



# Town of Huachuca City

The Sunset City

500 N Gonzales Blvd • Huachuca City, Arizona 85616

Phone: (520) 456-1354 • TDD: (520) 456-1353 • Fax: (520) 456-2230

## ORDINANCE NO. 2022-02

**AN ORDINANCE OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, AMENDING THE TOWN CODE TITLE 15 "BUILDINGS AND CONSTRUCTION," CHAPTER 15.40 "ENERGY CONSERVATION CODE," SECTIONS 15.40.010 AND 15.40.020 TO ADOPT THE 2018 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE WITH AMENDMENTS.**

**WHEREAS, WHEREAS,** the Town Council of the Town of Huachuca City has adopted by Resolution No. 84-002 a code known as the Town Code of the Town of Huachuca City, Arizona [the "Code"], and has amended and republished the Code from time to time, as authorized by A.R.S. 9-240 (B) (28) and Town Ordinance No. 15-02; and

**WHEREAS,** the Town Council has determined that it would be in the best interests of the Town and its residents to update the Energy Conservation Code by adopting the 2018 Edition of the International Energy Conservation Code, with amendments; and

**WHEREAS,** pursuant to A.R.S. 9-802, the Town Council may adopt an established and published code by reference thereto, when that code has previously been made a public record; and

**WHEREAS,** the Town Council previously adopted Resolution No. 2022-05 declaring the "International Energy Conservation Code 2018 Edition, With Amendments," a public record of the Town; and

**WHEREAS,** as required by the Code, section 2.25.040, this Ordinance was first read at a public meeting of the Town Council on April 28, 2022, and at a subsequent meeting on May 26, 2022.

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Town of Huachuca City, as follows:

**SECTION 1.** The Code, Section 15.40.010 "Adopted" is amended as follows, with deletions in ~~strikethrough~~ and additions in underlined text:

### **15.40.010 Adopted.**

That certain code entitled "International Energy Conservation Code" and amendments thereto, ~~2012~~ 2018 Edition, copyrighted by the International Code Council, Inc., is hereby adopted as the "Energy Conservation Code of Huachuca City" and made a part hereof the same as though said code was specifically set forth in full herein.

**SECTION 2.** The Code, Section 15.40.020 "Amendments," is deleted in its entirety and replaced, as follows:

**15.40.020 Amendments.**

The following provisions of the International Energy Conservation Code, 2018 Edition, as published by the International Code Council, Inc., are hereby amended as follows:

- A. **At Section C101.1, Title**, revise wording as follows: These regulations shall be known as the Energy Conservation Code of the Town of Huachuca City, hereinafter referred to as "this code."
- B. **At Section C109.1, General**, insert the following after the first sentence: In the absence of an appointed board of appeals, all appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code shall be heard and decided by the Town Board of Adjustment.
- C. **At Section C109.3, Qualifications**, delete the entire section.
- D. **At Section C202, Definitions**, add a definition for "Indirectly Conditioned Space" as follows: ***Indirectly Conditioned Space***. An indirectly conditioned space has no heating or cooling system, but is indirectly heated or cooled due to its proximity to spaces that are heated or cooled. Two criteria can be applied to determine if a space is indirectly conditioned:
  - 1. If the heat transfer rate to conditioned space is larger than the heat transfer rate to the exterior (ambient conditions), then the space is considered indirectly conditioned.
  - 2. If there is an air transfer rate between the space and conditioned space that exceeds three air changes per hour (ACH), then the space is considered indirectly conditioned. Air transfer can be provided by natural or mechanical means.
- E. **At Section R101.1, Title**, revise wording as follows: These regulations shall be known as the Energy Conservation Code of the Town of Huachuca City, hereinafter referred to as "this code."
- F. **At Section R109.1, General**, insert the following after the first sentence: "In the absence of an appointed board of appeals, all appeals of orders, decisions or determinations made by the building official relative to the application and interpretation of this code shall be heard and decided by the Town Board of Adjustment.
- G. **At Section R109.3, Qualifications**, delete the entire section.
- H. **At Section R202, Definitions**, add a definition for "Indirectly Conditioned Space" as follows: ***Indirectly Conditioned Space***. An indirectly conditioned space has no heating or cooling system, but is indirectly heated or cooled due to its proximity to spaces that are heated or cooled. Two criteria can be applied to determine if a space is indirectly conditioned:
  - 1. If the heat transfer rate to conditioned space is larger than the heat transfer rate to the exterior (ambient conditions), then the space is considered indirectly conditioned.

