the application for amendment, signed by the owners of twenty (20) percent or more of the lots or parcels in the area included in a requested amendment, or of the lots adjacent to the rear and within one hundred fifty (150) feet of the area, or of the lots fronting on the opposite side of the street and within one hundred fifty (150) feet of the area, or of the lots fronting on the opposite street line, such an amendment shall not become effective except by the favorable vote of three fourths of all members of the City Council~~ a public hearing of the City Council shall be scheduled and noticed consistent with A.R.S §9-462.04(A). Said public hearing shall be held only after a public notice of time, place and date of such hearing has been published in a newspaper of general circulation in the City of Douglas, at least fifteen (15) days prior to such hearing.

Sec. 1206. Reconsideration of denied amendments.

In the event that an application for amendment is denied by the City Council, or is withdrawn after the Planning and Zoning Commission hearing, the Commission shall not reconsider the application nor consider another application for the same amendment of this Ordinance as it applies to the same property described in the original application or any part thereof, for a period of not less than one (1) year from the date of such denial action.

Sec. 1207. Fees.

A filing fee as provided for in Article 13 of this Ordinance shall accompany each application for amendment of this Ordinance, and ~~not~~ part of such fee shall be returnable. Payment of filing fee shall be waived when the application is initiated by the City Council or Planning and Zoning Commission, or when the applicant is a person acting as a City Representative of, and agency of, the City of Douglas, Cochise County, the State of Arizona, or the United States Government.

Sec. 1208. Exceptions.

In the event that a request for amendments concerns only the amendment of general requirements or permitted uses, no petitions or posting shall be required; provided, however, that all other provisions of this Article and Arizona Revised Statutes shall be compiled with.

ARTICLE 13.

SCHEDULE OF FEES, CHARGES, AND EXPENSES

Sec. 1301. General.

As provided for in other articles of this Ordinance, persons applying for re-zoning amendments, certain certificates, permits and actions to be granted by the City ~~of Douglas Board of Adjustment~~ shall be required to pay a nonrefundable fee to ~~the City~~ Clerk of Douglas as part of the application.

Sec. 1302. Filing fees.

Before any application to amend this Ordinance or for action to be granted by the City of Douglas Board of Adjustment, the City of Douglas Planning and Zoning Commission, or administratively by City of Douglas

Development Services staff shall be considered, a filing fee shall be paid to the City ~~Clerk~~, except as otherwise provided in this Ordinance.

1302.1 **Ordinance Amendments.** The nonrefundable filing fee charged as part of an application to amend this Ordinance shall be two hundred fifty dollars (\$250.00). Payment of this filing fee shall be waived when the application is initiated by the City Council or the Planning and Zoning Commission, or when the applicant is acting as an official of, or is an agency of, the City of Douglas, Cochise County, State of Arizona, or the Federal Government.

1302.2 **Board of Adjustment and Administrative Actions.** Each application or an action to be granted by the City of Douglas Board of Adjustment, the City of Douglas Planning and Zoning Commission, or Development Services administratively shall include a nonrefundable filing fee paid to the City ~~Clerk~~ according to the following schedule:

(a) Application for Variance.

CATEGORY	FEE
Residential	\$25.00
Commercial	100.00

(b) Application for Conditional Use.

CATEGORY	FEE
Residential	\$100.00
Commercial	100.00

Sec. 1303. ~~Inspection~~ Zoning Compliance Review fees.

Before any application for a Zoning Compliance Certificate ~~or Certificate of Occupancy~~ shall be considered, ~~an inspection~~ a non-refundable review fee of twenty dollars (\$20.00) shall be paid to ~~the City Clerk~~.

~~1303.1 — **Zoning Compliance Certificate.** The nonrefundable inspection fee charged as part of an application for a Zoning Compliance Certificate shall be fifteen dollars (\$15.00) and shall be posted in the office of the Building Inspector.~~

~~1303.2 — **Certificate of Occupancy.** The non-refundable inspection fee charged as part of an application for a Certificate of Occupancy shall be fifteen dollars (\$15.00) and shall be posted in the office of the Building Inspector.~~

ARTICLE 14. VIOLATIONS AND PENALTIES

Sec. 1401. Violations declared to be a nuisance.

Any structure upon which construction is started, or any structure which is altered, enlarged or repaired, or any use of land which is begun or changed after enactment of this Ordinance, and which is in violation of any of its provisions, is hereby declared a nuisance per se. Any court of competent jurisdiction shall order such nuisance, abated and the owner or agent in charge of such building or premises shall be judged guilty of maintaining a nuisance per se. Any person who violates any provision of this Ordinance, the owner of any structure of land or

part thereof, and any person, architect, builder, contractor, plumber or agent employed in connection therewith, who has assisted knowingly in the commission of any such violations, shall be guilty of a separate offense, and upon conviction thereof such, be liable to the penalties herein provided.

Sec. 1402. Complaints regarding violations.

Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof, and shall be filed with ~~the Building Inspector~~ Development Services or the City Clerk. ~~He shall record such~~ Such complaints shall be properly recorded, and immediately investigated it and documented prior to and take ~~and take~~ taking action as provided by this Ordinance, and as authorized in other chapters of the Douglas Municipal Code relating to nuisances, hazards and abatement.

Sec. 1403. Penalties.

Any violation of this Ordinance shall be punishable by a fine not to exceed One Hundred Dollars (\$100.00), or imprisonment in the city jail not to exceed twenty (20) days, or by both such fine and imprisonment, in the discretion of the court. Each day that a violation is willfully permitted to exist shall constitute a separate offense. The imposition of any sentence shall not exempt the offender from compliance with the requirement of this Ordinance.

Sec. 1404. Correction of violations.

Should the City of Douglas deem any violation to be such a nuisance to safety, or if a violator refuses to correct the violation, the City may undertake the expense of correcting said violation. A lien may be issued against the owner of the property in question until he reimburses the City for corrections made. Should no effort at reimbursement be forth coming within sixty (60) days, the City becomes the legal owner of the property.

ARTICLE 15. DEFINITIONS

Sec. 1501. General rules.

For the purpose of this Ordinance, certain terms and words are defined in this article. The following general rules apply in the use of definitions throughout this Ordinance.

- (a) The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- (b) The word "shall" is mandatory and the word may is permissive.
- (c) The word "lot" includes the words plot or parcel.
- (d) The word "building" includes the word structure.
- (e) The words "used" or "occupied" includes the words intended, designed or arranged to be used or occupied.
- (f) When not inconsistent with the context, the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- (g) All words and terms shall be interpreted according to their common usage unless otherwise defined.