2. If there is an air transfer rate between the space and conditioned space that exceeds three air changes per hour (ACH), then the space is considered indirectly conditioned. Air transfer can be provided by natural or mechanical means.

**SECTION 3.** As provided in the Code, Section 15.080.010, the penalties for violation of this Ordinance are as follows:

Any person, firm, company, association, corporation or other entity (hereinafter referred to as "person") in violation of any provisions of this title shall be guilty of a class one misdemeanor, and shall be deemed guilty of a separate offense for each 24-hour period after receipt of a notice of noncompliance from the town building official. Any such violation(s) shall be dealt with as follows:

1. Upon receipt of the initial formal written complaint, the town building official may issue a letter of noncompliance and intent to suspend the business license or permit to the person in violation, which shall state the extent and nature of the violation and the actions necessary to remedy the noncompliance. The person in violation shall be given 30 days from the date of the letter to initiate actions approved by the building official necessary to comply with this chapter.
2. If corrective action is not taken as outlined above and to the satisfaction of the town building official, the person in violation shall receive a notice of continued noncompliance from the town building official, which shall state the extent and nature of the continued noncompliance. Additionally, a copy of the notice of continued noncompliance shall be forwarded to the Huachuca City police department, which may issue a criminal citation for violation and may issue additional citations for each violation. Each 24-hour period of noncompliance after receipt of the notice of continued noncompliance shall constitute a separate violation and shall carry a fine no less than \$500.00 per violation, plus an additional \$50.00 shall be collected per issued citation as reimbursement to the police department, upon the determination of guilt or no contest by the town magistrate. In addition, it shall require an immediate suspension of the business license or permit or both issued by the town of Huachuca City and used by the violator to conduct business within the town limits of Huachuca City upon the determination of guilt or no contest by the town magistrate. Should the person in violation be found guilty or otherwise enter a plea of guilty or "no contest," the person's business license or permit shall immediately be suspended until such time as the town building official has determined that the person in violation has remedied the violation, paid all fines in full issued by the town magistrate and is in full compliance with the town code.
3. If a person builds a structure without having a valid permit from the Huachuca City building official, that person(s) will have 10 days from the date of notice to tear down all structures that were built without a permit, or file a request for hearing with the Huachuca City board of adjustment. If corrective action is not taken as outlined above to the satisfaction of the town building official, the person in violation shall receive a notice of continued noncompliance from the town building official, which shall state the extent and nature of the continued noncompliance. Additionally, a copy of the notice of continued noncompliance shall be forwarded to the Huachuca City police department, which shall issue a criminal citation for violation and may issue additional citations for each violation. Each 24-hour period of noncompliance after receipt of the notice of continued noncompliance shall constitute a separate violation and shall carry a fine no less than \$500.00 per violation, plus an additional \$50.00 shall be collected per issued citation as reimbursement to the police department, upon the determination of guilt or no contest by the town magistrate.

4. For purposes of this chapter, a notice shall be deemed received when it is personally served or five days after it is sent by certified U.S. mail.

5. In addition to the penalties provided in this section, the court shall impose restitution as part of its sentence to compensate the town for its costs to enforce this chapter and bring a building or land into compliance with this chapter. Restitution shall include all costs of abatement, including inspection fees and prosecution of the case.

**SECTION 4.** All ordinances, parts of ordinances, resolutions, parts of resolutions, policies, and parts of policies in conflict with the provisions of this Ordinance, or any part hereof, are hereby repealed.

**SECTION 5.** If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unenforceable by the decision of a court of competent jurisdiction, such decision shall not affect the validity or enforceability of the remaining portions hereof.

**SECTION 6.** The Town Clerk is hereby directed, pursuant to the Code, sections 2.25.080 and 2.25.090, to post this Ordinance in three or more public places within the Town, and to publish this Ordinance as required by A.R.S. 9-812 and 39-204 (C)(3).

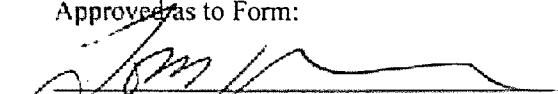
PASSED AND ADOPTED BY THE MAYOR AND TOWN COUNCIL OF THE TOWN OF HUACHUCA CITY, COCHISE COUNTY, ARIZONA, THIS 26<sup>th</sup> DAY OF MAY, 2022.

  
Johann Wallace, Mayor

ATTEST:

  
Brandy Thorpe, Town Clerk

Approved as to Form:

  
Thomas Benavidez, Town Attorney